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# Justice Bill Part 4 - Sport

## 1 Introduction

The Justice Bill 2010 was introduced on 18 October and consists of nine parts and seven schedules. Part 4 (Clauses 36-55) considers 'regulated matches', defined in Schedule 3 as Association Football, Gaelic Games and Rugby Union<sup>1</sup>, conduct at regulated matches, alcohol on vehicles travelling to regulated matches, ticket touts and banning orders.

## 2 Part 4: Sport

This paper assesses the sports law and spectator control provisions to be included in the Bill. Four different provisions will be assessed individually. The purpose of the proposals is to promote good behaviour by fans of certain sports in Northern Ireland, in particular Football, GAA sports and Rugby Union. The aims of the sports law and spectator control provisions *'are to create a safe and welcoming environment at major sporting matches and to tackle violence and bad behaviour'*<sup>2</sup>.

<sup>1</sup> Only Association Football is regulated in England and Wales through Schedule 1 of the Football (Disorder) Act 2000: <http://www.legislation.gov.uk/ukpga/2000/25/data.pdf>.

<sup>2</sup> Committee for Justice 'Departmental Briefing on Proposals for Sports Law' – Official Report (Hansard) 3<sup>rd</sup> June 2010 <http://www.niassembly.gov.uk/record/committees2009/Justice/100603Briefing%20on%20Proposals%20for%20Sports%20Law.pdf>

Within each individual provision the position in England and Wales<sup>3</sup> will be assessed by looking at legislation, outlining incidents that have occurred within any given provision and presenting information in tables for the numbers of various offences committed (this will focus on football as it provides the most up to date and detailed data). The responses to the consultation document on sports law and spectator controls will also be considered. The purpose of the provisions is to provide new criminal laws to complement the sports ground safety regime enacted under the Safety of Sports Grounds (Northern Ireland) Order 2006 (The 2006 Order)<sup>4</sup>. The 2006 Order provides for:

*a mandatory sports ground certification scheme to increase safety at Northern Ireland's major sporting events. Alongside the focus on safety at grounds, a key element of the order is the promotion of good behaviour and the combating of misbehaviour among spectators*<sup>5</sup>.

## 2.1 New offences of offensive chanting, missile-throwing and unauthorised pitch incursion

The Bill provides that offences should be created covering offensive chanting, missile-throwing and unauthorised pitch incursion. Chanting is considered offensive if 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<sup>6</sup>. The new offence is designed to deal with particular instances of chanting by a spectator or section of a crowd inside grounds; the provision being needed due to the possibility of offensive chanting leading to crowd-control problems which would be counter-productive to the aims of creating a safe and welcoming sporting environment.

The 2006 Order makes provision for spectators to move from spectator areas onto the playing pitch in the event of an emergency, incumbent on this is the removal of barriers that are designed to keep spectators off the playing pitch. The Bill seeks to make it an offence for spectators to enter the playing pitch unauthorised.

In relation to missile-throwing the Bill seeks to allow persons to be prosecuted for throwing missiles or objects onto the playing pitch, whether targeted or thrown aimlessly<sup>7</sup>.

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<sup>3</sup> In the Republic of Ireland, public order legislation, such as the Criminal Justice (Public Order) Act 1994, regulates behaviour at sporting events, along with a code of practice, which references this legislation: Department of Education, *Code of Practice for Safety at Sports Grounds*, January 1996, pp.151-155; likewise in Scotland, legislation such as the Police, Public Order and Criminal Justice (Scotland) 2006 impacts on conduct during sporting events.

<sup>4</sup> Safety of Sports Grounds (Northern Ireland) Order 2006

<http://www.opsi.gov.uk/si/si2006/20060313.htm>

<sup>5</sup> Committee for Justice 'Departmental Briefing on Proposals for Sports Law' – Official Report (Hansard) 3<sup>rd</sup> June 2010

<http://www.niassembly.gov.uk/record/committees2009/Justice/100603Briefing%20on%20Proposals%20for%20Sports%20Law.pdf>

<sup>6</sup> The draft Public Assemblies, Parades and Protests Bill also seeks to forbid language that is "threatening, abusive, sectarian, obscene or racist" in a proposed Code of Conduct for all 'public assemblies'.

<sup>7</sup> See Note 5 above.

