

Status: Point in time view as at 06/06/2012.

Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2011, PART 4. (See end of Document for details)



2011 CHAPTER 24

PART 4

SPORT

CHAPTER 1

REGULATED MATCHES

Regulated matches

- 35.—**(1) In this Part references to a regulated match are references—
- (a) in Chapter 2, to a match to which paragraph 2, 3, 6 or 8 of Schedule 3 applies;
 - (b) in Chapter 3, to a match to which paragraph 2, 3, 4, 6, 7, 8 or 9 of that Schedule applies;
 - (c) in Chapter 4, to a match to which paragraph 2, 3, 4 or 5 of that Schedule applies and which is played in Northern Ireland;
 - (d) in Chapter 5, to a match to which any of the paragraphs of that Schedule applies.
- (2) References in this Part to the period of a regulated match are references to the period—
- (a) beginning one hour before the start of the match or (if earlier) one hour before the time at which it is advertised to start; and
 - (b) ending 30 minutes after the end of the match.
- (3) But—
- (a) where a match advertised to start at a particular time on a particular day is postponed to a later day, the period includes the period in the day on

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which it is advertised to take place beginning one hour before and ending 30 minutes after that time; and

(b) where a match advertised to start at a particular time on a particular day does not take place, the period is the period referred to in paragraph (a).

(4) The Department may by order amend Schedule 3.

Commencement Information

II S. 35 wholly in operation at 1.1.2012; s. 35 not in operation at Royal Assent see s. 111(3); s. 35 in operation for specified purposes at 1.8.2011 by S.R. 2011/224, art. 3(a); s. 35 in operation at 1.1.2012 in so far as not already in operation by S.R. 2011/370, art. 3(c)

I2 S. 35 in operation at 1.1.2012 in so far as not already in operation by S.R. 2011/370, art. 3(c)

CHAPTER 2

CONDUCT AT REGULATED MATCHES

Throwing of articles capable of causing injury

36.—(1) It is an offence for a person at any time during the period of a regulated match to throw any article to which this subsection applies at or towards—

(a) the playing area, or any area adjacent to the playing area to which spectators are not generally admitted, or

(b) any area in which spectators or other persons are or may be present, without lawful authority or lawful excuse (which shall be for that person to prove).

(2) Subsection (1) applies to any article capable of causing injury to a person struck by it.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Chanting

37.—(1) It is an offence for a person at any time during the period of a regulated match to engage or take part in chanting falling within subsection (3).

(2) For this purpose “chanting” means the repeated uttering of any words or sounds (whether alone or in concert with one or more others).

(3) Chanting falls within this subsection if—

(a) it is of an indecent nature;

(b) it is of a sectarian or indecent nature; or

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- (c) it consists of or includes matter which is threatening, abusive or insulting to a person by reason of that person's colour, race, nationality (including citizenship), ethnic or national origins, religious belief, sexual orientation or disability.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Going onto the playing area

38.—(1) It is an offence for a person at any time during the period of a regulated match to go onto the playing area, or any area adjacent to the playing area to which spectators are not generally admitted, without lawful authority or lawful excuse (which shall be for that person to prove).

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Possession of fireworks, flares, etc.

39.—(1) A person (“P”) is guilty of an offence if P has an article or substance to which this section applies in P's possession—

- (a) at any time during the period of a regulated match when P is in any area of the ground from which the match may be directly viewed, or
- (b) while entering or trying to enter the ground at any time during the period of a regulated match at the ground.

(2) It is a defence for P to prove that P had possession with lawful authority.

(3) This section applies to any article—

- (a) which is a firework; or
- (b) which is an article or substance whose main purpose is the emission of a flare for purposes of illuminating or signalling (as opposed to igniting or heating) or the emission of smoke or a visible gas;

and in particular it applies to distress flares, fog signals, and pellets and capsules intended to be used as fumigators or for testing pipes, but not to matches, cigarette lighters or heaters.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 3 months or to both.

