



# Police, Public Order and Criminal Justice (Scotland) Act 2006

2006 asp 10

## PART 2

### PUBLIC ORDER ETC.

#### CHAPTER 1

##### FOOTBALL BANNING ORDERS

###### *Making and content of orders*

#### **51 Making of order on conviction of a football-related offence**

- (1) This section applies where—
  - (a) a person is convicted of an offence; and
  - (b) the person was aged 16 or over at the time the offence was committed.
- (2) Instead of or in addition to any sentence which it could impose, the court which deals with the person in respect of the offence may, if satisfied as to the matters mentioned in subsection (3), make a football banning order against the person.
- (3) Those matters are—
  - (a) that the offence was one to which subsection (4) applies; and
  - (b) that there are reasonable grounds to believe that making the football banning order would help to prevent violence or disorder at or in connection with any football matches.
- (4) This subsection applies to an offence if—
  - (a) the offence involved the person who committed it engaging in violence or disorder; and
  - (b) the offence related to a football match.

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*Status: This is the original version (as it was originally enacted).*

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- (5) Where the court does not make a football banning order, but is nevertheless satisfied that the offence was one to which subsection (4) applies, it may declare that to be the case.
- (6) For the purpose of subsection (4)(b), an offence relates to a football match if it is committed—
  - (a) at a football match or while the person committing it is entering or leaving (or trying to enter or leave) the ground;
  - (b) on a journey to or from a football match; or
  - (c) otherwise, where it appears to the court from all the circumstances that the offence is motivated (wholly or partly) by a football match.
- (7) The references in subsection (6)(a) and (b) to a football match include a reference to any place (other than domestic premises) at which a football match is being televised; and, in the case of such a place, the reference in subsection (6)(a) to the ground is to be taken to be a reference to that place.
- (8) For the purpose of subsection (6)(b)—
  - (a) a person may be regarded as having been on a journey to or from a football match whether or not the person attended or intended to attend the match; and
  - (b) a person's journey includes breaks (including overnight breaks).
- (9) On making a football banning order, or a declaration, under this section, a court must explain to the person in ordinary language the effect of the order or declaration.
- (10) But failure to comply with subsection (9) does not affect the order's (or declaration's) validity.

## **52 Making of order on application to the sheriff**

- (1) The chief constable of a police force may apply for a football banning order against any person—
  - (a) who resides in the area of the police force; or
  - (b) who the chief constable believes is in or intends to come to the area of the police force.
- (2) An application under subsection (1) may be made to any sheriff—
  - (a) in whose sheriffdom the person against whom the order is sought resides;
  - (b) in whose sheriffdom that person is believed by the applicant to be; or
  - (c) to whose sheriffdom that person is believed by the applicant to be intending to come.
- (3) An application under subsection (1) is to be made by summary application.
- (4) A sheriff may make a football banning order if satisfied that—
  - (a) the person against whom the order is sought has at any time contributed to any violence or disorder in the United Kingdom or elsewhere; and
  - (b) there are reasonable grounds to believe that making the order would help to prevent violence or disorder at or in connection with any football matches.
- (5) Subsections (6) and (8) apply where a sheriff is determining whether to make a football banning order against a person.

- (6) The sheriff may take into account the matters mentioned in subsection (7) (amongst others), so far as considering it appropriate to do so.
- (7) Those matters are—
- (a) any decision of a court or tribunal outside the United Kingdom in respect of the person;
  - (b) the person's deportation or exclusion from a country or territory outside the United Kingdom;
  - (c) the person's removal or exclusion from premises used for playing football matches, whether in the United Kingdom or elsewhere;
  - (d) the person's conduct recorded on video or by any other means.
- (8) The sheriff may not take into account anything done by the person before the beginning of the relevant period, except circumstances ancillary to a conviction.
- (9) In subsection (8)—
- “the relevant period” means the period of 10 years ending with the day on which the application for the order was made; and
- “circumstances ancillary to a conviction” has the same meaning as it has for the purposes of section 4 of the Rehabilitation of Offenders Act 1974 (c. 53).
- (10) Subsection (8) does not prejudice anything in the Rehabilitation of Offenders Act 1974 (c. 53).
- (11) On making a football banning order, the sheriff must explain to the person (if present in court) in ordinary language the effect of the order.
- (12) But failure to comply with subsection (11) does not affect the order's validity.