Under the provisions, the offences above would be triable summarily in a magistrates' court where the maximum sentence available would be a fine of £1,000. These offences would apply to designated football, GAA and Rugby Union matches<sup>8</sup>. In relation to football, according to the consultation document, this would apply to matches played in Northern Ireland by teams in the Irish Premier League, First Division, Setanta Cup, any Northern Ireland team playing in the Eircom League (e.g. Derry City at present) and the Northern Ireland international team<sup>9</sup>. With regard to GAA and rugby union, designated matches are those matches played at venues in Northern Ireland designated as requiring a safety certificate or with a stand requiring a safety certificate under the 2006 Order; these are grounds that accommodate at least 5,000 people<sup>10</sup>.

In England and Wales The Football (Offences) Act 1991<sup>11</sup> makes provision for the offences of indecent or racist chanting, missile-throwing and going onto the playing area (pitch incursion). The legislation is set out as follows<sup>12</sup>:

### **Section 2 Throwing of missiles**

It is an offence for a person at a designated football match to throw anything 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 him to prove)

### **Section 3 Indecent or racist chanting**

- (1) It is an offence to take part at a designated football match in chanting of an indecent or racist nature.
- (2) For this purpose –
  - (a) “chanting” means the repeated uttering of any words or sounds in concert with one or more others; and
  - (b) “of a racist nature” means consisting of or including matter which is threatening, abusive or insulting to a person by reason of his colour, race, nationality (including citizenship) or ethnic or national origins.

<sup>8</sup> See Schedule 3 of the Bill.

<sup>9</sup> Northern Ireland Office consultation – ‘Sports law and spectator controls’ July 2009  
[http://www.nio.gov.uk/sports\\_law\\_and\\_spectator\\_controls\\_-\\_a\\_consultation\\_undertaken\\_by\\_the\\_northern\\_ireland\\_office.pdf-2.pdf](http://www.nio.gov.uk/sports_law_and_spectator_controls_-_a_consultation_undertaken_by_the_northern_ireland_office.pdf-2.pdf)

<sup>10</sup> Committee for Culture, Arts and Leisure ‘Sports law and spectator safety’ – Official Report (Hansard) 22<sup>nd</sup> October 2009  
[http://www.niassembly.gov.uk/record/committees2009/CAL/091022\\_SportsLawSpectatorSafety.pdf](http://www.niassembly.gov.uk/record/committees2009/CAL/091022_SportsLawSpectatorSafety.pdf)

<sup>11</sup> Football (Offences) Act 1991  
[http://www.opsi.gov.uk/acts/acts1991/Ukpga\\_19910019\\_en\\_1](http://www.opsi.gov.uk/acts/acts1991/Ukpga_19910019_en_1)

<sup>12</sup> See above

## Section 4 Going onto the playing area

It is an offence for a person at a designated football 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 exercise (which shall be for him to prove).

A high profile example of offensive chanting occurred in England at a Premier League match between Portsmouth and Tottenham at Fratton Park, Portsmouth in September 2008. Former Tottenham defender Sol Campbell was subjected to racist and homophobic chanting from a section of the Tottenham crowd, contrary to the Football Offences Act 1991. Four defendants admitted their role in the chanting by pleading guilty and were handed a three-year football banning order, fined £370, ordered to pay £120 in costs and £15 towards a victim surcharge fund<sup>13</sup>. Magistrate Susan Wardle said:

*There were families present, very young children. We also heard from witnesses who found the behaviour disgusting and embarrassing... Whether or not Mr Campbell was offended, decent members of the public found this very offensive and so did the bench. Anyone who indulges in this disgusting behaviour will be dealt with very severely by the courts<sup>14</sup>.*

The comments above from the Magistrate highlight that the offensiveness of the chanting need not merely apply to the individual concerned but can constitute a criminal offence where members of the public are present or indeed offended.

An example of the courts passing sentence in relation to missile-throwing stemmed from an English Championship match between Cardiff City and Swansea at Ninian Park, Cardiff in April 2009. A 'supporter' pleaded guilty to throwing a missile (piece of chewing gum) onto the playing area contrary to the Football Offences Act 1991 for which he received a three year banning order, £200 fine, ordered to pay £60 costs and pay a victim surcharge of £15<sup>15</sup>. In the same match the referee was injured by a coin thrown from the crowd. This highlights that the courts may impose penalties regardless of the type of missile thrown or previous character of the offender<sup>16</sup>.

In relation to pitch incursion a Sheffield Wednesday supporter was found guilty of entering the playing area contrary to section 4 of the Football (Offences) Act 1991; he was fined £150 and ordered to pay £85 in costs and a £15 victim surcharge.