CHAPTER 3

ALCOHOL ON VEHICLES TRAVELLING TO REGULATED MATCHES

Offences in connection with alcohol on vehicles

40.—(1) This section applies to a motor vehicle which—

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- (a) is adapted to carry 9 or more passengers, and
 - (b) is being used for the principal purpose of carrying passengers for reward for the whole or part of a journey to a regulated match.
- (2) A person (“P”) who knowingly causes or permits intoxicating liquor to be carried on a vehicle to which this section applies is guilty of an offence—
- (a) if P is the operator of the vehicle or the servant or agent of the operator, or
 - (b) if the vehicle is a hired vehicle and P is the person to whom it is hired or the servant or agent of that person.
- (3) The operator of a vehicle is—
- (a) the driver, if the driver owns the vehicle; and
 - (b) in any other case, the person for whom the driver works (whether under a contract of employment or any other description of contract personally to do work).
- (4) A person who is in possession of intoxicating liquor while on a vehicle to which this section applies is guilty of an offence.
- (5) A person guilty of an offence under this section is liable on summary conviction—
- (a) in the case of an offence under subsection (2), to a fine not exceeding level 4 on the standard scale,
 - (b) in the case of an offence under subsection (4), to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 3 months or to both.
- (6) A constable may stop a motor vehicle to which this section applies and may search such a vehicle if the constable has reasonable grounds to suspect that an offence under this section is being or has been committed in respect of the vehicle.
- (7) In this section—
- “intoxicating liquor” has the meaning given by Article 2(2) of the Licensing (Northern Ireland) Order 1996 (NI 22);
 - “motor vehicle” has the meaning given by Article 3 of the Road Traffic (Northern Ireland) Order 1995 (NI 18).
- (8) The Department may by order amend subsection (1).
- (9) An order under subsection (8)—
- (a) may make such consequential amendments to this section as appear to the Department to be necessary or expedient;
 - (b) shall not be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.

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CHAPTER 4

BANNING ORDERS IN RELATION TO REGULATED MATCHES

Banning orders: making on conviction

41.—(1) This section applies where a person (the “offender”) is convicted of an offence by or before a court.

(2) If the court is satisfied that—

- (a) the offence is one to which subsection (4) applies; and
- (b) there are reasonable grounds to believe that making a banning order would help to prevent violence or disorder at or in connection with any regulated matches,

it must make such an order in respect of the offender.

(3) If the court is satisfied that the offence is one to which subsection (4) applies but is not satisfied as mentioned in subsection (2)(b), it must in open court state that fact and give its reasons.

(4) This subsection applies to an offence if—

- (a) the offence involved the person who committed it engaging in violence or disorder; and
- (b) the offence was committed—
 - (i) at a regulated match or while the person committing it was entering or leaving (or trying to enter or leave) the ground;
 - (ii) on a journey to or from a regulated match; or
 - (iii) otherwise, where it appears to the court from all the circumstances that the offence was motivated (wholly or partly) by a regulated match.

(5) For the purposes of subsection (4)(b)(ii)—

- (a) a person may be regarded as having been on a journey to or from a match whether or not the person attended or intended to attend the match; and
- (b) a person's journey includes breaks (including overnight breaks).

(6) For the purpose of deciding whether to make a banning order the court may consider evidence led by the prosecution and the defence.

(7) It is immaterial whether evidence led in pursuance of subsection (6) would have been admissible in the proceedings in which the offender was convicted.

(8) A banning order may only be made—

- (a) in addition to a sentence imposed in respect of the offence to which subsection (4) applies, or
- (b) in addition to an order discharging the offender conditionally.

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(9) A banning order may be made as mentioned in subsection (8)(b) in spite of anything in Articles 4 and 5 of the Criminal Justice (Northern Ireland) Order 1996 (NI 24) (which relate to orders discharging a person absolutely or conditionally and their effect).

(10) A banning order under this section is to be taken to be a sentence for the purposes of any statutory provision conferring a right of appeal against a sentence.

Commencement Information

I3 S. 41 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Banning orders: content

42.—(1) In this Chapter “banning order” means an order made by a court which prohibits the person who is subject to the order (“P”) from entering any premises for the purpose of attending regulated matches.

