



Northern  
Ireland  
Office

# **SPORTS LAW AND SPECTATOR CONTROLS**

**A CONSULTATION  
UNDERTAKEN BY THE  
NORTHERN IRELAND  
OFFICE**

**JULY 2009**



# **SPORTS LAW AND SPECTATOR CONTROLS**

## **Foreword**

In recent months and years Northern Ireland has experienced occasional crowd trouble at some of our larger sports events. The recent Northern Ireland versus Poland football match saw some unacceptable scenes on our streets and, whilst this may not have been on the scale seen elsewhere, the behaviour of a minority and the public disorder caused, can harm individuals and undermine the safe development of spectator sports.

The Minister for sport in Northern Ireland, Mr Nelson McCausland, and I have a shared interest in addressing these issues. We both recognise the importance of encouraging and promoting spectator sports. Sports events bring great enjoyment to many people; create a strong sense of community; and can have significant financial benefits to bring to local areas and businesses.

Crucial to the aim of encouraging and promoting events is the creation of a safe and welcoming environment inside our major sports grounds. Sports clubs themselves already accept a shared responsibility for much of the behaviour of their supporters both inside and outside grounds and are already providing improved services and arrangements including the implementation of codes of conduct for supporters. The recently enacted Safety of Sports Grounds (Northern Ireland) Order 2006 presents new challenges and opportunities in this regard on which Government is keen to build.

There is then, first and foremost, a responsibility on sport to ensure that all its major events are managed in a way that minimises the risk of problems arising in the first instance. There is also a role, in appropriate circumstances, for the criminal justice system to become engaged. A role to declare publicly

what sorts of behaviour are unacceptable, to act as a deterrent and where necessary to punish offenders. The general public, and indeed the great majority of well-behaved sports fans, must be protected from unacceptable behaviour both at events themselves and by a minority of supporters when going to and from matches.

These proposals have been developed to help strengthen the law in the area of spectator behaviour at sports grounds and sports events. I am pleased to publish them with Mr McCausland's full support.

The proposals are for new offences and penalties in Northern Ireland based on those which have been operating very effectively in Great Britain. They include new powers around offensive chanting at games, missile throwing and pitch incursion; powers to tackle alcohol-related problems around sporting events; powers to tackle ticket touting; and proposals for a soccer banning order regime that would prevent trouble-makers from attending matches.

As a package they are designed to address the worst instances of misbehaviour by certain sport spectators and to improve the enjoyment of those who wish to attend our bigger events. They are targeted at games being played locally and when our teams travel internationally. Fans travelling to Northern Ireland can be banned by GB orders, through powers available in their home country, or in an international context under immigration law. Our proposals provide us with the opportunity to develop equivalence with GB and to begin to develop reciprocal arrangements on a wider level.

We are committed to doing all we can to help promote good behaviour, tackle bad behaviour, and improve everyone's enjoyment of our sports and sporting events.

I look forward to receiving your comments.



*Paul Goggins*

**Rt Hon Paul Goggins MP  
Minister for Policing and Criminal Justice  
Northern Ireland Office**

**July 2009**



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## **1. Executive Summary**

1.1 This public consultation document is designed to seek views on proposals to help enhance safety and comfort at certain sporting events and in particular to help deter and tackle misbehaviour by some sports fans.

1.2 The proposals are being made by the Northern Ireland Office with the support of the Department of Culture Arts and Leisure. They follow legislation, which is specifically designed to deal with hooligan and disorderly behaviour at sports grounds, already enacted in Great Britain.

1.3 These are specifically:-

- a) Offences of offensive chanting and missile throwing and unauthorised pitch incursion;
- b) Offences relating to alcohol, being drunk, having bottles and flares at sporting events and in transport to and from matches;
- c) Offence of ticket touting for soccer matches; and
- d) A soccer banning order regime for Northern Ireland.

1.4 The proposals are intended to complement the safety at sports grounds legislation that was introduced into Northern Ireland in February 2006 (the Safety of Sports Grounds (Northern Ireland) Order 2006).

1.5 The document describes the relevant laws currently in place in England and Wales and recommends the adoption of broadly similar arrangements in Northern Ireland. A number of important differences are proposed however to reflect circumstances in this jurisdiction. Those key differences are:

- the extension of proposals (a) and (b) above to include relevant GAA and rugby matches, as well as soccer;
- the proposed soccer banning regime would apply only in association with a criminal conviction (a civil order is also possible in England and Wales); it would not require a separate Football Banning Authority for Northern Ireland; and it would not require passport surrender (it would operate purely by way of reporting to police at match times).

## **2. Consultation arrangements**

2.1 This document sets out proposals for public consideration and comment. A wide range of organisations and individuals would be affected by them across sport supporters and sports clubs, stewards and the public as a whole. Liquor licensees and transport companies who provide supporter travel will also have an interest. The Government wants to hear people's views to help inform decisions on what legislative provisions might be brought forward in due course.