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<sup>13</sup> 'Four banned from matches over abusive chants against Sol Campbell' The Guardian 20<sup>th</sup> January 2009 <http://www.guardian.co.uk/uk/blog/2009/jan/20/sol-campbell-abusive-chanting>

<sup>14</sup> See above

<sup>15</sup> 'Supporter handed three-year ban for missile-throwing incident' The Guardian 20<sup>th</sup> April 2009 <http://www.guardian.co.uk/football/2009/apr/20/supporter-banned-cardiff-city-swansea-missile>

<sup>16</sup> See above

## 2.2 New offences relating to having alcohol, bottles and flares and being drunk at sporting events and in transport to and from matches

According to the consultation document, the Bill seeks to make it an offence *‘to bring throwable drink containers such as bottles and cans into grounds or to try to gain entry with these items’*<sup>17</sup>. Furthermore the provisions exclude the admittance or possession of flares inside grounds. However the use and possession of fireworks are already regulated under existing law in Northern Ireland.

The main focus of this section of the Bill is to control the carrying and consumption of alcohol at certain sports events<sup>18</sup>. This will be applicable not only to the possession of alcohol inside grounds but also on hired transport en route to and from grounds<sup>19</sup>. This would apply to specially hired motor vehicles able to carry 8 passengers or more that are being used to attend a designated match. In relation to public transport under the Northern Ireland Railways By-Laws, it is already an offence *‘to be intoxicated or to take alcohol onto trains’*<sup>20</sup>. The new offence of being drunk inside a sports ground is also created under this part of the provisions.

In relation to the possession and consumption of alcohol at sports grounds, this *‘would include periods before, during and after matches, because alcohol can be a key ingredient in exacerbating disorder on the part of fans, especially at some crucial matches’*<sup>21</sup>. Furthermore the Bill sets out to provide that:

*Possession of alcohol within the ground and in sight of the pitch would be banned from two hours before the game until one hour after the game. Possession of alcohol in private viewing facilities would have a lesser restriction, with the ban starting 15 minutes before the game and lasting until 15 minutes after the game*<sup>22</sup>.

In relation to *‘private viewing facilities’* this relates to corporate boxes which provide corporate entertainment and where spectators can consume alcohol from behind a screen which is not in sight of the playing pitch<sup>23</sup>.

<sup>17</sup> Northern Ireland Office consultation – ‘Sports law and spectator controls’ July 2009

[http://www.nio.gov.uk/sports\\_law\\_and\\_spectator\\_controls\\_-\\_a\\_consultation\\_undertaken\\_by\\_the\\_northern\\_ireland\\_office.pdf-2.pdf](http://www.nio.gov.uk/sports_law_and_spectator_controls_-_a_consultation_undertaken_by_the_northern_ireland_office.pdf-2.pdf)

<sup>18</sup> Similar provisions for the control of alcohol were proposed in the draft Public Assemblies, Parades and Protests Bill (Clauses 40-43); in the Republic of Ireland, legislation regarding intoxicating liquor and disposable containers at ‘events’ is referred to in Sections 20-22 of the Criminal Justice (Public Order) Act 1994.

<sup>19</sup> Committee for Justice ‘Departmental Briefing on Proposals for Sports Law’ – Official Report (Hansard) 3<sup>rd</sup> June 2010  
<http://www.niassembly.gov.uk/record/committees2009/Justice/100603Briefing%20on%20Proposals%20for%20Sports%20Law.pdf>

<sup>20</sup> Northern Ireland Office consultation – ‘Sports law and spectator controls’ July 2009

[http://www.nio.gov.uk/sports\\_law\\_and\\_spectator\\_controls\\_-\\_a\\_consultation\\_undertaken\\_by\\_the\\_northern\\_ireland\\_office.pdf-2.pdf](http://www.nio.gov.uk/sports_law_and_spectator_controls_-_a_consultation_undertaken_by_the_northern_ireland_office.pdf-2.pdf)

<sup>21</sup> Committee for Justice ‘Departmental Briefing on Proposals for Sports Law’ – Official Report (Hansard) 3<sup>rd</sup> June 2010  
<http://www.niassembly.gov.uk/record/committees2009/Justice/100603Briefing%20on%20Proposals%20for%20Sports%20Law.pdf>

