

UNAUTHORISED ENTRY TO FOOTBALL MATCHES BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Unauthorised Entry to Football Matches Bill as introduced to the House of Commons on 6 December 2023 [Bill 31].

- These Explanatory Notes have been provided by the Home Office, with the consent of Kevin Brennan, the Member in charge of the Bill in order to assist the reader. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill/Act

1 Proposed provisions of the Bill

- The Bill will create a new offence of unauthorised entry to designated football matches; that is elite football matches in England and Wales. The offence will also cover attempts to gain unauthorised entry.
- The new offence will be within the Football (Offences) Act 1991. Accordingly, a court will be able to impose a football banning order against a person convicted of the offence. The offence will apply in England and Wales.

Policy background

- 2 In 2021, the Football Association (FA) commissioned Baroness Casey to undertake an Independent Review into the disorder that occurred during the Euro 2020 Final. The report recommended strengthening the legal framework to deter the practice of ‘tailgating’ (the act of a ticketless person following, or attempting to follow, a legitimate entrant into a stadium) at football stadia. The report found that “unauthorised entry to football grounds does not attract specific enforcement measures and is unlikely to have long-term consequences sufficient to deter repetition or emulation.” Tailgating and other forms of unauthorised entry poses public order and security problems to matchday operations at stadia and tends to take place at the highest interest sold-out matches, which included Euro 2020 matches at Wembley Stadium.
- 3 Various other forms of unauthorised entry are also problematic – this includes forced and surreptitious entry, bribing club staff, and deceptions to attempt entry to spectator areas, or areas of the stadium to which general entrance is restricted. An estimated 3,000-5,000 persons without tickets gained entry to the Euro 2020 Final largely through mass forced entry at turnstiles and other access points, rather than by tailgating. Unauthorised entrants do not have allocated seating which creates problems of overcrowding and blocking gangways and staircases.
- 4 Currently, detected persons who gain entry without authorisation are likely to be ejected with no legal repercussion, whilst persons detected attempting entry are usually moved on and will often make multiple attempts to gain entry. All attempts at unauthorised entry draw upon stadia safety and security resources and can potentially result in persons with dangerous or disruptive intent gaining access to the stadium, pitch, and players.
- 5 The Bill would introduce a new football-specific offence. A person guilty of this new offence would be liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1,000).
- 6 A court must also issue a football banning order following conviction for the offence unless it considers that there are particular circumstances that would make it unjust in all the circumstances to do so. Football banning orders prevent persons who have contributed to violence, disorder and other harms at football matches from further doing so, for a defined

time-period (three to five years, or six to ten years if a custodial sentence is imposed).

- 7 The House of Commons Culture, Media and Sport Committee published the “Safety at major sporting events” report on 12 December 2023 which welcomed the introduction of this Bill.

Legal background

- 8 The Bill creates a new offence within the Football (Offences) Act 1991 of unauthorised entry, or attempted unauthorised entry, to designated football matches. The Football (Offences) (Designation of Football Matches) Order 2004 broadly provides that “designated football matches” are matches that involve one or more teams that compete in the top five tiers of men’s domestic football competition, the top two tiers of women’s domestic football competition, the top tier of Welsh men’s football competition, or that represent a country or territory. The top five tiers of men’s domestic football competition are the Premier League, the English Football League (EFL) Championship, EFL League One, EFL League Two and the National League. The top two tiers of women’s domestic football competition are the Women’s Super League and Women’s Championship. The top tier of Welsh men’s football competition is the Cymru Premier.
- 9 The Football Spectators Act 1989 provides for a football banning order to be made in respect of a person who is convicted of an offence to which Schedule 1 of that Act applies. As the new offence is within the Football (Offences) Act 1991 it will be an offence to which Schedule 1 to the Football Spectators Act 1989 applies. A football banning order can therefore be made against a person convicted of the new offence.

Territorial extent and application

- 10 The Act extends to England and Wales only. This is because the parent Act, the Football (Offences) Act 1991, only applies to England and Wales, as does the Football Spectators Act 1989 which sets out the football banning regime. Scotland and Northern Ireland have their own legislation for football banning orders.