2.2 Comments on the proposals should be submitted in writing to:-

**Criminal Law Branch  
Northern Ireland Office  
Massey House  
Stoney Road  
BELFAST  
BT4 3SX  
E-Mail: [cjd.public@nio.x.gsi.gov.uk](mailto:cjd.public@nio.x.gsi.gov.uk)  
Fax: 028 9052 7507  
Tel: 028 9052 7522**

**Written comments should be submitted by post, fax or e-mail to arrive no later than 30 November 2009.**

2.3 Further copies of this document may be obtained free of charge from the above address. It is also available on the Northern Ireland Office website: <http://www.nio.gov.uk>.

2.4 The document can also be made available in different formats, for individuals with particular needs, on request. A text-phone facility is also available by phoning 028 9052 7668.

2.5 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

2.6 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

2.7 The Department will process your personal data in accordance with the DPA and in the majority of circumstances; this will mean that your personal data will not be disclosed to third parties.

2.8 If you have any questions concerning the documentation or the consultation process please contact Criminal Law Branch in the Northern Ireland Office who will be pleased to assist you.

## **Complaints**

2.9 If you have any complaints or concerns about the consultation process, you should contact the Northern Ireland Office's consultation co-ordinator, Donna Knowles, on 028 9052 7015, or e-mail at [Donna.Knowles@nio.x.gsi.gov.uk](mailto:Donna.Knowles@nio.x.gsi.gov.uk). Alternatively, you may wish to write to her at Central Management Unit, Northern Ireland Office, Stormont House Annexe, Stormont Estate, Belfast, BT4 3SH.

### **3. Introduction**

3.1 For several years, the Department of Culture, Arts and Leisure (DCAL) has been working with Sport Northern Ireland (SNI), sports governing bodies, sports event promoters, ground owners, district councils and many others to help make attending sporting events in Northern Ireland a safer and more attractive experience. The Minister for Culture, Arts and Leisure published a draft Strategy for Sport and Physical Recreation in Northern Ireland, 2007-2017. That document, which was published for a 12-week public consultation, considered the contribution that sport and recreation can make to local communities. It stated that Government proposes to commit to promoting community cohesion through sport and physical recreation in the context of its vision of 'A Shared Future' – the aim of which is to promote good relations between the people of Northern Ireland. It further set out a number of targets and actions designed to help Government deliver on these commitments. These included a target for improving both the safety management and fabric of major sports grounds, and corresponding action to introduce legislation that promotes high standards of spectator conduct at sporting events.

3.2 Much is being done to increase safety at Northern Ireland's major sporting venues. DCAL's Safe Sports Grounds initiative has seen the introduction of new legislation – the Safety of Sports Grounds (Northern Ireland) Order 2006. This Order provides for the introduction of a mandatory sports grounds safety certification scheme, similar to that which already exists in Great Britain, to be administered and enforced by district councils in Northern Ireland. In addition, with the support of DCAL, SNI has funded programmes aimed at addressing urgent health and safety problems at the major, and high risk, sports grounds – i.e. primarily for soccer, rugby and Gaelic. These are helping clubs to bring their grounds up to standard and improve their safety management procedures.

3.3 A key element in boosting safety and comfort at sports grounds is promoting good behaviour and combating misbehaviour amongst spectators. At the very least, violence and disorder by even a few supporters can threaten

the safety of the majority of spectators at an event. A viewing environment where families and individuals of all ages can safely enjoy the thrills of live, competitive sport should be the norm, not the exception. Safety considerations apart, spectators should not have to witness violence; nor should they have to put up with offensive language.

3.4 Another issue relevant to this consultation is the effects of drinking alcohol on specially-hired transport to and from sporting events. This has often created difficulties for crowd management at grounds, and it has occasionally provoked violence against the vehicles themselves en route. All this not only harms the reputation of the sports concerned; it also involves behaviour that is unacceptable and dangerous.

3.5 Controlling crowd behaviour at an event is primarily the responsibility of the organisers. Many of these are taking the issue increasingly seriously. For instance, the Irish Football Association, the Gaelic Athletic Association and other sports already have rules and codes of conduct in place governing spectator behaviour in a number of areas. However, Ministers also recognise that, as a supplement to the controls exercised by organisers of sporting events, and to be called upon only if necessary, the criminal law has a role to play in these matters. This consultation document therefore describes proposals to create certain criminal offences around spectator behaviour, and a soccer banning order regime.

3.6 The intended measures take account of existing criminal law, for example around anti-social behaviour, fireworks and alcohol. The more general aspects of criminal law around tackling street violence, offences against the person, and police powers more generally will also apply – as seen in the very effective police and courts response to the street disorder at the Northern Ireland/Poland game. The current proposals are designed to augment those powers and to fill very specific gaps in the law, insofar as it relates to the behaviour of local sports spectators and fans going to and from matches.