<sup>22</sup> See above

<sup>23</sup> Committee for Culture, Arts and Leisure ‘Sports law and spectator safety’ – Official Report (Hansard) 22<sup>nd</sup> October 2009  
[http://www.niassembly.gov.uk/record/committees2009/CAL/091022\\_SportsLawSpectatorSafety.pdf](http://www.niassembly.gov.uk/record/committees2009/CAL/091022_SportsLawSpectatorSafety.pdf)

The offences would be triable summarily in a magistrates court with maximum penalties as follows:

- Knowingly allowing alcohol on a vehicle, a level 4 fine which is currently a maximum fine of £2,500
- Being in possession of alcohol, flares, etc, either a level 3 fine (currently a maximum fine of £1,000) or three months imprisonment or both
- Being drunk at a ground or in a vehicle, (including travelling outside of Northern Ireland) a level 2 fine (currently a maximum of £500)

These offences would apply to designated football, GAA and Rugby Union matches. These designated matches are those that are outlined above.

In relation to offences of alcohol in transport to and from matches played outside Northern Ireland, the provisions include the designated football matches listed above, GAA matches involving county teams and Rugby Union matches involving the Ulster or Ireland rugby team.

Provision for these offences in England and Wales is legislated for by Sporting Events (Control of Alcohol etc) Act 1985<sup>24</sup>. In summary the legislation is:

*An Act to make provision for punishing those who cause or permit intoxicating liquor to be carried on public service vehicles and railway vehicles carrying passengers to or from designated sporting events or who possess intoxicating liquor on such vehicles and those who possess intoxicating liquor or certain articles capable of causing injury at designated sports grounds during the period of designated sporting events, for punishing drunkenness on such vehicles and, during the period of designated sporting events, at such grounds and, where licensed premises or premises in respect of a club is registered (for the purposes of the Licensing Act 1964) are within designated sports grounds, to make provision for regulating the sale or supply of intoxicating liquor and for the closure of bars<sup>25</sup>.*

The tables below present information on arrests of football supporters by selected offences (i.e. those discussed above) for the 2008/09 season (the most recent data available):

**Table 3 Arrests by selected offence England and Wales International matches 2008/09**

Type of offence	International matches (Home)	International matches (Away)
Violent Disorder	4	6

<sup>24</sup> Sporting Events (Control of Alcohol etc) Act 1985.

[http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1985/cukpga\\_19850057\\_en\\_1](http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1985/cukpga_19850057_en_1)

<sup>25</sup> See above

Public Disorder	11	0
Missile Throwing	0	3
Racist Chanting	0	0
Pitch Incursion	0	0
Alcohol Offences	5	0
Possession of Offensive Weapon	0	0
Breach of Banning Order	2	0
<b>TOTAL</b>	<b>22</b>	<b>9</b>

Source: Home Office<sup>26</sup>

**Table 4 Arrests by selected offence European Club Competition matches 2008/09**

Type of offence	European Club matches (in England and Wales)	European Club matches (outside of England and Wales)
Violent Disorder	13	8
Public Disorder	53	9
Missile Throwing	2	0
Racist Chanting	3	0
Pitch Incursion	6	2
Alcohol Offences	21	8
Possession of Offensive Weapon	3	2
Breach of Banning Order	0	0

<sup>26</sup> Home Office – Statistics on arrests and banning orders 2008-09  
<http://www.homeoffice.gov.uk/crime/football-banning-orders/>

<b>TOTAL</b>	<b>101</b>	<b>29</b>
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Source: Home Office<sup>27</sup>

**Table 5 Arrests by selected offence in Premier League 2008/09**

<b>Type of Offence</b>	<b>Number of arrests</b>
Violent Disorder	135
Public Disorder	604
Missile Throwing	19
Racist Chanting	20
Pitch Incursion	92
Alcohol Offences	658
Possession of Offensive Weapon	10
Breach of Banning Order	29
<b>TOTAL</b>	<b>1567</b>

Source: Home Office<sup>28</sup>

**Table 6 Arrests by selected offence in Championship 2008/09**

<b>Type of Offence</b>	<b>Number of arrests</b>
Violent Disorder	122
Public Disorder	454
Missile Throwing	12
Racist Chanting	8
Pitch Incursion	62

<sup>27</sup> See above

<sup>28</sup> Home Office – Statistics on arrests and banning orders 2008-09  
<http://www.homeoffice.gov.uk/crime/football-banning-orders/>



Alcohol Offences	272
Possession of Offensive Weapon	4
Breach of Banning Order	24
<b>TOTAL</b>	<b>958</b>

