EXPLANATORY MEMORANDUM TO

THE FOOTBALL SPECTATORS (SEATING) ORDER 2011

2011 No. 1436

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This order directs the Football Licensing Authority ("FLA") to include an "all-seater" condition in any licence issued under section 10 of the Football Spectators Act 1989 to admit spectators to football matches at the American Express Community Stadium, the home ground of the Brighton & Hove Albion Football Club Ltd.

3. Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]

3.1 None

4. Legislative Context

4.1 Section 9 of the Football Spectators Act 1989 makes it an offence to admit spectators to a designated football match without a licence to admit spectators being in force. Descriptions of football matches are designated by the Secretary of State by order under s1(2) of the 1989 Act and the current designation is set out in the Football Spectators (Designation of Football Matches in England and Wales) Order 2000 (S.I. 2000/3331). It includes any association football match which is played at a sports ground in England or Wales which is registered with the FA Premier League or Football League as the home ground of a club which is a member of the FA Premier League or Football League at the time the match is played.

4.2 The FLA is responsible under section 10 for issuing licenses to admit spectators on such terms and conditions as it considers appropriate. The Secretary of State has power under section 11 to issue a direction by order to the FLA requiring it to include conditions relating to seating, and it is this power which is being exercised in relation to the above order. Before issuing such a direction, the Secretary of State is required to consult the FLA which may, if it sees fit, make recommendations to him. Similar orders have been issued every year since 1994 under the Government's "all-seater" policy for football clubs in the FA Premier League and the Football League Championship (see Policy Background section below).

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.
5.2 The Football Spectators Act 1989 (under which the order is made) extends to England and Wales.

6. European Convention on Human Rights

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

7. Policy background

- ***What is being done and why***

7.1 Following the final report of the 1989 enquiry by the Rt Hon Lord Justice Taylor into the Hillsborough Stadium Disaster, the Government adopted an all-seater policy for all clubs in English football's top two divisions. Since this report, the FLA's licensing regime has led to major structural improvements at football grounds, making them much safer places for spectators.
7.2 Under the all-seater policy clubs promoted to the Championship (the 2nd division of Football) are given three years in which to undertake any work required to upgrade their ground to all-seater after which time an all-seater condition is imposed on their licence to admit spectators. By allowing clubs three years, the Government believes that clubs will have a reasonable timeframe in which to complete any work required to comply with this policy.
7.3 Where a club has spent three years or more in the top two divisions it will continue to be subject to the all-seater policy regardless of whether it remains in these divisions or it is relegated.
7.4 The Brighton & Hove Albion Football Club Ltd achieved promotion to the Championship for the 2011-12 season having finished first in League One. As the club has previously spent three years at this level, they will now be subject to the all-seater policy.
7.5 This order formally directs the FLA to include the all-seater requirement as a condition of the club's licence to admit spectators. The main benefit will be improved assurance of spectator safety and effective crowd management at this ground.

- ***Consolidation***

7.6 The Instrument does not amend another instrument.

8. Consultation outcome

8.1 The Secretary of State has consulted the FLA in relation to the Brighton & Hove Albion Football Club Ltd's new stadium. No objections were raised.

9. Guidance

9.1 There is no specific guidance issued to ensure compliance with this Instrument.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal and the only impact will be on the football club named in this instrument which will be required to ensure that its ground is all-seater for the beginning of the 2011/12 football season.

10.2 The impact on the public sector is that the Football Licensing Authority will have to include a term in any licence to admit spectators it awards to the Brighton & Hove Albion Football Club Ltd requiring its ground to be all-seater.

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 Not applicable

13. Contact

13.1 Simon Richardson at the Department for Culture, Media and Sport (Tel: 020 7211 6420 or email: simon.richardson@culture.gsi.gov.uk) can answer any queries regarding the instrument.