3.7 This introduction has described the broad context within which the proposals have been developed. Further background to each of the proposals is provided as necessary below. What follows is a statement of the relevant laws applying in England and Wales and an assessment of the extent to which they are a suitable basis on which new laws for Northern Ireland might be drafted. Any references to legislation for England and Wales can be found at [www.statutelaw.gov.uk](http://www.statutelaw.gov.uk)

3.8 The details are set out in following sections of this document. The document deals with each main topic in turn and is structured as follows:

Section 4: Offences of offensive chanting and missile throwing and unauthorised pitch incursion.

Section 5: Offences relating to alcohol, being drunk, having bottles and flares at sporting events and in transport to and from matches.

Section 6: A new offence of ticket touting.

Section 7: Soccer banning orders.

Section 8: Sporting events and enforcement.

Section 9: Equality and regulatory impact.

3.9 Where appropriate, a description of the law in England in Wales is provided followed by proposals for Northern Ireland.

3.10 For convenience, a summary of the proposals is provided at Annex A.

## **4. Offences of offensive chanting, missile throwing and unauthorised pitch incursion**

### Position in England and Wales

4.1 England and Wales offences are set out in the Football (Offences) Act 1991. Section 2 of the 1991 Act makes it an offence for anyone at certain soccer matches to throw anything at or towards the playing area, or any area where spectators or others may be present, unless they have lawful authority or excuse to do so. There is no need to prove that the object was directed at a particular person or that anyone was likely to be alarmed or distressed.

4.2 Section 3 states the offence of engaging or taking part in chanting of an indecent or racist nature at certain football matches. Chanting may be by one person alone or in concert with others, and there is no need for an identifiable victim.

4.3 Section 4 makes it an offence for anyone at certain soccer matches to go on to the playing area, or any adjacent area to which spectators are not generally admitted, unless they have lawful authority or excuse. These offences apply at designated matches from two hours before kick-off until one hour after the match has ended.

4.4 Each of these offences is triable summarily, in a magistrates' court, and the maximum sentence available to the courts for the offences is a fine of level 3 on the standard scale (currently £1,000).

4.5 All three offences are based, at least in part, on the important link that exists between the behaviour of those at football matches and the safety of all inside grounds. In addition, offensive chanting is unacceptable in itself, as well as having the potential to provoke violence and disorder, particularly amongst rival fans. Similarly, unauthorised pitch incursions, even for apparently innocent reasons, can inadvertently lead to crowd control problems and, at worst, violence and disorder.

## Proposals for Northern Ireland

4.6 In Northern Ireland the Safety of Sports Grounds (Northern Ireland) Order 2006 will create more “open” access to sports pitches through the proposed removal of perimeter safety fencing at certain grounds. It will therefore bring about major changes to the way in which safety is managed at our largest sports grounds. After similar legislation was introduced in England and Wales, the 1991 Act offences listed above were seen as essential to helping with the management of football spectators within grounds.

4.7 Unauthorised pitch invasion resulting in disorder and throwing of objects occurs infrequently at sports grounds in Northern Ireland. However, major incidents occasionally arise, the most significant in recent years occurring at an Irish Cup Semi-Final soccer match in 2005. Subsequent investigations indicated that pitch invasion, the throwing of missiles and alcohol were major factors in what took place.

4.8 An independent soccer fans survey (The Fans’ Perspective) commissioned by DCAL in 2004 identified strong evidence of regular fans experiencing sectarianism and racism at both international and Irish League matches. Furthermore, a few actual and alleged instances of sectarian abuse of players by some individuals attending sports events (eg soccer and Gaelic games events) have attracted considerable public comment. Apart from the harm and hurt that offensive chanting and throwing missiles can do directly to victims, they can also spark off wider trouble amongst supporters at a match, making crowd control very difficult.

4.9 For these reasons the proposal is to establish offences and maximum penalties in Northern Ireland similar to those in the Football (Offences) Act, but with a number of adjustments to reflect the particular circumstances of this jurisdiction.

## Sports in addition to soccer

4.10 Whilst the incidents of disorder cited above occurred mainly within soccer, they can happen within other sports, especially those expected to be significantly affected by the Safety of Sports Grounds Order – eg Gaelic games and rugby. Therefore, although the 1991 Act applies only to designated soccer matches, we suggest the equivalent Northern Ireland offences should apply not only to certain soccer matches, but also to certain Gaelic and rugby matches. The table in Section 8 below suggests which matches should come within the scope of the proposed measures.

## Sectarianism, etc

4.11 The England and Wales chanting offence outlaws indecent and racist words or sounds. “Racist” means matter which is threatening, abusive or insulting to a person by reason of his colour, race, nationality (including citizenship) or ethnic or national origins. In addition to this, on equality grounds, in Northern Ireland we propose to include in the scope of the offence chanting that is sectarian or which targets a person’s sexuality or disability.