Source: Home Office<sup>29</sup>

**Table 7 Arrests by selected offence in League 1 2008/09**

Type of Offence	Number of arrests
Violent Disorder	48
Public Disorder	244
Missile Throwing	13
Racist Chanting	5
Pitch Incursion	52
Alcohol Offences	139
Possession of Offensive Weapon	3
Breach of Banning Order	16
<b>TOTAL</b>	<b>520</b>

Source: Home Office<sup>30</sup>

**Table 8 Arrests by selected offence in League 2 2008/09**

Type of Offence	Number of arrests
Violent Disorder	17
Public Disorder	169

<sup>29</sup> See above

<sup>30</sup> Home Office – Statistics on arrests and banning orders 2008-09  
<http://www.homeoffice.gov.uk/crime/football-banning-orders/>

Missile Throwing	2
Racist Chanting	3
Pitch Incursion	25
Alcohol Offences	67
Possession of Offensive Weapon	7
Breach of Banning Order	8
<b>TOTAL</b>	<b>298</b>

Source: Home Office<sup>31</sup>

## 2.3 Ticket Touting

A new offence of ticket touting for certain football matches to be played inside and outside Northern Ireland will also be created. This is to ensure that fans are properly segregated in football grounds and kept apart if necessary; although this is not widely recognised as being a particular problem for Northern Ireland<sup>32</sup>. These certain football matches include the Irish Premier League, Irish League First Division, any Northern Ireland team playing in the top two leagues in the Republic of Ireland (e.g. Derry City at present), the Northern Ireland international team as well as European club competition matches sanctioned by UEFA. There are currently no plans to add other sports beyond football; however should the need arise, it was stated in the consultation document that *'other sports could be added to the offence and penalty by way of subordinate legislation'*<sup>33</sup>.

The offence of ticket touting would be triable summarily with a maximum penalty of a £5,000 (level 5) fine.

The offence of ticket touting in England and Wales is legislated for by section 166 of the Criminal Justice and Public Order Act 1994<sup>34</sup> -

<sup>31</sup> Home Office – Statistics on arrests and banning orders 2008-09

<http://www.homeoffice.gov.uk/crime/football-banning-orders/>

<sup>32</sup> Committee for Justice 'Departmental Briefing on Proposals for Sports Law' – Official Report (Hansard) 3<sup>rd</sup> June 2010

<http://www.niassembly.gov.uk/record/committees2009/Justice/100603Briefing%20on%20Proposals%20for%20Sports%20Law.pdf>

<sup>33</sup> Northern Ireland Office consultation – 'Sports law and spectator controls' July 2009

[http://www.nio.gov.uk/sports\\_law\\_and\\_spectator\\_controls\\_-\\_a\\_consultation\\_undertaken\\_by\\_the\\_northern\\_ireland\\_office.pdf-2.pdf](http://www.nio.gov.uk/sports_law_and_spectator_controls_-_a_consultation_undertaken_by_the_northern_ireland_office.pdf-2.pdf)

<sup>34</sup> Criminal Justice and Public Order Act 1994

[http://www.opsi.gov.uk/acts/acts1994/ukpga\\_19940033\\_en\\_1](http://www.opsi.gov.uk/acts/acts1994/ukpga_19940033_en_1)

### Section 166 Sale of tickets by unauthorised persons

(1) It is an offence for an unauthorised person to sell, or offer or expose for sale, a ticket for a designated football match in any public place or place to which the public has access or, in the course of a trade or business, in any other place.

(2) For this purpose –

(a) a person is “unauthorised” unless he is authorised in writing to sell tickets for the match by the home club or by organisers of the match

(b) a “ticket” means anything that purports to be a ticket; and

(c) a “designated football match” means a football match, or football match of a description, for the time being designated under section 1(1) of the Football (Offences) Act 1991

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale (£5000).

Currently “designated football matches” for these purposes are Premier League, Football League, European (UEFA) and international matches played at major grounds. Section 53 of Violent Crime Reduction Act 2006 states:<sup>35</sup> *‘updated ticket touting provisions in connection with football to cover unauthorised internet ticket sales and other ticket touting practices designed to circumvent prosecution under pre-existing provisions’*<sup>36</sup>.

Ticket touting can cause a myriad of problems as outlined by Detective Sergeant Will Hodgson, of the Metropolitan Police’s public order crime team:

*Ticket touting is not only illegal but can lead to an increase in violence at football games through segregation breakdowns... People who buy from touts run the risk of finding themselves among opposing supporters, being ejected from grounds or not receiving their tickets at all*<sup>37</sup>.

