

POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) ACT 2006 (ASP 10)

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Public Order Etc.

Chapter 1: Football Banning Orders

Making and content of orders

Section 51 – Making of order on conviction of a football-related offence

84. This section sets out the arrangements under which a court may impose a football banning order on an individual convicted of an offence, instead of or in addition to any sentence the court could impose for the offence. The court must be satisfied that the offence involved engaging in violence or disorder as defined in section 56 and that it related to a football match. The court must also be satisfied that there are reasonable grounds to believe that making the order would help to prevent violence or disorder at or in connection with any football matches.
85. Subsection (5) provides that where a court does not impose a football banning order but is satisfied that the offence involved violence or disorder and related to a football match then the court may declare that to be the case. This declaration will then be recorded.
86. Under subsection (6) an offence will automatically be regarded as related to a football match if it is committed at the match or on the way to or from a football match. As an example, where football fans who are attending different matches engage in violence or disorder with each other on the way to their respective matches the offences would be regarded as being related to a football match. The definition of a football match includes matches on television. For example a person may be watching the match in a pub, wearing football colours, where a fight breaks out in the pub during or after the match.
87. In addition an offence will be regarded as relating to a match if it appears from all the circumstances that the offence was motivated wholly or partly by a football match. In other words, the court will need to find some link between the behaviour and a football match. This could include, for example, where groups of rival supporters do not go to a football match but instead meet at a different place for a pre-arranged fight.

Section 52 – Making of order on application to the sheriff

88. This section empowers the police to make a summary application to a sheriff court for a football banning order to be imposed against an individual, and sets out the arrangements under which a court may impose a football banning order following such an application. Firstly, the court must be satisfied that the person against whom the order is sought has contributed to violence or disorder in the United Kingdom or elsewhere.

As with section 51, violence or disorder is defined in section 56. The second test that the court will apply is in line with the test for a banning order on conviction, namely whether there are reasonable grounds to believe that making the order would help to prevent violence or disorder at or in connection with any football matches. This section also sets out matters which the sheriff may take into account in deciding whether or not to impose a banning order.

Section 53 – Content of order

89. This section sets out the effect of a banning order. Certain requirements of the order are mandatory and other requirements are at the discretion of the court. The order prohibits the person from attending any regulated football match (defined in section 55) and requires the person to report at a police station in accordance with the reporting requirements in this Chapter of the Act (see, for example, section 61) in connection with certain regulated football matches. The order must also require the person subject to the order to report initially to a police station within 5 days of the order being made, and to notify certain prescribed information to the football banning orders authority within 7 days of the occurrence of any events that are relevant to the order. (Schedule 5 sets out the list of events that require such notice and the information that must be provided: for example within 7 days of a change of address the person would be required to notify their new address to the football banning orders authority.)
90. Unless there are exceptional circumstances the order must also require the surrender of the person's passport when relevant overseas matches are to be played. These exceptional circumstances might be that the person's employment means he/she needs to travel frequently (for example, an airline pilot). The banning order may, in addition to these mandatory conditions, require the individual to comply with any additional requirements which the court considers would help prevent violence or disorder at or in connection with football matches. This could include prohibiting the person from football matches that are not regulated matches, such as junior league matches if this was thought to be necessary.
91. Subsection (7) sets out the maximum lengths of time a banning order may last, depending on the circumstances in which the order was imposed.

Section 54 – Section 53: supplementary

92. This section gives effect to schedule 5 (relevant events and prescribed information), defines the meaning of the term imprisonment for the purpose of section 53(7)(a) and makes clear that banning orders start on the day which the order is imposed by a court.

Section 55 – “Football matches” and “regulated football matches”

93. This section defines football matches and regulated football matches for the purposes of this Chapter and empowers the Scottish Ministers to add matches to or remove matches from the list of regulated football matches by order made by statutory instrument subject to negative resolution procedure. It also makes clear that this Chapter applies to football matches both that are played and that are intended to be played.

Section 56 – “Violence” and “disorder”

94. This section defines “violence” and specifies certain things which are to be included within “disorder” for the purposes of this Chapter.