



2011 CHAPTER 24

PART 4

SPORT

CHAPTER 4

BANNING ORDERS IN RELATION TO REGULATED MATCHES

Banning orders: making on conviction

41.—(1) This section applies where a person (the “offender”) is convicted of an offence by or before a court.

(2) If the court is satisfied that—

- (a) the offence is one to which subsection (4) applies; and
- (b) there are reasonable grounds to believe that making a banning order would help to prevent violence or disorder at or in connection with any regulated matches,

it must make such an order in respect of the offender.

(3) If the court is satisfied that the offence is one to which subsection (4) applies but is not satisfied as mentioned in subsection (2)(b), it must in open court state that fact and give its reasons.

(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 was committed—
 - (i) at a regulated match or while the person committing it was entering or leaving (or trying to enter or leave) the ground;

Status: Point in time view as at 01/01/2012.

Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2011, CHAPTER 4. (See end of Document for details)

- (ii) on a journey to or from a regulated match; or
 - (iii) otherwise, where it appears to the court from all the circumstances that the offence was motivated (wholly or partly) by a regulated match.
- (5) For the purposes of subsection (4)(b)(ii)—
- (a) a person may be regarded as having been on a journey to or from a match whether or not the person attended or intended to attend the match; and
 - (b) a person's journey includes breaks (including overnight breaks).
- (6) For the purpose of deciding whether to make a banning order the court may consider evidence led by the prosecution and the defence.
- (7) It is immaterial whether evidence led in pursuance of subsection (6) would have been admissible in the proceedings in which the offender was convicted.
- (8) A banning order may only be made—
- (a) in addition to a sentence imposed in respect of the offence to which subsection (4) applies, or
 - (b) in addition to an order discharging the offender conditionally.
- (9) A banning order may be made as mentioned in subsection (8)(b) in spite of anything in Articles 4 and 5 of the Criminal Justice (Northern Ireland) Order 1996 (NI 24) (which relate to orders discharging a person absolutely or conditionally and their effect).
- (10) A banning order under this section is to be taken to be a sentence for the purposes of any statutory provision conferring a right of appeal against a sentence.

Commencement Information

II S. 41 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Banning orders: content

42.—(1) In this Chapter “banning order” means an order made by a court which prohibits the person who is subject to the order (“P”) from entering any premises for the purpose of attending regulated matches.

(2) On making a banning order, a court must in ordinary language explain its effect to P.

(3) A banning order must require P to report at a police station specified in the order within the period of 5 days beginning with the day on which the order is made.

(4) A banning order must require P to give notification of the events mentioned in subsection (5) to the Chief Constable.

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- (5) The events are—
- (a) a change of any of P's names;
 - (b) the first use by P after the making of the order of a name for P that was not disclosed by P at the time of the making of the order;
 - (c) a change of P's home address;
 - (d) P's acquisition of a temporary address;
 - (e) a change of P's temporary address or P's ceasing to have one;
 - (f) an appeal made by P in relation to the order;
 - (g) an application made by P under section 47(1) for termination of the order.
- (6) A notification required by a banning order by virtue of subsection (4) must be given before the end of the period of 7 days beginning with the day on which the event in question occurs and—
- (a) in the case of a change of a name or address or the acquisition of a temporary address, must specify the new name or address; and
 - (b) in the case of a first use of a previously undisclosed name, must specify that name.
- (7) Where P is detained in legal custody the requirement under subsection (3) to report at a police station is suspended until P's release from custody.
- (8) If—
- (a) P is released from custody more than 5 days before the expiry of the period for which the order has effect, and
 - (b) P was precluded by being in custody from reporting under subsection (3),
- the order is to have effect as if it required P to report at the police station specified in the order within the period of 5 days beginning with the date of P's release.
- (9) In this section—
- “home address”, in relation to P, means the address of P's sole or main residence;
- “temporary address”, in relation to P, means the address (other than P's home address) of a place at which P intends to reside, or has resided, for a period of at least 4 weeks.

Commencement Information

I2 S. 42 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Banning orders: supplementary

43.—(1) The court may adjourn any proceedings under section 41 in relation to a banning order even after sentencing the offender.

Status: Point in time view as at 01/01/2012.

Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2011, CHAPTER 4. (See end of Document for details)

(2) If the offender does not appear for any adjourned proceedings, the court may further adjourn the proceedings or may issue a warrant for the offender's arrest.

(3) If the court adjourns or further adjourns any proceedings under subsection (1) or (2), the court may remand the offender.

(4) A person who, by virtue of subsection (3), is remanded on bail may be required by the conditions of bail not to leave Northern Ireland before appearing before the court.

(5) The court may not issue a warrant under subsection (2) for the offender's arrest unless it is satisfied that the offender has had adequate notice of the time and place of the adjourned proceedings.

