EXPLANATORY MEMORANDUM TO

THE FOOTBALL SPECTATORS (CORRESPONDING OFFENCES) (REVOCATION) ORDER 2015

2015 No. 212

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order in Council revokes nine Orders that have fallen out of use due to subsequent legislation which can be used for a similar purpose.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Orders being revoked specified offences under the laws of various countries which corresponded to certain offences specified in Schedule 1 to the Football Spectators Act 1989. Under section 22 of that Act (Banning Orders arising out of offences outside England and Wales), proceedings may be commenced before Magistrates against a person who has been convicted of such an offence, with the result that a football banning order may be made against such a person.

4.2 The Orders are being revoked because section 22 has fallen out of use. There are alternative routes to securing a banning order under the 1989 Act; in particular via section 14B (Banning Orders made on complaint) which allows for a banning order to be made by the Magistrates Court where an individual has caused or contributed to violence or disorder abroad, and the court is satisfied that there are reasonable grounds to believe that making the order would help to prevent violence or disorder. Section 14B does not require proof of a criminal conviction for a corresponding offence.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Section 14B of the Football Spectators Act 1989 was inserted, by amendment, in 2000 by section 1 of, and schedule 2 to, the Football (Disorder) Act 2000. Section 14B is a more efficient way to commence banning order proceedings than section 22 of that Act. A banning order application under section 14B allows police, or the Crown Prosecution Service, to make an application to the Magistrates court to make a banning order, provided that it appears the person in question has contributed to any violence or disorder, whether in the United Kingdom or elsewhere. It is not necessary to show that the violence or disorder in which the respondent was involved constituted a criminal offence for which they were convicted abroad. The court may take into account evidence of the conduct itself, rather than the decision of a court or tribunal outside the United Kingdom.

7.2 Whereas the court may take into account evidence of the conduct itself in proceedings commenced under section 14B, banning order proceedings under section 22 are reliant on the decision of a court or tribunal outside the United Kingdom. Successful use of section 22 is reliant upon the Ministry of Justice or the Ministry of the Interior of the country in which the respondent was convicted in completing a certificate in the form that the relevant Order prescribes. It was not always possible to obtain said certificates from overseas authorities.

7.3 Since the introduction of section 14B, section 22 has fallen out of use. There have been no further Corresponding Offences Orders coming into force since May 2000 (four months before section 14B was inserted). The Home Office's understanding, based on information provided by the Football Banning Orders Authority, is that no banning orders have been made following proceedings commenced under section 22 in the past five years.

Consolidation

7.4 There is no consolidation of other relevant legislation.

8. Consultation outcome

8.1 The Government has consulted the national police lead for football and the Crown Prosecution Service's joint lead for football prosecutions. Both confirmed they were content with revocation of the Orders. A broader consultation was not considered necessary due to the Orders falling out of use.

9. Guidance

9.1 The legislation relates to the revocation of corresponding offences Orders under section 22 of the Football Spectators Act 1989 and does not make new provision for which guidance is necessary. The Football Banning Orders Authority will notify key stakeholders that the Orders have been revoked.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Orders being revoked were identified as having fallen out of use. Given the nature of this instrument, there is no need for any monitoring or review of revocation of the Orders.

13. Contact

Martin Gooday at the Home Office, tel: 020 7035 1815 or email: Martin.Gooday@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.