EXPLANATORY MEMORANDUM TO

THE FOOTBALL SPECTATORS (SEATING) ORDER 2022

2022 No. 728

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 7.3 below) in any licence to admit spectators issued to all in-scope clubs (paragraph 7.13 below) under section 10 of the Football Spectators Act 1989 ("the Act") by the SGSA.

2.2 The amendment will allow all in-scope 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 (paragraph 6.2 below), 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 revokes the existing Football Spectators (Seating) Orders and replaces them with a single Order with revised conditions in relation to seating for all in-scope clubs currently subject to the "all-seater policy".[1]

7.2 The effect of the amendment will be to allow these in-scope 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?

7.3 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").

7.4 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 provided designated football matches continue to be played there.

7.5 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?

7.6 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] Please refer to Schedule 3 of the Football Spectators (Seating) Order 2022 for a full list of revocations.

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

7.7 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.

7.8 This research has been built on through the implementation of an 'Early Adopters Programme for Licensed Standing at Football Stadia'. This has enabled the Government to evaluate how successful licensed standing areas could be as a strategy to manage persistent standing across five different football grounds with varying challenges, before it committed to a substantive policy change and wider rollout. These clubs were Cardiff City, Chelsea, Manchester City, Manchester United and Tottenham Hotspur. The programme was implemented in the second half of the 2021-22 football season and was subject to a formal independent evaluation.

7.9 On 23 April 2022, the SGSA published a summary of the CFE Research Interim Report, which confirmed that 'installing barriers or rails in areas of persistent standing in seated accommodation continues to have a positive impact on spectator safety, particularly in mitigating the risk of a progressive crowd collapse by limiting forwards and backwards movement'. The Interim Report also identified a number of other positive impacts, largely consistent with the previous research findings, which include celebrations are more orderly; egress is more uniform; it is easier to identify pockets of overcrowding in these areas; and barriers offer stability for people moving up and down aisles and gangways. In addition, it noted that operating licensing standing areas has the additional benefit of removing 'the need for safety teams to make spectators sit down, thus reducing potential conflict between staff and spectators' while enhancing their customer service by responding to supporters' seating preferences.

7.10 In June 2022, CFE Research provided the SGSA and DCMS with the draft *Early Adopters of Licensed Standing Areas in Football Stadia* Final Evaluation Report. The Report confirmed the findings of the Interim Report (paragraph 7.9 above) and concluded that: 'the trial of licensed standing areas had been a success' and, 'given the positive impact upon the safety of fans and the lack of any evidence that it increases disorder or anti-social behaviour', recommended that 'all clubs, in consultation with the SGSA and Safety Advisory Groups ("SAGs"), be given the opportunity to implement licensed standing areas and the necessary amendments to the legislation are made as soon as possible.'

7.11 Given the success of the Early Adopter Programme, and the findings from the CFE Research Final Evaluation Report, it is now considered appropriate to proceed with allowing for the wider implementation of licensed standing areas.

What will it now do?

7.12 By revoking the existing Football Spectators (Seating) Orders and replacing them with a single Order directing the SGSA to impose revised conditions in relation to seating, the general requirement to admit spectators to watch a designated football match from a dedicated seat will remain, but those in-scope clubs which meet the

necessary strict criteria 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. As per Section 10 of the Act (paragraph 6.2 above), the SGSA will continue to set the terms and conditions it deems appropriate through its licensing process and decisions.

7.13 This Order includes Notts County Football Club, Oldham Athletic Football Club and Southend United Football Club to future-proof itself as although they are not currently "in-scope" of the all-seater policy, they would be immediately upon a return to the English Football League.

7.14 In referring to 'in-scope clubs' this Explanatory Memorandum means all football clubs which are currently subject to the "all-seater policy" (paragraph 7.3 and 7.4). Due to the progressive nature of the "all-seater policy", once a ground converts to become all-seater it will not revert in the event of subsequent relegation from the top two tiers of football provided designated football matches continue to be played there.

7.15 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 As this Order revokes all existing Football Spectators (Seating) Orders and replaces them with a single Order, it in effect consolidates, with amendments, the relevant legislation. In this Order, the names of sports grounds and their addresses have been updated, together with the current occupier's details, where these have changed since the original addition to 'all-seater' policy.

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 The SGSA and DCMS have continued to consult with key stakeholders (as per paragraph 10.1) throughout the implementation of the 'Early Adopter Programme'. In addition, as part of the independent evaluation, CFE Research conducted interviews with a range of stakeholders involved in managing safety at each 'Early Adopter Club' including SGSA Inspectors, section supervisors responsible for licensed standing areas, Supporter Liaison Officers, as well as representatives from the local police and SAG.

10.3 Ahead of the 2022/23 football season, the SGSA conducted an 'Expression of Interest' process inviting applications from all football clubs currently subject to the "all-seater policy" wishing to operate licensed standing areas pending a wider policy change. These applications were subsequently analysed against the published criteria for licensed standing areas in the course of SGSA's annual licensing process, but with any final licensing resting on receipt of the final research and a wider government policy decision in favour of wider rollout.

10.4 As required under section 11(4) of the Football Spectators Act 1989, the Secretary of State consulted with the SGSA. The SGSA confirmed they were in agreement with the conclusions of the CFE Research Final Evaluation Report (paragraph 7.10 above) and recommended that directions should be given to the SGSA to include 'licensed standing' conditions in licences for any ground subject to the 'all-seater policy' that meets the SGSA's published criteria. The SGSA's recommendations were approved.

11. Guidance

11.1 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 businesses, 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 & review

14.1 The SGSA will continue to monitor the operation of licensed standing areas through its existing Match-Day Inspection (MDI) programme. Through this, each SGSA Inspector will undertake at least two MDI's for each of their SGSA licensed grounds during each football season, which will include those clubs operating licensed standing areas.

14.2 A statutory review clause is included in the instrument. A review will be conducted by 7th December 2026. This deadline is to facilitate the timely review of the application of the policy to those five football clubs who were able to implement licensed

standing areas by virtue of the 'Early Adopter Programme', enabled by the Football Spectators (Seating) Order 2021, and who continue to be in scope under this Order.

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.