Fears of violence and hooliganism from unsegregated football supporters are the main considerations behind ticket touting legislation. Financial considerations, in terms of lost revenue, for clubs and associations are also important.

A recent major ‘ticket touting’ case in England that went before the courts in October 2009 resulted in the defendant being sentenced to 8 months imprisonment and ordered to pay £12,400 within two months. It was alleged during proceedings that

<sup>35</sup> Violent Crime and Reduction Act 2006

[http://www.opsi.gov.uk/acts/acts2006/pdf/ukpga\\_20060038\\_en.pdf](http://www.opsi.gov.uk/acts/acts2006/pdf/ukpga_20060038_en.pdf)

<sup>36</sup> Ticket Touting (Briefing Paper) – House of Commons Home Affairs Section, Philip Ward 22<sup>nd</sup> April 2009

<http://www.parliament.uk/briefingpapers/commons/lib/research/briefings/snha-04715.pdf>

<sup>37</sup> ‘Police crack down on football ticket touts’ The Guardian 6<sup>th</sup> March 2008

<http://www.guardian.co.uk/uk/2008/mar/06/ukcrime1>

the defendant made hundreds of thousands of pounds selling tickets for Premier League and international football matches<sup>38</sup>.

Table 9 below presents information on the number of people arrested in connection with Ticket Touting in the 2008/09 football season:

**Table 9 arrests for ticket touting in 2008/09**

Type of match/competition	Number of arrests
England and Wales internationals	4
European club competitions	15
Premier League	61
Championship	3
League 1	0
League 2	1
<b>TOTAL</b>	<b>84</b>

Source: Home Office<sup>39</sup>

## 2.4 Football banning regime to ban individuals from attending major football matches in Northern Ireland and abroad

Football banning orders would be available to the courts to deal with persons convicted of a football-related offence. The court could impose a penalty for the original offence as well considering implementing a football banning order which could result in that person being banned from football matches for up to 10 years<sup>40</sup>. The ban would apply to matches involving local teams as well as teams playing in Great Britain where football banning orders are already in place, no equivalent exists in the Republic of Ireland<sup>41</sup>.

<sup>38</sup> Metropolitan Police – Premier League ticket tout jailed

[http://cms.met.police.uk/news/convictions/premier\\_league\\_ticket\\_tout\\_jailed](http://cms.met.police.uk/news/convictions/premier_league_ticket_tout_jailed)

<sup>39</sup> Home Office – Statistics on arrests and banning orders 2008-09

<http://www.homeoffice.gov.uk/crime/football-banning-orders/>

<sup>40</sup> Committee for Justice 'Departmental Briefing on Proposals for Sports Law' – Official Report (Hansard) 3<sup>rd</sup> June 2010

[http://www.niassembly.gov.uk/record/committees2009/Justice/100603Briefing%20on%20Proposals%20for%20Sports%20Law.p](http://www.niassembly.gov.uk/record/committees2009/Justice/100603Briefing%20on%20Proposals%20for%20Sports%20Law.pdf)

<sup>41</sup> See above

The football banning order would require the person subject to the order to report to a police station when the designated matches were taking place. There would be no requirement unlike Great Britain for the person to surrender their passport; this would not be an effective control as the result of the number of Northern Ireland residents in possession of a passport from another jurisdiction<sup>42</sup> namely the Republic of Ireland. A football banning order or regime is only effective internationally where other jurisdictions have similar provisions in place. Indeed it has been suggested that further work should be done at European Union level to develop cross-jurisdictional responses to travelling gangs of supporters who may be subject to banning orders in their own country<sup>43</sup>.

Breaching a banning order would be triable summarily with a maximum penalty on conviction of six months' imprisonment, a level 5 fine (maximum £5,000) or both.

In England and Wales under the Football Spectators Act 1989<sup>44</sup> (the 1989 Act), the courts have the power to impose football banning orders to help prevent violence and disorder, although this has historically been on a different scale to Northern Ireland<sup>45</sup>. In England and Wales the person subject to the order may have their passport and/or identity card confiscated temporarily when a match is taking place abroad as well as having to report to a police station at the time of the match<sup>46</sup>.

Where a person is found guilty of a relevant offence, usually connected to violence or disorder, listed in the 1989 Act although not necessarily linked to football and having been sentenced the courts must also consider imposing a football banning order<sup>47</sup>. The person retains the right to appeal to a higher court.

