EXPLANATORY MEMORANDUM TO

THE FOOTBALL SPECTATORS (SEATING) ORDER 2016

2016 No. 629

1. Introduction

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

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This order directs the Sports Grounds Safety Authority ("SGSA") to include the "all-seater" conditions in any licence issued under section 10 of the Football Spectators Act 1989 (c. 37) ("1989 Act") to admit spectators to football matches at the London Stadium at the Queen Elizabeth Olympic Park, the home ground of West Ham United Football Club.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 West Ham Football Club's existing home ground, the Boleyn Ground, is currently designated as requiring a safety certificate under s.1(1) of the Safety at Sports Grounds Act 1975 in Schedule 2 to the Safety at Sports Grounds (Designation) Order 2015 (S.I. 2015/661). An order removing that designation will be made separately. That order will also amend the entry for 'The Stadium' at Queen Elizabeth Olympic Park in Schedule 1, following its change of name to the London Stadium.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Section 9 of the 1989 Act makes it an offence to admit spectators to a designated football match without a licence to admit spectators being in force. Designated football matches are matches designated by the Secretary of State by Order under s.1(2) of the 1989 Act. Under the current Order Football Spectators (Designation of Football Matches in England and Wales) Order 2000 (S.I. 2000/3331) these include 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 SGSA is responsible under section 10 for issuing and ensuring compliance with licences to admit spectators to sports grounds, on such terms and conditions as it considers appropriate.

4.3 The Secretary of State has power under section 11 to issue a direction by order to the SGSA requiring it to include conditions relating to seating of spectators at designated football matches, and it is this power that is being exercised in relation to this Order. Before issuing such a direction, the Secretary of State is required to consult the SGSA which may, if it sees fit, make recommendations to him.

4.4 Similar orders have been issued most years since 1994 in accordance with the "all-seater" policy (see Policy Background section below).

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is England and Wales.

5.3 The Football Spectators Act 1989 under which the order is made also extends 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

What is being done and why

7.1 Following the final report of the 1989 Inquiry by the Rt Hon Lord Justice Taylor into the Hillsborough Stadium Disaster, an "all-seater policy" was adopted for all clubs in English football's top two divisions. This requires that only seated accommodation is to be provided for spectators at a designated football matches.

7.2 Under the all-seater policy, clubs promoted to the Championship (the 2nd division of Football) are given up to three years in which to undertake any work required to upgrade their ground to comply with the all-seater requirement, after which time the all-seater conditions are imposed in the licence to admit spectators issued by the SGSA. Allowing clubs up to three years gives clubs a reasonable timeframe in which to complete any work required to comply with this policy. Since its introduction, the SGSA's licensing regime has led to major structural improvements at football grounds, making them much safer places for spectators.

7.3 Thus the intention of the policy is that it is progressive. As such once a ground has become an all-seater ground, there is no expectation that a ground would revert to standing or other forms of accommodation. This is all part of improving facilities at football grounds more generally in accordance with the recommendations following Hillsborough. Thus where a club has spent three years or more in the top two divisions (i.e. the length of the conversion period), it will continue to be subject to the all-seater policy regardless of whether it remains in these divisions or it is relegated. Similarly, the all-seater policy will also continue to apply to the new home ground of a club whose existing home ground is subject to an all-seater condition. In these circumstances, an all-seater order is required, subject to consultation (see below), to be made for the new ground as seating orders are ground specific.

7.4 West Ham United Football Club are moving from their current ground, the Boleyn Ground, to the London Stadium at the Queen Elizabeth Olympic Park for the start of the 2016/2017 season. The Boleyn Ground is already subject to the all-seater

requirements, so a new order is required in respect of their new ground, the London Stadium.

7.5 This Order directs the SGSA 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 This instrument does not amend another instrument.

8. Consultation outcome

8.1 The Secretary of State has consulted the SGSA in relation to West Ham United Football Club's new stadium, the London Stadium, at the Queen Elizabeth Olympic Park which in turn has consulted with the local certifying authority and the club. No objections were raised. Nor did the SGSA make any recommendations.

9. Guidance

9.1 There is no specific guidance issued to ensure compliance with this Order. However, clubs are able to refer to the technical advice contained in the Government's Guide to Safety at Sports Grounds, 5th Edition, The Stationery Office, 2006 ISBN 0-11-702074, also known as the Green Guide.

10. Impact

10.1 The impact on business is minimal. The only impact is on West Ham United Football Club, which will be required to ensure that the London Stadium complies with the all-seater conditions for the beginning of the 2016/17 football season. The ground is already an all-seater stadium and so it will satisfy these conditions.

10.2 There is no impact on charities or voluntary bodies.

10.3 There is no impact on the public sector.

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

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 The intention of this Order is to ensure the all-seater policy is extended to the London Stadium, the new home ground of West Ham United Football Club.

12.2 The Minister is satisfied that it is not appropriate in the circumstances to make provision for review in this order, for reasons set out below. In making his determination the Minister has had regard to the Statutory Review Guidance for Departments published pursuant to s.31(2) of the Small Business, Enterprise and Employment Act 2015.

12.3 Individual seating orders only apply to the premises named in that order. As such, a review of this order would not lead to a review of the underlying all-seater policy, and whether the policy remains appropriate. It would only be a review of the continued applicability of the order to the individual ground. To review each individual seating order in this way would incur disproportionate costs, and would not achieve the

purpose of a statutory review provision which is to ensure that regulation only remains in force where it is having the intended policy effect. The underlying all-seater policy is kept under review by DCMS. If the underlying all-seater policy were to change, this would require amendment to all seating orders, not just this order.

13. Contact

13.1 Fiona Wood at the Department of Culture, Media and Sport. Telephone: 0207 211 6133 or email: fiona.wood@culture.gov.uk can answer any queries regarding the instrument.