## **Proposal summary**

- The proposal is that for Northern Ireland offences should be created covering offences of offensive chanting and missile throwing and unauthorised pitch incursion. Offensive chanting would include religion, race, sexual orientation and disability.
- The offences would be triable summarily and the maximum sentence available would be a fine of level 3 on the standard scale (currently £1,000).
- They would apply to designated soccer, Gaelic and rugby matches.

## **5. Offences relating to alcohol, being drunk, having bottles and flares at sporting events and in transport to and from matches**

### Position in England and Wales

5.1 The Sporting Events (Control of Alcohol) Act 1985 created a number of offences in England and Wales which are relevant to this consultation.

5.2 It is an offence in that jurisdiction for a person to have alcohol or certain articles in his possession at a designated sporting event. These are any articles which might cause injury to a person struck by them – in particular, this covers bottles, cans and other portable containers. It is also an offence to be drunk at (or when attempting to enter) such an event. *See section 2 of the 1985 Act.*

5.3 It is an offence for a person, without lawful authority, to have possession of a firework or flare at a designated sporting event. *See section 2A of the 1985 Act.*

5.4 Offences in sections 2 and 2A of the 1985 Act apply only during the period of relevant sporting events. This is the period between two hours before the event starts; during the event itself; and one hour after the event ends.

5.5 The restrictions on alcohol do not apply fully within private facilities for viewing designated sporting events. Lesser restrictions apply. Rather than two hours before and one hour after, Section 5A does not permit alcohol fifteen minutes before the event; during the event; and fifteen minutes after it. This period may be amended by subordinate legislation. Private facilities, in this context, are a room in the relevant sports ground from which the event may be directly viewed and to which the public are not admitted.

5.6 The 1985 Act also prohibits the carrying of alcohol on certain vehicles in certain circumstances. Section 1 makes it an offence to possess alcohol or to be drunk on public service vehicles and trains being used for the principal purpose of carrying passengers to or from a designated sporting event.

Similarly, a person who knowingly allows alcohol to be carried on such a vehicle is guilty of an offence. That person could be the operator of the vehicle, or, usually, its driver.

5.7 There is a separate but related offence in section 1A of the 1985 Act under which a person may not possess alcohol, or be drunk, on a vehicle which is not a public service vehicle but which is adapted to carry more than eight passengers on roads. Again, this offence applies only to vehicles being used primarily for carrying passengers to or from a designated sporting event. It is also an offence for a person to knowingly allow alcohol to be carried on such vehicles.

5.8 As its title suggests, the Act has the potential to cover all sporting events. However, so far only certain categories of football match have been designated as affected by the Act's provisions.

5.9 The Act carries enforcement powers for the police. They may enter relevant grounds; they may search a person on reasonable suspicion of committing an offence under the Act; and they may stop and search a vehicle or search a passenger on reasonable suspicion. *See section 7 of the 1985 Act.*

5.10 The offences are all triable only in magistrates' courts, and the maximum penalties available are as follows. For knowingly allowing alcohol on a vehicle, a level 4 fine (currently £2,500). For being in possession of alcohol, fireworks, etc, either a level 3 fine (currently £1,000) or three months' imprisonment or both. For being drunk at a ground or in a vehicle, a level 2 fine (currently £500). *See section 8 of the 1985 Act.*

#### Proposals for Northern Ireland

5.11 This document has already touched upon the links between violence, disorder and sectarianism, and – on the other hand – safety and respect for others. It also mentions the problems for crowd control to which the abuse of alcohol can be a major contributor. For most people drinking is a source of

pleasure and an important part of their social lives. There is no desire to interfere unnecessarily with people's freedom to drink responsibly. However, serious safety and crowd control issues arise inside grounds, where alcohol amongst supporters is too often an aggravating factor in the charged atmosphere of a competitive sporting contest. Also, drinking by fans during matches can contribute to unacceptable levels of anti-social behaviour and disorder outside grounds after the matches. For those reasons we propose to adopt the same approach as England and Wales to the possession of alcohol and being drunk at grounds.

5.12 Moreover, just as we propose to criminalise the throwing of missiles within grounds, we believe it right to make it an offence to bring throwable drink containers such as bottles and cans into grounds, or to try to gain entry with these items. As to fireworks, we believe their use and possession are adequately regulated already in Northern Ireland under existing law. However, we do think it necessary to exclude flares from grounds in Northern Ireland. We also recommend, as in England and Wales, limiting the period around matches during which these offences would apply.

5.13 It is already an offence – for example under NI Railways Bye Laws – to be intoxicated or to take alcohol onto trains. In addition, we are aware that drinking on chartered transport to and from some sporting events in Northern Ireland has exacerbated crowd control problems and has contributed to disorder. We therefore propose to adopt similar measures to those in England and Wales for banning alcohol on such transport.

