EXPLANATORY MEMORANDUM TO

THE FOOTBALL SPECTATORS (SEATING) ORDER 2021

2021 No. 1239

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 amend the "all-seater condition" (paragraph 7.2 below) in any licence to admit spectators issued to five football clubs under the Football Spectators Act 1989 ("the Act") by the SGSA.

2.2 The amendment will allow the five specified clubs to admit spectators to their home grounds to watch designated football matches (paragraph 6.1 below) from a standing position, provided certain conditions are satisfied, in areas of the ground where the seating accommodation has been adapted so there are seats incorporating a barrier or seats with an independent barrier.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

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 and Wales.

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 By section 9 of the Act, it is an offence to admit spectators to a designated football match unless a licence to admit spectators is in force for that sports ground. By the Football Spectators (Designation of Football Matches in England and Wales) Order 2000 (S.I. 2000/3331), football matches that are designated for this purpose include any association football match played at a sports ground in England and Wales which is registered with the FA Premier League or the 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.

6.2 The SGSA is responsible under section 10 of the Act 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.

6.3 The Secretary of State also has power under section 11 of the Act to make an order directing the SGSA to include conditions relating to spectator seating at designated football matches. Before giving such a direction, the Secretary of State must consult the SGSA which may, if it sees fit, make recommendations to the Secretary of State.

7. Policy background

What is being done and why?

7.1 This Order amends two Football Spectators (Seating) Orders and revokes another one[1] so as to amend the "all-seater condition" (see paragraph 7.2 below) to the extent that it applies to the home grounds of five football clubs: Cardiff City, Chelsea, Manchester City, Manchester United and Tottenham Hotspur. The effect of the amendment will be to allow those clubs to permit spectators to stand while watching designated football matches in areas of the ground where the seating accommodation has been adapted so as to reduce safety risks through the use of barriers.

Explanations

What did any law do before the changes to be made by this instrument?

7.2 Following the final report of the 1989 Inquiry by Rt Hon Lord Justice Taylor into the Hillsborough Stadium disaster, an "all-seater policy" was adopted for clubs in the top two divisions of English football. Where the Secretary of State directs the SGSA to apply the all-seater policy to a sports ground, the SGSA must ensure that any licence to admit spectators 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").

7.3 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 update their ground to comply with the all-seater condition, after which time the requirements are imposed in any licence to admit spectators issued by the SGSA. 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 of English football), it will not revert in the event of subsequent relegation.

7.4 Since its introduction, the licensing regime overseen by the SGSA has led to major structural improvements at football grounds, making them much safer for spectators. The all-seater policy has played an important part in improving facilities at football grounds, in accordance with the recommendations following Hillsborough.

Why is it being changed?

7.5 The all-seater policy has been subject to issues with persistent standing, which have challenged its ability to assure spectator safety. Persistent standing in areas intended for sitting generates a number of safety risks, including injury, care issues and crowd management, including the risk of conflict between fans and stewards who attempt to enforce the policy. It is also anticipated that the introduction of licensed standing areas should have a positive impact on public sector equality as it will help resolve the current customer care issue for disabled spectators as well as those wanting to sit

[1] S.I. 1994/1666 and 2003/1541, and S.I. 2009/1395.

(which often includes the young and elderly) who have other spectators standing in front of them.

7.6 In June 2021, the SGSA published *The Safe Management of Persistent Standing in Seated Areas* final report. The report confirmed that the installation of barriers has positive effects on spectator behaviour – whether or not they are incorporated within seats – and almost completely eliminates the possibility of forward or backward movement during moments of excitement. It believes establishing licensed standing areas will help mitigate the risk of progressive crowd collapse and associated risks to spectator safety from the persistent standing in conventional seated accommodation already taking place at football grounds in England and Wales.

7.7 An 'Early Adopters Programme' is being implemented to test the practicalities of this with the five football clubs listed at paragraph 7.1 above. These 'Early Adopters' will enable the Government to evaluate how successful licensed standing areas could be as a strategy to manage persistent standing across a number of different football grounds with varying challenges, before it considers making any commitment to a substantive policy change and wider rollout. The programme will be implemented in the second half of the 2021-22 football season, running from 1 January to 31 July 2022.

What will it now do?

7.8 By directing the SGSA to amend the all-seater condition on the five clubs' licences to admit spectators, the general requirement to admit spectators to watch a designated football match from a dedicated seat will remain, but those clubs will be permitted to introduce licensed standing areas where the seating accommodation has been adapted so as to reduce safety risks through the use of barriers. The SGSA has provided further information about the standards/requirements which must be met in its Guide to Safety at Sports Grounds (also known as the "Green Guide") and Supplementary Guidance 01: 'Safe Standing in Seated Areas' (see paragraphs 11.1 and 11.2 below).

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 The Department has no plans to consolidate the relevant legislation at this time.

10. Consultation outcome

10.1 The SGSA undertook a six-week closed consultation between 28 July and 6 September 2021 with key stakeholders including safety committee members, local authorities, football governing bodies and licensed football clubs on the proposed conditions and criteria for licensed standing areas. The SGSA subsequently conducted an 'Expression of Interest' process inviting applications from football clubs currently subject to the all-seater policy to become 'Early Adopters' of licensed standing in seated areas. These applications were analysed against the published criteria for 'Early Adopters' of licensed standing areas.

10.2 As required under Section 11(4) of the Football Spectators Act 1989, the Secretary of State consulted with the SGSA who recommended that the five football clubs [listed at Paragraph 7.1 above] should be included in the 'Early Adopter Programme' and

directions given to the SGSA to include new 'standing' conditions in their licenses. The SGSA's recommendations were approved.

11. Guidance

11.1 The Sports Grounds Safety Authority ("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/greenguide-availablenow/CO/EM/2021.2.

11.2 The SGSA has recently published Supplementary Guidance 01: 'Safe Standing in Seated Areas', which is available at: https://sgsa.org.uk/wp-content/uploads/2021/09/SG01-Safe-standing-in-seated-areas.pdf.

11.3 Guidance for local authorities and sports clubs with designated grounds is also available on the SGSA's website at https://sgsa.org.uk/regulation/about-designated-grounds.

12. Impact

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

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because it has no, or no significant, impact on business, charities or voluntary bodies.

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 'Early Adopter Programme' will be monitored throughout and will be subject to a formal independent evaluation.

14.2 A statutory review clause is included in the instrument. It is possible that a review may be conducted prior to the five year deadline, with one possible outcome being the revocation of this Order. However, it is also possible that this Order may continue.

15. Contact

15.1 Charlotte Kenealy at the Department for Digital, Culture, Media and Sport (telephone: 07515 701408; or email: charlotte.kenealy@dcms.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Adam Conant, Head of 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, Heritage and Civil Society at the Department for Digital, Culture, Media and Sport, can confirm that this Explanatory Memorandum meets the required standard.