(2) On making a banning order, a court must in ordinary language explain its effect to P.

(3) A banning order must require P to report at a police station specified in the order within the period of 5 days beginning with the day on which the order is made.

(4) A banning order must require P to give notification of the events mentioned in subsection (5) to the Chief Constable.

(5) The events are—

- (a) a change of any of P's names;
- (b) the first use by P after the making of the order of a name for P that was not disclosed by P at the time of the making of the order;
- (c) a change of P's home address;
- (d) P's acquisition of a temporary address;
- (e) a change of P's temporary address or P's ceasing to have one;
- (f) an appeal made by P in relation to the order;
- (g) an application made by P under section 47(1) for termination of the order.

(6) A notification required by a banning order by virtue of subsection (4) must be given before the end of the period of 7 days beginning with the day on which the event in question occurs and—

- (a) in the case of a change of a name or address or the acquisition of a temporary address, must specify the new name or address; and
- (b) in the case of a first use of a previously undisclosed name, must specify that name.

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(7) Where P is detained in legal custody the requirement under subsection (3) to report at a police station is suspended until P's release from custody.

(8) If—

(a) P is released from custody more than 5 days before the expiry of the period for which the order has effect, and

(b) P was precluded by being in custody from reporting under subsection (3), the order is to have effect as if it required P to report at the police station specified in the order within the period of 5 days beginning with the date of P's release.

(9) In this section—

“home address”, in relation to P, means the address of P's sole or main residence;

“temporary address”, in relation to P, means the address (other than P's home address) of a place at which P intends to reside, or has resided, for a period of at least 4 weeks.

Commencement Information

I4 S. 42 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Banning orders: supplementary

43.—(1) The court may adjourn any proceedings under section 41 in relation to a banning order even after sentencing the offender.

(2) If the offender does not appear for any adjourned proceedings, the court may further adjourn the proceedings or may issue a warrant for the offender's arrest.

(3) If the court adjourns or further adjourns any proceedings under subsection (1) or (2), the court may remand the offender.

(4) A person who, by virtue of subsection (3), is remanded on bail may be required by the conditions of bail not to leave Northern Ireland before appearing before the court.

(5) The court may not issue a warrant under subsection (2) for the offender's arrest unless it is satisfied that the offender has had adequate notice of the time and place of the adjourned proceedings.

(6) The prosecution has a right of appeal against a failure by the court to make a banning order—

(a) where the failure is by a magistrates' court, to the county court; and

(b) where it is by the Crown Court, to the Court of Appeal.

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(7) An appeal under subsection (6)(b) may be brought only if the Court of Appeal gives leave or the judge who decided not to make an order grants a certificate that the decision is fit for appeal.

(8) A banning order made on appeal under this section is to be treated for the purposes of this Chapter as if it were an order of the court from which the appeal was brought.

Commencement Information

I5 S. 43 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Banning orders: “violence” and “disorder”

44.—(1) In this Chapter “violence” means violence against persons or property and includes threatening violence and doing anything which endangers the life of any person.

(2) In this Chapter “disorder” includes—

- (a) stirring up sectarian hatred or hatred against a group of persons defined by reference to colour, race, nationality (including citizenship), ethnic or national origins, religious belief, sexual orientation or disability or against an individual as a member of such a group,
- (b) using threatening, abusive or insulting words or behaviour or disorderly behaviour,
- (c) displaying any writing or other thing which is threatening, abusive or insulting.

(3) In this Chapter “violence” and “disorder” are not limited to violence or disorder in connection with a regulated match.

Commencement Information

I6 S. 44 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Banning orders: duration

45.—(1) Subject to the following provisions of this Chapter, a banning order has effect for a period specified in the order beginning with the day on which the order is made.

(2) The period must not be longer than the maximum or shorter than the minimum.

(3) Where the order is made in addition to a sentence of imprisonment taking immediate effect, the maximum is 10 years and the minimum is 6 years; and in this subsection “imprisonment” includes any form of detention.

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(4) In any other case, the maximum is 5 years and the minimum is 3 years.