5.14 Just as the law in England and Wales refers to designated sporting events, we wish to take a similar approach in Northern Ireland. However, for Northern Ireland it would be Ministers' intention to designate not just certain soccer matches (as is the case in England and Wales) but also certain Gaelic and rugby matches as, like soccer, these sports are expected to be significantly affected by the Safety of Sports Grounds Order. We believe it is right that the offences proposed in this section additionally affect the matches as outlined in Section 4 (offensive chanting, missile throwing and

unauthorised pitch invasion), that are played *within* Northern Ireland. The proposed offences relating to alcohol on special transport should also apply on trips to certain matches played *outside* Northern Ireland. The table in Section 8 below suggests which matches should come within the scope of these measures.

### **Proposal summary**

- The proposal is that offences be created for Northern Ireland relating to alcohol, being drunk, having bottles and flares at sporting events and in transport to and from matches.
- The offences would be triable summarily with maximum penalties as follows:
  - Knowingly allowing alcohol on a vehicle, a level 4 fine (currently £2,500).
  - Being in possession of alcohol, flares, etc, either a level 3 fine (currently £1,000) or three months' imprisonment or both.
  - Being drunk at a ground or in a vehicle, (including travelling outside of Northern Ireland) a level 2 fine (currently £500).
- They would apply to designated soccer, Gaelic and rugby matches.

## **6. Offence of Ticket Touting**

### Position in England and Wales

6.1 In England and Wales it is an offence under the Criminal Justice and Public Order Act 1994 for an unauthorised person to sell a ticket for a “regulated” football match. (Regulated matches are, in broad terms, England or Wales internationals and UEFA matches (home or away) and league and FA Cup matches, down to National Conference and League of Wales teams.) The Act also allows for the offence to apply to other sporting events for which at least 6,000 tickets are issued for sale. (Other events can be added by order of the Secretary of State - though no such orders have been made to date.) The 1994 provisions apply to sales in any public place or in the course of a business or trade. The maximum penalty available for this offence, on conviction in a magistrates’ court, is a level 5 (£5,000) fine. *See section 166 of the 1994 Act.*

6.2 The rationale for this offence is primarily that the sale of tickets by touts can undermine measures by clubs to separate opposing fans within grounds. This separation is often necessary, particularly in soccer, in the interests of preserving good order and promoting safety inside and around grounds. It holds good not only for matches played in England and Wales but for international and UEFA matches played outside that jurisdiction. This reflects the importance attached to advancing the good name of England and Wales football, and the acknowledged responsibility of authorities in England and Wales to promote safety of fans at matches outside the jurisdiction.

6.3 In addition, it should be mentioned for completeness that the London Olympic Games and Paralympic Games Act 2006 creates a new offence of ticket touting in relation to events, throughout the UK, for the 2012 London games. Similar statutory controls have been placed on ticket sales for the Commonwealth Games in Glasgow in 2014. These measures against ticket touting at major Games are part of a range of provisions to help promote the success of the Games, including the promotion of public confidence in them. For example, statutory controls are needed in relation to advertising and to

outdoor vending in the vicinity of the Games. Their underlying rationale does not relate primarily to preventing disorder.

### Proposals for Northern Ireland

6.4 The same objectives of promoting safety and preventing disorder at sporting events are as valid in Northern Ireland as elsewhere in the UK and abroad. As in England and Wales, we anticipate the need to segregate fans for these purposes in relation to soccer matches in Northern Ireland and outside the jurisdiction. We therefore propose that a new offence against ticket touting for certain soccer matches should be introduced, according to the model of the 1994 Act. The table in Section 8 below suggests which matches should come within the scope of the proposed measures. The same court and trial arrangements and maximum penalties on conviction would apply in Northern Ireland as in England and Wales.

6.5 We have not identified a present need to extend the proposed ticket touting offence to include sporting events other than soccer matches. However, like the 1994 Act, we do propose to provide a facility to have the offence extended in that direction by subordinate legislation.

### **Proposal summary**

- The proposal is that ticket touting for soccer matches should be an offence in Northern Ireland.
- The offence would be triable summarily with a maximum penalty of a level 5 (£5,000) fine.
- Should the need arise, other sports could be added to the offence and penalty by way of subordinate legislation.

## **7. Soccer Banning Orders**

### Position in England and Wales

7.1 In England and Wales, courts have powers under the Football Spectators Act 1989 to impose football banning orders for the purpose of helping to prevent violence or disorder linked with “regulated” soccer matches. Broadly speaking, regulated matches in England and Wales involve teams from the FA Premier League, the Football League, or the Football Conference, teams from outside England and Wales and international teams. Regulated matches outside England and Wales involve the two national sides and club teams of the Football League or the FA Premier League.