### **53 Content of order**

- (1) A football banning order is an order which—
- (a) prohibits the person against whom it is made from entering any premises for the purposes of attending any regulated football matches in the United Kingdom; and
  - (b) requires the person against whom it is made to report at a police station in accordance with this Chapter, in connection with regulated football matches outside the United Kingdom.
- (2) A football banning order must require the person against whom it is made—
- (a) to report initially at a police station in Scotland specified in the order within 5 days beginning with the day on which the order is made; and
  - (b) where a relevant event occurs, to notify the football banning orders authority of the prescribed information in relation to the event within 7 days beginning with the day on which the event occurs.
- (3) A football banning order must, unless it appears to the court making it that there are exceptional circumstances, impose a requirement as to the surrender in accordance with this Chapter, in connection with regulated football matches outside the United Kingdom, of the person's passport.

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- (4) A football banning order may, if the court making it considers it would help to prevent violence or disorder at or in connection with any football matches, impose on the person additional requirements.
- (5) Such requirements may include prohibiting the person from entering any premises (including premises to be entered for the purposes of attending football matches which are not regulated football matches).
- (6) A football banning order must specify the period for which it is to have effect.
- (7) That period is not to exceed—
  - (a) 10 years, in the case of an order made under section 51 made in addition to a sentence of imprisonment;
  - (b) 5 years, in the case of an order made under section 51 other than one mentioned in paragraph (a);
  - (c) 3 years, in the case of an order made under section 52.

#### **54 Section 53: supplementary**

- (1) Schedule 5, which specifies the relevant events referred to in section 53(2)(b) and defines the prescribed information in relation to each such event, has effect.
- (2) The period specified in a football banning order by virtue of section 53(6) begins on the day on which the order is made.
- (3) In section 53(7)(a), “imprisonment” includes any form of detention.

#### **55 “Football matches” and “regulated football matches”**

- (1) In this Chapter, references to football matches—
  - (a) are to association football matches; and
  - (b) are to matches played or intended to be played.
- (2) For the purposes of this Chapter, the following are regulated football matches—
  - (a) football matches within subsection (3); and
  - (b) such other football matches, anywhere in the world, as may be prescribed by order made by the Scottish Ministers.
- (3) The football matches within this subsection are—
  - (a) football matches anywhere in the United Kingdom where one or both of the participating teams—
    - (i) represents a country or territory;
    - (ii) represents a club which is for the time being a member of the Scottish Premier League or the Scottish Football League;
    - (iii) represents a club which is for the time being a member (whether a full or associate member) of the Football League, the Football Association Premier League, the Football Conference or the League of Wales;
  - (b) football matches outside the United Kingdom involving—
    - (i) a national team appointed to represent Scotland, England or Wales by, respectively, the Scottish Football Association, the Football Association or the Football Association of Wales;
    - (ii) a team representing a club mentioned in paragraph (a)(ii) or (iii).

- (4) The Scottish Ministers may by order modify subsection (3) so as to—
- (a) add a description of football matches, anywhere in the world;
  - (b) remove such a description;
  - (c) amend such a description.

## 56 “Violence” and “disorder”

- (1) This section applies for the purposes of this Chapter.
- (2) “Violence” means violence against persons or intentional damage to property and includes—
- (a) threatening violence; and
  - (b) doing anything which endangers the life of a person.
- (3) “Disorder” includes—
- (a) stirring up hatred against a group of persons based on their membership (or presumed membership) of a group defined by reference to a thing mentioned in subsection (5), or against an individual as a member of such a group;
  - (b) using threatening, abusive or insulting words or behaviour or disorderly behaviour;
  - (c) displaying any writing or other thing which is threatening, abusive or insulting.
- (4) In subsection (3)(a), “presumed” means presumed by the person doing the stirring up.
- (5) The things referred to in subsection (3)(a) are—
- (a) colour;
  - (b) race;
  - (c) nationality (including citizenship);
  - (d) ethnic or national origins;
  - (e) membership of a religious group or of a social or cultural group with a perceived religious affiliation;
  - (f) sexual orientation;
  - (g) transgender identity;
  - (h) disability.
- (6) In subsection (5)—
- “disability” means physical or mental impairment of any kind;
- “religious group” has the meaning given by section 74(7) of the Criminal Justice (Scotland) Act 2003 (asp 7);
- “transgender identity” means any of the following—
- (a) transvestism;
  - (b) transsexualism;
  - (c) intersexuality;
  - (d) having, by virtue of the Gender Recognition Act 2004 (c. 7), changed gender.