Furthermore in England and Wales a civil route exists for police to apply to the courts to impose a football banning order, this is not proposed for Northern Ireland nor is a separate authority (the Football Banning Order Authority) to deal with football banning orders unlike England and Wales.

A football banning order may have effect for up to ten years although the person subject to the banning order can appeal to the courts for its termination after two thirds has been served. The banning order can also prohibit the person from using public transport on match days and *'from visiting other potential hotspots, such as town centres, pubs and bars during*

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<sup>42</sup> Northern Ireland Office consultation – 'Sports law and spectator controls' July 2009  
[http://www.nio.gov.uk/sports\\_law\\_and\\_spectator\\_controls\\_-\\_a\\_consultation\\_undertaken\\_by\\_the\\_northern\\_ireland\\_office.pdf-2.pdf](http://www.nio.gov.uk/sports_law_and_spectator_controls_-_a_consultation_undertaken_by_the_northern_ireland_office.pdf-2.pdf)

<sup>43</sup> See above

<sup>44</sup> Football Spectators Act 1989  
[http://www.opsi.gov.uk/acts/acts1989/ukpga\\_19890037\\_en\\_1](http://www.opsi.gov.uk/acts/acts1989/ukpga_19890037_en_1)

<sup>45</sup> In Scotland, where there have been similar issues associated with football matches as in Northern Ireland, banning orders were introduced in Part 2 of the Police, Public Order and Criminal Justice (Scotland) Act 2006.

<sup>46</sup> Northern Ireland Office consultation – 'Sports law and spectator controls' July 2009  
[http://www.nio.gov.uk/sports\\_law\\_and\\_spectator\\_controls\\_-\\_a\\_consultation\\_undertaken\\_by\\_the\\_northern\\_ireland\\_office.pdf-2.pdf](http://www.nio.gov.uk/sports_law_and_spectator_controls_-_a_consultation_undertaken_by_the_northern_ireland_office.pdf-2.pdf)

<sup>47</sup> See above

*risk periods*<sup>48</sup>. As of July 2009 there were 3160 individuals subject to football banning orders, 2922 linked to a conviction for violence and disorder and 238 issued on a police complaint<sup>49</sup>.

## 2.5 Commentary on responses to sports law and spectator controls consultation

This part of the paper will examine the consultation responses to the various provisions of the sports law and spectator controls proposals contained in the Justice Bill (NI) 2010.

### 2.5.1 Offensive chanting, missile throwing and unauthorised pitch incursion

These three proposals were welcomed by all respondents. In relation to offensive chanting one respondent queried the omission of flags and other forms of visual material. It was also suggested that the government should set parameters for what amounted to offensive chanting with agreement in advance from stakeholders like DCAL and the PSNI<sup>50</sup>.

With regard to unauthorised pitch incursion there was general support for the proposal. Issues raised included fans being allowed onto the playing area to erect banners before a match began; implications for organisers with regard to insurance and emergency procedures; that the new law should reflect different degrees of incursion for example a distinction between spontaneity and maliciousness and that legislation should be set alongside education and self regulation<sup>51</sup>.

In reference to the responses the Minister outlined that he would consider the interface with flags and emblems legislation. In relation to differing degrees of incursion the Minister determined that pitch incursion of whatever nature should become unauthorised and therefore an offence. The Minister recognised the parallel importance of education and self regulation as well as the importance of the PSNI, clubs, association and stewards in the delivery of the proposed new powers<sup>52</sup>.

### 2.5.2 Offences relating to alcohol, being drunk, having bottles and flares at sporting events and in transport to and from matches

Points of contention from respondents related to the status of registered clubs inside grounds, definition of being drunk and clarification on meaning of private viewing facilities. Respondents highlighted that problems with alcohol were as prominent in the vicinity of

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<sup>48</sup> Northern Ireland Office consultation – ‘Sports law and spectator controls’ July 2009  
[http://www.nio.gov.uk/sports\\_law\\_and\\_spectator\\_controls\\_-\\_a\\_consultation\\_undertaken\\_by\\_the\\_northern\\_ireland\\_office.pdf-2.pdf](http://www.nio.gov.uk/sports_law_and_spectator_controls_-_a_consultation_undertaken_by_the_northern_ireland_office.pdf-2.pdf)