7.2 A banning order prohibits the person subject to it from attending matches in England and Wales. Where it is deemed necessary, the courts can ban recipients from using public transport on match days, and from visiting other potential ‘hotspots’, such as town centres, pubs and bars during risk periods. For specific overseas matches the banning order may require the person to surrender their passport and/or Identity Card and on the day of the match report to a police station. An order may have effect for up to ten years, though the person subject to an order may apply to the court to terminate it after two thirds of the order’s duration. It is a criminal offence to breach a banning order, and the maximum penalty on conviction in a magistrates’ court is six months’ imprisonment, a level 5 (£5,000) fine, or both.

7.3 The power to make a banning order is available to the courts in two sets of circumstances. The first is when a person is found guilty of a relevant offence – these are listed in the legislation and most involve violence or disorder, not necessarily linked to soccer. Having been sentenced for such offences, in each case the courts must consider also imposing a football banning order on the offender. This is the “criminal” route. A person who has been made subject to a banning order has the right to appeal to a higher court.

7.4 The second is where the police or the Director of Public Prosecutions apply to the court without an offence having been committed but where they believe a person has contributed to violence or disorder inside or outside the UK. If the court is satisfied that that is the case and that making a banning order against the person would help to prevent soccer-related violence or disorder, the court must make an order. With this “civil” route the police or DPP may act without having to await the outcome of any criminal proceedings.

7.5 As a supplement to the civil route, the 1989 Act also provides for the police to detain a person for up to six hours if they suspect the person has contributed to violence or disorder anywhere and if they believe the making of a banning order would help to prevent football-related violence or disorder.

7.6 In England and Wales, the Football Banning Order Authority was set up under the Police Act 1996 to provide central administration for the enforcement of Orders issued in that jurisdiction. It works in particular with the many individual police forces throughout England and Wales to ensure that orders are properly executed, information is properly disseminated and records maintained.

7.7 In Scotland a similar banning order regime has been introduced and steps are being taken to allow for mutual recognition and enforcement of orders made in England, Wales and Scotland.

7.8 In England and Wales, banning orders have played an important role in reducing and preventing soccer hooliganism. The banning order denies the habitual hooligan access to the arena in which he normally chooses to misbehave and it tends to be looked upon by would-be offenders with a greater degree of trepidation than other forms of punishment or prevention. At present a total of 3160 individuals are subject to football banning orders in England and Wales, of which 2922 were linked to a conviction and 238 issued on civil (police) complaint.

## Internationally

7.9 It is important to note that football banning regimes must be based on the “home” jurisdiction and its own legislative competence. Hence a banning regime will deal with restrictions on match attendance not only within the country but also for that country’s spectators as they seek to travel outside the jurisdiction. But a GB banning regime - or an NI one if one is created as a result of this consultation - cannot in itself bar foreign fans from travelling into the jurisdiction. That can only be achieved if the sending country itself has a banning regime.

7.10 But alternatives are available and work is also underway in terms of reciprocal arrangements. Spectators from outside the UK can be refused entry under immigration laws – and there is close co-operation at a policing level to alert countries to danger signs. And if fans do cause trouble when in the UK the normal criminal law will apply. Work is also underway at a policy level to promote the football banning systems across the EU as a whole.

7.11 The Policing and Crime Bill currently before Parliament will strengthen the application of existing banning regimes across the UK - breaches will be prosecutable in NI courts. Our current proposals will also make it an offence to attend games in GB. And if an NI banning regime were to be created it would be our intention to create recognition with Great Britain whereby our breaches could be prosecuted there as well.

## Proposals for Northern Ireland

7.12 Northern Ireland currently has no court-based soccer banning regime though it does on occasion suffer local soccer-related disorder. And on occasions, soccer fans travelling to Scottish matches have caused trouble, especially on ferries. We now believe that in Northern Ireland banning orders are a necessary additional means of deterring and preventing violence and disorder at, or linked with, soccer matches. We therefore plan to introduce a

system along the lines of the England and Wales model described above, but with certain important adjustments to reflect local needs.

7.13 We are not convinced at this stage about the need in Northern Ireland for the “civil route” to the making of an order. We note how few are made by this route in England and Wales – the criminal conviction route is much more frequent. We also believe that soccer-related violence and disorder in Northern Ireland are not organised and pre-meditated in the way they have been in England and Wales. Accordingly, it is our view that the adoption of a civil route to the making of banning orders is not necessary or appropriate at present in Northern Ireland.

7.14 Likewise, we do not believe it necessary or cost-effective to establish in NI a special administering enforcement organisation such as the Authority in England and Wales. For England and Wales there are 43 regional constabularies and travel across them for football matches is frequent. Much less co-ordination is required in Northern with a single police service and, we would anticipate, a much lower use of banning orders. At any given time the number of people subject to soccer banning orders made by NI courts is likely to be sufficiently low as to allow administration to be handled by the routine of the criminal justice system. The scale would not require a separate football banning authority.