(6) The prosecution has a right of appeal against a failure by the court to make a banning order—

(a) where the failure is by a magistrates' court, to the county court; and

(b) where it is by the Crown Court, to the Court of Appeal.

(7) An appeal under subsection (6)(b) may be brought only if the Court of Appeal gives leave or the judge who decided not to make an order grants a certificate that the decision is fit for appeal.

(8) A banning order made on appeal under this section is to be treated for the purposes of this Chapter as if it were an order of the court from which the appeal was brought.

Commencement Information

I3 S. 43 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Banning orders: “violence” and “disorder”

44.—(1) In this Chapter “violence” means violence against persons or property and includes threatening violence and doing anything which endangers the life of any person.

(2) In this Chapter “disorder” includes—

(a) stirring up sectarian hatred or hatred against a group 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,

(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.

Status: Point in time view as at 01/01/2012.

Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2011, CHAPTER 4. (See end of Document for details)

(3) In this Chapter “violence” and “disorder” are not limited to violence or disorder in connection with a regulated match.

Commencement Information

I4 S. 44 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Banning orders: duration

45.—(1) Subject to the following provisions of this Chapter, a banning order has effect for a period specified in the order beginning with the day on which the order is made.

(2) The period must not be longer than the maximum or shorter than the minimum.

(3) Where the order is made in addition to a sentence of imprisonment taking immediate effect, the maximum is 10 years and the minimum is 6 years; and in this subsection “imprisonment” includes any form of detention.

(4) In any other case, the maximum is 5 years and the minimum is 3 years.

Commencement Information

I5 S. 45 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Banning orders: additional requirements

46.—(1) A banning order may, if the court making the order thinks fit, impose additional requirements on the person subject to the order in relation to any regulated matches.

(2) The court by which a banning order was made may, on an application made by—

(a) the person subject to the order, or

(b) the person who was the prosecutor in relation to the order,

vary the order so as to impose, replace or omit any such requirements.

(3) In the case of a banning order made by a magistrates' court, the reference in subsection (2) to the court by which it was made includes a reference to any magistrates' court acting for the same county court division as that court.

Commencement Information

I6 S. 46 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

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Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2011, CHAPTER 4. (See end of Document for details)

Termination of banning orders

47.—(1) If a banning order has had effect for at least two-thirds of the period determined under section 45, the person subject to the order may apply to the court by which it was made to terminate it.

(2) On the application, the court may by order terminate the banning order as from a specified date or refuse the application.

(3) In exercising its powers under subsection (2), the court must have regard to—

- (a) the person's character,
- (b) the conduct of that person since the banning order was made,
- (c) the nature of the offence which led to it, and
- (d) any other circumstances which appear to it to be relevant.

(4) Where an application under subsection (1) in respect of a banning order is refused, no further application in respect of the order may be made within the period of 6 months beginning with the day of the refusal.

(5) The court may order the applicant to pay all or any part of the costs of an application under this section.

(6) In the case of a banning order made by a magistrates' court, the reference in subsection (1) to the court by which it was made includes a reference to any magistrates' court acting for the same county court division as that court.

Commencement Information

I7 S. 47 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Information about banning orders

48.—(1) Where a court makes a banning order the appropriate officer of the court—

- (a) shall give a copy of it to the person to whom it relates (“P”);
- (b) shall (as soon as reasonably practicable) send a copy of it to the Chief Constable and to any prescribed person;
- (c) shall (as soon as reasonably practicable) send a copy of it to the police station (addressed to the officer responsible for the police station) at which P is to report under section 42(3); and
- (d) in a case where P is detained in legal custody, shall (as soon as reasonably practicable) send a copy of it to the person in whose custody P is detained.

(2) Where a court terminates a banning order under section 47, the appropriate officer of the court—

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Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2011, CHAPTER 4. (See end of Document for details)

- (a) shall give a copy of the terminating order to P;
- (b) shall (as soon as reasonably practicable) send a copy of it to the Chief Constable and to any prescribed person; and
- (c) in a case where P is detained in legal custody, shall (as soon as reasonably practicable) send a copy of the terminating order to the person in whose custody P is detained.

(3) Where P is released from custody and, in a case where P has not reported under section 42(3) to a police station, is released more than 5 days before the expiry of the banning order, the person in whose custody P is shall (as soon as reasonably practicable) give notice of P's release to the Chief Constable.

(4) In this section—

“the appropriate officer”—

- (a) in relation to a magistrates' court, means the clerk of petty sessions;
- (b) in relation to the Crown Court, means the chief clerk;

“prescribed” means prescribed by order made by the Department.

Commencement Information

18 S. 48 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Failure to comply with banning order

49.—(1) A person subject to a banning order who fails to comply with any requirement imposed by the order is guilty of an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 6 months, or a fine not exceeding level 5 on the standard scale, or to both.

Commencement Information

19 S. 49 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Status:

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Changes to legislation:

There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2011, CHAPTER 4.