Commencement Information

I7 S. 45 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Banning orders: additional requirements

46.—(1) A banning order may, if the court making the order thinks fit, impose additional requirements on the person subject to the order in relation to any regulated matches.

(2) The court by which a banning order was made may, on an application made by—

- (a) the person subject to the order, or
- (b) the person who was the prosecutor in relation to the order,

vary the order so as to impose, replace or omit any such requirements.

(3) In the case of a banning order made by a magistrates' court, the reference in subsection (2) to the court by which it was made includes a reference to any magistrates' court acting for the same county court division as that court.

Commencement Information

I8 S. 46 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Termination of banning orders

47.—(1) If a banning order has had effect for at least two-thirds of the period determined under section 45, the person subject to the order may apply to the court by which it was made to terminate it.

(2) On the application, the court may by order terminate the banning order as from a specified date or refuse the application.

(3) In exercising its powers under subsection (2), the court must have regard to—

- (a) the person's character,
- (b) the conduct of that person since the banning order was made,
- (c) the nature of the offence which led to it, and
- (d) any other circumstances which appear to it to be relevant.

(4) Where an application under subsection (1) in respect of a banning order is refused, no further application in respect of the order may be made within the period of 6 months beginning with the day of the refusal.

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(5) The court may order the applicant to pay all or any part of the costs of an application under this section.

(6) In the case of a banning order made by a magistrates' court, the reference in subsection (1) to the court by which it was made includes a reference to any magistrates' court acting for the same county court division as that court.

Commencement Information

I9 S. 47 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Information about banning orders

48.—(1) Where a court makes a banning order the appropriate officer of the court—

- (a) shall give a copy of it to the person to whom it relates (“P”);
- (b) shall (as soon as reasonably practicable) send a copy of it to the Chief Constable and to any prescribed person;
- (c) shall (as soon as reasonably practicable) send a copy of it to the police station (addressed to the officer responsible for the police station) at which P is to report under section 42(3); and
- (d) in a case where P is detained in legal custody, shall (as soon as reasonably practicable) send a copy of it to the person in whose custody P is detained.

(2) Where a court terminates a banning order under section 47, the appropriate officer of the court—

- (a) shall give a copy of the terminating order to P;
- (b) shall (as soon as reasonably practicable) send a copy of it to the Chief Constable and to any prescribed person; and
- (c) in a case where P is detained in legal custody, shall (as soon as reasonably practicable) send a copy of the terminating order to the person in whose custody P is detained.

(3) Where P is released from custody and, in a case where P has not reported under section 42(3) to a police station, is released more than 5 days before the expiry of the banning order, the person in whose custody P is shall (as soon as reasonably practicable) give notice of P's release to the Chief Constable.

(4) In this section—

“the appropriate officer”—

- (a) in relation to a magistrates' court, means the clerk of petty sessions;
- (b) in relation to the Crown Court, means the chief clerk;

“prescribed” means prescribed by order made by the Department.

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Commencement Information

I10 S. 48 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

Failure to comply with banning order

49.—(1) A person subject to a banning order who fails to comply with any requirement imposed by the order is guilty of an offence.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 6 months, or a fine not exceeding level 5 on the standard scale, or to both.

Commencement Information

I11 S. 49 in operation at 1.1.2012 by S.R. 2011/370, art. 3(d)

CHAPTER 5

ENFORCEMENT

Powers of enforcement

50.—(1) A constable may, at any time during the period of a regulated match at any ground, enter any part of the ground for the purpose of enforcing the provisions of this Part.

(2) If a constable has reasonable grounds to suspect a person is committing or has committed an offence under this Part, the constable may search that person.

Commencement Information

I12 S. 50 wholly in operation at 1.1.2012; s. 50 not in operation at Royal Assent see s. 111(3); s. 50 in operation for specified purposes at 1.8.2011 by S.R. 2011/224, art. 3(d); s. 50 in operation at 1.1.2012 in so far as not already in operation by S.R. 2011/370, art. 3(e)

I13 S. 50 in operation at 1.1.2012 in so far as not already in operation by S.R. 2011/370, art. 3(e)

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