7.15 Provisions under UK law regarding the surrender of passports for specific overseas matches only affect UK passports. That would not be an effective control in Northern Ireland, given the number of NI residents in possession of a passport from another jurisdiction, and it would be potentially discriminatory. The controls proposed for Northern Ireland’s banning order regime would therefore not include the requirement to surrender a passport. The objective could be achieved by other means, eg requiring persons subject to NI banning orders to report to a police station at times coinciding with relevant overseas matches or tournaments.

7.16 We have considered whether a banning order regime in Northern Ireland should apply only to soccer as in England and Wales, or include other

sports. Extending the scope of a banning order regime to include sports other than soccer would significantly complicate the system and any reciprocal arrangements with GB. We also believe that imposing a banning order regime for other sports would not be warranted by any trouble or risk associated with those sports. We therefore propose that banning orders in Northern Ireland, as in England and Wales, be applied to soccer only. The table in Section 8 below suggests which matches should come within the scope of the proposed measures.

7.17 Moreover, we also intend that NI orders should ban attendance at matches subject to the respective banning order regimes in Scotland, England and Wales. This would become part of a fully reciprocal system of soccer banning orders throughout the UK, so that a person who is subject to a banning order made in one of the three UK jurisdictions should be banned from attending matches covered by each of the three banning regimes. This would help to prevent displacement of potential soccer-related violence and disorder between the three UK jurisdictions.

7.18 At an international level however, whilst Northern Ireland could create its own banning regime to deal with its own trouble-makers, it must continue to work with the UK and with Europe to tackle the problem more widely. The current package of proposals can only deal with the local problem – powers against incoming fans will be subject to their own banning regimes underpinned by immigration laws and routine criminal justice powers. The current package of proposals will not of itself solve the problems witnessed at the recent international match. Joint working with GB and EU colleagues will be the way forward and views would be welcome on what more might be done cross-jurisdictionally to tackle the problem of travelling gangs.

### **Proposal summary**

- The proposal is that for Northern Ireland a soccer banning regime should be created.

- It would be based solely on a criminal conviction being secured and would relate only to soccer.
- Compliance would be secured by requiring the person to report to a police station, for example at match times – without the need for passport surrender.
- Breaching a banning order would be triable summarily with a maximum penalty on conviction of six months' imprisonment, a level 5 (£5,000) fine, or both.
- There would be reciprocal arrangements with GB banning regimes.
- Further work should be done at an EU level to develop cross-jurisdictional responses to travelling gangs.

## **8. Sporting events and enforcement**

### Which sporting events in Northern Ireland would be affected by all of these proposals?

8.1 In considering which sporting events should be covered by each of the above proposals account needs to be taken of several factors. The most important of these is personal safety, for example of spectators, players, officials and members of the public. Others are consistency, simplicity and proportionality. As explained above, some of our proposals are mainly safety-driven, while others have additional objectives, for example to improve the image of spectator sports. We wish to target the proposals upon the sporting events where they are most needed, and not to affect other events unnecessarily. It is our proposal that a specific list of matches based on their competition structure be affected by the measures set out above. The list is provided overleaf and would be achieved by formal designation – under subordinate legislation for ease of amendment as and when necessary.

### Enforcement in Northern Ireland

8.2 The proposals set out in this consultation document are for the creation of new criminal offences and for a soccer banning regime for those guilty of certain criminal offences. It will therefore be for the criminal justice authorities, mainly the police, the Public Prosecution Service and the courts, to enforce the new laws.

8.3 Ministers believe that the creation of criminal offences will help those responsible for staging sporting events to do so in a way that better promotes crowd safety and good behaviour by spectators. Clubs and stewards will continue to have the most important roles to play in this. Clubs may already exclude unwanted spectators from grounds. Stewards already help to manage crowd behaviour. Their roles will not change as a result of the proposed new laws.

Offences	Sport Events Affected
<p><b>Section 4</b> - Offences of offensive chanting, missile throwing and unauthorised pitch incursion.</p> <p><b>Section 5</b> - Offences relating to alcohol, being drunk, having bottles, flares and fireworks at sporting events.</p> <p><b>Section 5</b> - Offences on alcohol in transport to and from matches <i>within</i> Northern Ireland.</p>	<p><u>Soccer</u>: Matches played <i>in Northern Ireland</i> by teams in the Irish Premier League, First Division, Setanta cup, any Northern Ireland team playing in the Eircom League in (eg Derry City at present) and the Northern Ireland international team.</p> <p><u>GAA</u>: All matches played at venues in Northern Ireland designated as requiring a safety certificate or with a stand requiring a safety certificate under the Safety of Sports Grounds (NI) Order 2006.</p> <p><u>Rugby</u>: All matches played at venues in Northern Ireland designated as requiring a safety certificate or with a stand requiring a safety certificate under the Safety of Sports Grounds (NI) Order 2006.</p>
<p><b>Section 5</b> - Offences on alcohol in transport to and from matches <i>outside</i> Northern Ireland.</p>	<p><u>Soccer</u>: Transport from Northern Ireland to matches played outside NI, involving teams listed above.</p> <p><u>GAA</u>: Transport from Northern Ireland to matches played outside NI, involving County teams.</p> <p><u>Rugby</u>: Transport from Northern Ireland to matches played outside NI, involving the Ulster or Ireland rugby team.</p>