<sup>49</sup> See above

<sup>50</sup> Department of Justice – Consultation on proposals for new sports law and spectator controls: Report on responses and way forward. August 2010  
[http://www.dojni.gov.uk/index/public-consultations/archive-consultations/sports\\_response\\_doc\\_as\\_sent\\_to\\_po\\_11\\_aug\\_2010.pdf](http://www.dojni.gov.uk/index/public-consultations/archive-consultations/sports_response_doc_as_sent_to_po_11_aug_2010.pdf)

<sup>51</sup> See above

<sup>52</sup> See above

grounds and whether possession of alcohol outside grounds could be made an offence? A number of respondents outlined potential commercial harm to clubs of an alcohol ban contrasting the situation in England and Wales regarding rugby where no additional liquor related restrictions were in place. Other issues detailed include allowing drinking of alcohol in grounds subject to appropriate controls; more effective controls on bars and pubs in the vicinity of matches and flexibility for corporate facilities regarding alcohol consumption<sup>53</sup>.

In reference to banning alcohol on special transport there was broad support. However some respondents outlined that owing to travel times in NI being fairly short the focus should be on drinking in pubs around match venues; difficulty for vehicle operators to comply in practice with proposals in relation to transport to matches and that other match journeys should be included namely Rol international football matches, club GAA matches, all-Ireland rugby matches and matches in GB<sup>54</sup>.

Some respondents challenged the suggestion that possession of fireworks is already adequately controlled by legislation in NI. Regarding flares a respondent thought they added to a spectacle and called for investigation into use of flares in controlled area and in reference to drink containers two respondents suggested they should be excluded as a condition of entry as opposed to being an offence<sup>55</sup>.

In reply to the responses the Minister outlines that he recognises that the risk of disorder varies between sports and that whilst creating the offence of possession and consumption of alcohol inside grounds there will be a measured and flexible approach to its application. The Minister reinforced the original proposals that in reference to executive boxes or registered club premises the prohibition would only apply 15 minutes before a match starts until 15 minutes after the match finishes. Furthermore the Minister outlined that prohibition periods, after consultation and tailoring to needs, may be amendable by subordinate legislation. Possession of fireworks as well as flares would be made illegal at designated sports matches<sup>56</sup>.

### 2.5.3 Ticket touting

Respondents supported the creation of the offence. Although respondents indicated that it did not cause a particular problem in NI. One respondent indicated that the offence should be extended to GAA and rugby matches with another respondent suggesting an enabling power to extend the offence to other areas like concert tickets if deemed appropriate<sup>57</sup>.

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<sup>53</sup> See above

<sup>54</sup> Department of Justice – Consultation on proposals for new sports law and spectator controls: Report on responses and way forward. August 2010

[http://www.dojni.gov.uk/index/public-consultations/archive-consultations/sports\\_response\\_doc\\_as\\_sent\\_to\\_po\\_11\\_aug\\_2010.pdf](http://www.dojni.gov.uk/index/public-consultations/archive-consultations/sports_response_doc_as_sent_to_po_11_aug_2010.pdf)

<sup>55</sup> See above

<sup>56</sup> See above

<sup>57</sup> See above

In response the Minister confirmed that the offence would only be applicable to football matches. The offence aimed at preventing crowd disorder by keeping supporters separated<sup>58</sup>.

## 2.5.4 Football Banning Orders

Some respondents argued that the banning orders should apply to sports other than football. A respondent contended that the banning order should only be triggered by an offence of violence and not disorder as well. A further respondent queried whether offences committed outside the UK would count. Two respondents felt that the avenue available in England and Wales should be open in NI were an application can be made by the PSNI or PPS to the courts for a banning order without the person having been convicted in NI. One respondent felt that the banning order should have a maximum lifetime term instead of the proposed 10 years maximum. Respondents also outlined that there should be Football Banning Authority either a separate entity or by extending the powers of the body in GB. The effectiveness of good liaison was also highlighted to ensure compliance and consistency<sup>59</sup>.

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<sup>58</sup> See above

<sup>59</sup> Department of Justice – Consultation on proposals for new sports law and spectator controls: Report on responses and way forward. August 2010

[http://www.dojni.gov.uk/index/public-consultations/archive-consultations/sports\\_response\\_doc\\_as\\_sent\\_to\\_po\\_11\\_aug\\_2010.pdf](http://www.dojni.gov.uk/index/public-consultations/archive-consultations/sports_response_doc_as_sent_to_po_11_aug_2010.pdf)