EXPLANATORY MEMORANDUM TO

THE FOOTBALL SPECTATORS (SEATING) ORDER 2020

2020 No. 982

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Digital, 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 Sports Grounds Safety Authority ("SGSA") to include "the all-seater condition" (see paragraph 7.1 below) requirements in any licence granted under section 10 of the Football Spectators Act 1989 ("the 1989 Act") to admit spectators to football matches at the Brentford Community Stadium, the home ground of Brentford Football Club, a football club currently in the Championship (the second division of football in England and Wales).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure, there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and territorial application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

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

6. Legislative context

6.1 Section 9 of the 1989 Act makes it an offence to admit spectators to a designated football match unless a licence to admit spectators is in force for that sports ground. Designated football matches are matches designated by the Secretary of State by an order made under section 1(2) of the 1989 Act.

6.2 By the current order, the Football Spectators (Designation of Football Matches in England and Wales) Order 2000 (S.I. 2000/3331), football matches designated for this purpose include any association football match 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.

6.3 The SGSA is responsible under section 10 for issuing and ensuring compliance with licences to admit spectators to sports grounds to watch designated football matches, on such terms and conditions as it considers appropriate.

6.4 However, the Secretary of State also has power under section 11 to make an order which directs the SGSA 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 giving such a direction in reliance on that power, the Secretary of State must consult the SGSA which may, if it sees fit, make recommendations to him.

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. Where the Secretary of State has directed the SGSA to apply the all-seater policy to a sports ground, the SGSA must ensure that any licence for that ground includes a condition imposing requirements that only seated accommodation is to be provided, and also that spectators may only watch designated football matches from seated accommodation ("the all-seater condition").

7.2 Under the all-seater policy, clubs promoted to the Championship (the second division of Football in England and Wales) are given up to three years in which to undertake any work required to upgrade their ground to comply with the all-seater condition, after which time the requirements are imposed in the licence to admit spectators issued by the SGSA. Allowing clubs up to three years allows a reasonable timeframe in which to complete any work required to comply with the all-seater 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 The intention of the policy is that it is progressive: once a ground converts to become all-seater (or, if later, the club has spent three years in the top two Divisions), it will not revert to standing or other forms of accommodation in the event of subsequent relegation. This is all part of improving facilities at football grounds more generally, in accordance with the recommendations following Hillsborough. Similarly, the all-seater policy continues to apply to the new home ground of any club whose existing home ground is subject to the all-seater condition. In these circumstances, a Seating Order would be required for the new ground, as seating orders are ground specific.

7.4 Brentford Football Club has moved from its current ground, Griffin Park, to the Brentford Community Stadium for the 2020/2021 season. This Order directs the SGSA to include the all-seater condition in any licence to admit spectators to the Brentford Community Stadium to watch designated football matches. The principal benefit will be improved assurance with regard to spectator safety and effective crowd management at this new ground.

7.5 Brentford Football Club has been in the Football League since the start of the 2014/15 season. In line with the all-seater policy, it had three years to convert Griffin Park to be all-seater. During the 2016/17 season, the club announced plans to relocate from Griffin Park to a new stadium. Thereafter, the Secretary of State granted the club three

consecutive 12-month extensions to the all-seater condition that covered the 2017/18, 2018/19, and 2019/20 seasons. Now the club is finally ready to move into its new stadium for the 2020/21 season, the new Brentford Community Stadium needs to be made subject to the all-seater condition.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 This Order does not amend another instrument.

10. Consultation outcome

10.1 The Secretary of State has consulted the SGSA in relation to Brentford Football Club's new stadium, the Brentford Community Stadium, which in turn has consulted with the local certifying authority and the club. No objections were raised, and nor did the SGSA make any recommendations.

11. Guidance

11.1 Although there is no specific guidance issued to ensure compliance with this Order, the SGSA has published technical guidance on a range of matters associated with sports grounds safety, including its Guide to Safety at Sports Grounds (also known as the "Green Guide"). This is published by the SGSA (ISBN 978-1-9164583-0-7, 6th Edition) and is available for purchase at: https://sgsa.org.uk/greenguideavailablenow/.

12. Impact

12.1 The impact on business is minimal. The only impact is on Brentford Football Club, which will be required to ensure that the Brentford Community Stadium complies with the all-seater condition for the beginning of the 2020-21 football season. However, this is a new build which has been specifically constructed in the knowledge that it would need to comply with the all-seater policy.

12.2 There is no, or no significant, impact on charities or voluntary bodies.

12.3 The impact on the public sector is that the Sports Grounds Safety Authority will have to include the all-seater condition in any licence to admit spectators to the Brentford Community Stadium, and will bear some responsibility for monitoring the stadium to ensure that this condition, among other conditions in its licence to admit, are satisfied.

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

13. Regulating small business

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

14. Monitoring and review

14.1 The Order applies the all-seater policy to Brentford Community Stadium, the new home ground of Brentford Football Club.

14.2 The Minister is satisfied that it is unnecessary 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 under section 31(2) of the Small Business, Enterprise and Employment Act 2015.

14.3 Seating Orders consist of directions relating only 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. 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 or revocation of all Seating Orders, not just this Order. To review Seating Orders individually would incur disproportionate costs.

15. Contact

15.1 Saskia Mukerji, at the Department for Digital, Culture, Media and Sport (telephone: 020 7211 6558 or email: saskia.mukerji@dcms.gov.uk), can be contacted with any queries regarding the instrument.

15.2 Anna Deignan, Deputy Director for Sport at the Department for Digital, Culture, Media and Sport, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Nigel Huddleston, Minister for Sport, Tourism and Heritage at the Department for Digital, Culture, Media and Sport, can confirm that this Explanatory Memorandum meets the required standard.