<p><b>Section 6</b> - Offence of ticket touting.</p>	<p><u>Soccer</u> (only):</p>
<p><b>Section 7</b> - Soccer banning orders.</p>	<p>All of the above-listed soccer matches including outside NI.</p>

### Proposal summary

- The offences would apply to sporting events as in the table above, amendable by subordinate legislation.
- The offences which would apply sporting events occurring *within* Northern Ireland would be designated according to the competition in question, and where appropriate the need for a sports safety certificate.
- Offences relating to alcohol on transport *outside* of Northern Ireland would apply to events involving soccer teams from designated competitions, the Ulster and Ireland rugby teams, and County GAA teams – when each is playing outside Northern Ireland.
- Ticket touting offences and soccer banning orders would apply to football matches within designated competitions.
- Enforcement will be via the criminal justice system without the need for a separate football banning authority.

## **9. Equality and regulatory impact**

### Equality

9.1 Under Section 75 of the Northern Ireland Act 1998 Government policies should have regard to the need to promote equality of opportunity between people of different religious belief, political opinion, racial group, age, marital status or sexual orientation. In addition, we aim to promote equality of opportunity between men and women generally, people with a disability and people without, and people with dependants or without dependants.

9.2 During the screening exercise we identified that a small minority of males who attend sporting events may be impacted differentially by the proposals. As the focus of our equality screening has to be on the population as a whole we believe that the impact on a small minority of males is insufficient to demonstrate inequality in the proposals. We have concluded that a full EQIA assessment is not necessary. Our screening assessment forms are available on the NIO's website or from Criminal Law Branch at the address given in paragraph 2.2 above.

9.3 The Government has a further duty under section 75 to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinions or racial groups. The proposed policy aims to tackle certain forms of behaviour which can both arise from and lead to poor community relations. The broad intention is to help create an environment at matches which welcomes people from diverse backgrounds and thereby helps to foster improved community relations.

### Regulatory Impact

9.4 It is considered that these measures, if implemented, may deter some individuals from continuing to attend certain major sports events (mainly soccer) in Northern Ireland. This could lead to a short term loss of revenue for promoters of such events. However, it is also considered that the measures, if implemented in tandem with other actions aimed at improving the

safety and comfort of spectators at larger sports grounds, would encourage more people to attend, on a regular basis, major sports events held at those grounds. This can be expected to include many people who do not regularly go to games at present. Such increases in attendance are likely to negate any potential short term loss of revenue and, indeed, would result in improved revenues for promoters of major sports events in the medium to long term.

### **Proposal summary**

- The proposals as published do not require a full EQIA assessment.
- There will be a balanced effect in terms of regulatory impact – any small additional costs will be off-set by improved spectator behaviour and increased attendances.
- We would welcome views on our equality and regulatory impact assessments.

## Summary of proposals for Northern Ireland

- New offences of offensive chanting, missile throwing and unauthorised pitch incursion at certain soccer, Gaelic and rugby matches. Maximum penalty on conviction : a level 3 fine (currently £1,000). See Section 4.
- New offences of possessing alcohol, drink-containers or flares or of being drunk, at certain soccer, Gaelic and rugby matches. These offences are to apply from two hours before each match until one hour after it. However, drinking would be less restricted in private viewing facilities within grounds. Maximum penalties on conviction : for possessing alcohol, a drink container or a flare, a level 3 fine (currently £1,000) or three months' imprisonment or both; for being drunk at a ground or in a vehicle, a level 2 fine (currently £500). See Section 5.
- New offences of possessing alcohol, or allowing it to be carried, on "special" transport to and from certain soccer, Gaelic and rugby matches played inside or outside Northern Ireland. Maximum penalties on conviction : for possession, a level 3 fine (currently £1,000) or three months' imprisonment or both; for allowing it to be carried, a level 4 fine (currently £2,500). See Section 5.
- A new offence of ticket touting for certain soccer matches to be played inside or outside Northern Ireland. Maximum penalty on conviction: a level 5 fine (currently £5,000). See Section 6.
- New powers for the courts in Northern Ireland to ban a person found guilty of certain offences of violence or disorder from attending certain soccer matches inside and outside Northern Ireland. The maximum period of a ban would be 10 years. Breach of a banning order would be a criminal offence. Maximum penalty on conviction : six months' imprisonment, a level 5 fine (currently £5,000) or both. See Section 7.
- Each of the above offences would be triable only in a magistrates' court. A banning order could be made in a magistrates' court or in the Crown Court. See Section 7.
- Further work should be done at an EU level to develop cross-jurisdictional responses to travelling gangs. See Section 7.
- The table in Section 8 sets out the matches affected by each of the above proposals.



