

*These notes refer to the Justice Act (Northern Ireland)
2011 (c.24) which received Royal Assent on 4 May 2011*

Justice Act (Northern Ireland) 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Sport

Chapter 4 - Banning orders in relation to regulated matches

This Chapter creates banning orders and provides for their content, period, additional requirements, termination, enforcement and related appeals.

Section 41: Banning orders: making on conviction

This section states the sorts of which offences which will trigger the sentencing court's consideration of a banning order. These are where the person who committed the offence engaged in violence or disorder at, entering or leaving a regulated match; on the journey to or from a regulated match; or where it appears to the court the offence was motivated by a regulated match. The court must impose a banning order if a person has been convicted of such an offence and the court believes making a banning order would help to prevent violence or disorder at or in conjunction with any regulated matches.

The section states what evidence may be considered and that a banning order may only be made in addition to a sentence or conditional discharge. A banning order is to be taken to be a sentence for the purposes of appeal rights.

Section 42: Banning orders: content

This section provides a definition of banning order as an order prohibiting the person from entering any premises for the purpose of attending a regulated match. The court is required to explain the effect of the banning order to the subject in ordinary language.

This section requires the person to report initially to a police station. It also sets out a list of events which require the person to notify the police (e.g. a change of address), and the time period in which notification may take place. It also provides for the suspension of reporting requirements when the person is in legal custody or when the person is living outside Northern Ireland.

Section 43: Banning orders: supplementary

This section gives the requirements for the adjournment of proceedings, covering warrants, remand and bail. It gives a right of appeal to the prosecution where the court has not made a banning order.

Section 44: Banning orders: “violence” and “disorder”

This section gives the definitions of violence and disorder for the purposes of this Chapter.

Violence is defined as violence against persons or property and includes threatening violence and doing anything which endangers the life of any person.

Disorder includes stirring up sectarian hatred or hatred against groups of persons defined by reference to colour, race, nationality (including citizenship), ethnic or national origins, religious belief, sexual orientation or disability or against an individual as a member of such a group; using threatening, abusive or insulting words or behaviour or disorderly behaviour; and displaying any writing or other things which are threatening, abusive or insulting.

Section 45: Banning order: duration

This section explains how the minimum and maximum period of a banning order is determined. The period starts when the banning order is made. Where an order is made in addition to a sentence of immediate detention the maximum is 10 years and the minimum is 6 years. In any other case the maximum is 5 years and the minimum is 3 years.

Section 46: Banning orders: additional requirements

This section provides that in making a banning order court may, if it thinks fit, include additional requirements of the person. It also provides that the court which made the order may vary it on the request of the person or of the prosecutor.

Section 47: Termination of banning orders

This section allows that when two thirds of the period of the order has elapsed the person subject to an order may apply to have the order terminated. On application the court may terminate the order or refuse the application. The section sets out factors which must be considered by the court such as the person’s character, conduct of the person since the order was made and the nature of the offence which led to it. A second termination application may not be made within 6 months of the refusal of the first. The applicant may be required to pay the costs of the application.

Section 48: Information about banning orders

This section determines to whom the court must send a copy of each banning order and each terminating order. These are, as relevant, the person; the Chief

Constable; the police station that the person must report to initially; if the person is being detained in custody, the person in whose custody they are detained; and any other person prescribed by the Department. Notice of the subject's release from custody, in certain circumstances, must also be provided to the Chief Constable.

Section 49: Failure to comply with banning order

This section creates the offence of failing to comply with any requirement imposed by a banning order and a person guilty of that offence is liable to imprisonment for a term not exceeding 6 months; a fine not exceeding level 5 on the standard scale (current maximum £5,000); or both.