Commentary on provisions of Bill/Act

Clause 1: Offence of unauthorised entry to designated football matches

- 11 This clause creates within the Football (Offences) Act 1991 the offence of unauthorised entry, or attempted unauthorised entry, to designated football matches. Designated football matches are elite football matches in England and Wales designated by statutory instrument (see Legal Background section).
- 12 Subsection (1) provides that a person commits an offence by entering, or attempting to enter, premises for the purpose of attending a designated football match, without a ticket that that person is eligible to use.
- 13 Subsection (2) provides for a defence where a person has lawful authority or lawful excuse for entering the premises for the specified purpose, despite not having a ticket authorising them to do so. For example, persons such as employees, journalists and emergency workers who enter the premises for a legitimate purpose are not in scope of this offence.
- 14 Subsection (3)(a), (3)(b)(i) and (3)(b)(ii) set out that it is a defence if a person can prove that they entered (or attempted to enter) the premises through a standard entry point used by spectators, and at the time of entry (or attempted entry), the person had a ticket that they were not entitled to use and the person reasonably believed that the match ticket had not already been used by another person.
- 15 For example, a 17-year-old using an under-16s ticket would typically be in breach of the terms and conditions of the ticket. Such a person would not have a ticket that they were entitled to use for the purposes of subsection (1)(b), but would be able to rely on the defence under subsection (3)(b)(i).
- 16 A person using a season ticket issued in someone else's name would also not have a ticket that they were entitled to use for the purposes of subsection (1)(b) on the assumption that the ticket only authorises the named person. However, the person using it would be able to rely on the defence under subsection (3)(b)(ii).
- 17 To utilise the defences set out above, the defendant must prove the matter on the balance of probabilities. It is appropriate and reasonable for the defendant to bear the burden of proof if the defence seeks to use one (or more) of the defences outlined above to explain why the person entered, or attempted to enter, premises for the purposes of attending a designated football match without a match ticket that they were eligible to use.
- 18 Subsection (4) provides definitions of "match ticket" and "premises".
- 19 A "match ticket" is defined as a ticket or other document which authorises a person to enter premises for the purposes of attending a designated football match. This covers the various forms of match tickets, including season tickets and hospitality passes, whether in electronic, plastic card, paper or any other format.
- 20 The concept of "premises" is defined as including any place. In practice, this will include

football stadia and for some high-profile matches this may also include an area of private land in close proximity to the stadium that persons can only enter by showing a valid ticket. For example, an event organiser may control entry to private land by using an outer cordon ticket check before the stadium turnstiles. The term may also encompass concourses, bars, and carparks to which a person is required to show a valid ticket in order to gain entrance.

Clause 2: Extent, Commencement and Short Title

- 21 This clause provides that the Bill will extend to England and Wales only, that it will come into on a day specified by the Secretary of State in a commencement Order, and that once in effect, the Act may be referred to as 'The Unauthorised Entry to Football Matches Act 2024'.

Commencement

- 22 The Act will come into effect on a day specified in a commencement Order specified by the Secretary of State.

Financial implications of the Bill

- 23 The Bill creates a new summary-only offence. The total additional cost, including HMCTS and legal aid costs, is estimated to be between £14,700 and £29,400 per year, with a central estimate of £22,100 (2024/25 prices). This would be partially offset by the receipt of fines, estimated to be between £1,800 and £7,200 per year, with a central estimate of £4,100 (2024/25 prices).
- 24 Though not modelled due to an absence of data, arrests for unauthorised entry to football matches may help to prevent more serious or repeat disorder. The benefits obtained through deterring incidents of disorder at football matches are likely to exceed the costs incurred in the long run.

Parliamentary approval for financial costs or for charges imposed

- 25 Net financial costs have been assessed by Home Office economists as *de minimis*.
- 26 A money resolution is required where a Bill authorises new charges on the public revenue – broadly speaking, new public expenditure. However, a money resolution is not usually required where increased expenditure on the administration of justice results from the creation of a new criminal offence, except in certain cases where the change in law is likely to give rise to a need for substantial and quantifiable extra resources.
- 27 The creation of the offence is not likely to give rise to a need for substantial extra resources. This is consistent with the level of expected net expenditure outlined above. Accordingly, the Bill does not require a money resolution.
- 28 No ways and means resolution is required for the Bill, because the Bill does not authorise any

new taxation or other similar charges. Fines are not regarded as charges for this purpose.

Compatibility with the European Convention on Human Rights

- 29 Section 19 of the Human Rights Act 1998 requires the Minister in charge of a Bill in either House of Parliament to make a statement about the compatibility of the provisions of the Bill with the Convention rights (as defined in Section 1 of the Act). However it is not necessary for ministers to sign a statement under Section 19 of the Human Rights Act 1998 in respect of compatibility with the ECHR if the Bill is a Private Members' Bill.

Annex A - Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	Yes	N/A	No	N/A	No	N/A
Clause 2	Yes	Yes	N/A	No	N/A	No	N/A

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