Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2005 No. (N.I.)

NORTHERN IRELAND

The Safety of Sports Grounds (Northern Ireland) Order 2005

Made - - - - 2005
Coming into operation in accordance with Article 1(2) and (3)

At the Court at Buckingham Palace, the ** day of ** 2005

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:–

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Safety of Sports Grounds (Northern Ireland) Order 2005.

(2) Subject to paragraph (3), this Order comes into operation on such day or days as the Department may by order appoint.

(3) The following provisions come into operation on the expiration of one month from the day on which this Order is made—

(a) this Part;

(b) Article 3;

(c) Articles 9 to 12;

(d) Article 19; and

(e) Articles 22 to 27.

Interpretation

2.—(1) Subject to paragraph (4), the Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

"the court", in relation to any premises, means a court of summary jurisdiction acting for the petty sessions district in which the premises are situated;

"the Department" means the Department of Culture, Arts and Leisure;

"council" means a district council

"the Fire Authority" means the Fire Authority for Northern Ireland;

"notice" means notice in writing;

"safety" does not include safety from danger inherent in participation in a sporting or competitive activity,

"sports ground" means any place where—

(a) sports or other competitive activities take place in the open air (or would take place in the open air but for the closing of any retractable roof); and

(b) accommodation has been provided for spectators, consisting of artificial structures or of natural structures artificially modified for the purpose.

(3) The Department may by order amend the definition of "sports ground" in paragraph (2).

(4) For the purposes of this Order, section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) applies with the omission of the words "the liability of whose members is limited" and where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with his functions of management as if he were a director of the body corporate.

PART II

SAFETY OF DESIGNATED SPORTS GROUNDS

Interpretation of Part II

3. In this Part—

"designated sports ground" means a sports ground in respect of which a designation order is in operation;

"designation order" means an order under Article 4(1);

"general safety certificate" means such a safety certificate as is mentioned in Article 4(5)(a); and

"special safety certificate" means such a safety certificate as is mentioned in Article 4(5)(b);

"prohibition notice" has the meaning assigned to it by Article 9(1);

"qualified person" has the meaning assigned to it by Article 6(1);

"safety certificate" means a certificate under this Part;

"spectator" means any person occupying accommodation provided for spectators at a sports ground.

Designation of sports grounds

4.—(1) The Department may by order designate as a sports ground requiring a safety certificate any sports ground which in its opinion has accommodation for more than 5,000 spectators.

(2) The Department may by order substitute, for the number for the time being specified in paragraph (1), such other number as it considers appropriate

(3) An order under paragraph (2)—

(a) may make different substitutions for different classes of sports ground; but

(b) does not affect the validity of any designation previously made.

(4) The Department—

(a) may estimate, by any means which it considers appropriate, for how many spectators a sports ground has accommodation; and

(b) may require any person concerned with the management of a sports ground to provide the Department within such reasonable time as it may specify with such information as it considers necessary for the purpose of making such an estimate.

(5) A safety certificate may be either—

(a) a certificate issued by the council for the district in which a sports ground is situated in respect of the use of the sports ground for an activity or a number of activities specified in the certificate during an indefinite period commencing with a date so specified, or

(b) a certificate issued by that council in respect of the use of the sports ground for an activity or a number of activities specified in the certificate on an occasion or series of occasions so specified.

Contents of safety certificate

5.—(1) A safety certificate shall contain such terms and conditions as the council considers necessary or expedient to secure reasonable safety at the sports ground when it is in use for the specified activity or activities, and the terms and conditions may be such as to involve alterations or additions to the sports ground.

(2) In so far as an order under Article 25 so requires as respects any class of sports ground, a safety certificate shall include such terms and conditions as may be provided for in the order.

(3) No condition of a safety certificate shall require the provision of the services at the ground of any police officers unless the extent of the provision of their services is reserved for the determination of the Chief Constable.

(4) Without prejudice to paragraph (1), a safety certificate may include a condition that records shall be kept—

(a) of the attendance of spectators at the sports ground; and

(b) relating to the maintenance of safety at the sports ground.

(5) A general safety certificate shall contain or have attached to it a plan of the sports ground and the terms and conditions in the certificate or in any special safety certificate issued for the sports ground shall be framed, where appropriate, by reference to that plan.

(6) A safety certificate may include different terms and conditions in relation to different activities.

(7) Nothing in a safety certificate shall derogate from any requirements imposed by regulations under Article 19(2)

Applications for safety certificates

6.—(1) If a council receives an application for a safety certificate for a designated sports ground in its district, it shall determine whether the applicant is a person likely to be in a position to prevent contravention of the terms and conditions of a certificate; and such a person is referred to in this Part as a "qualified person".

(2) If the council determines that an applicant is a qualified person—

(a) where no general safety certificate for the sports ground is in operation, the council shall issue such a certificate for it to him; and

(b) where a general safety certificate for the sports ground is in operation, the council may issue a special safety certificate for it to him.

(3) The council shall—

(a) send a copy of an application for a safety certificate to the Chief Constable and the Fire Authority; and

(b) consult each of them about the terms and conditions to be included in the certificate.

(4) The council may by notice require an applicant for a safety certificate to provide it within such reasonable time as it may specify in the notice with such information and such plans as it considers necessary to enable it to determine the terms and conditions which ought to be included in any certificate issued in response to his application.

(5) If an applicant for a safety certificate fails to comply with a requirement under paragraph (4) within the time specified by the council, or within such further time as it may allow, he shall be deemed to have withdrawn his application.

Amendment, replacement, transfer, cancellation or surrender of certificates

7.—(1) The council may, in any case in which it appears appropriate to the council to do so—

(a) amend a safety certificate by notice to its holder; or

(b) replace a safety certificate.

(2) A safety certificate may be amended or replaced either on the application of the holder or without such an application.

(3) Article 5 shall apply on the amendment or replacement of a safety certificate.

(4) A notice under paragraph (1)(a) amending a general safety certificate shall specify the date on which the amendment to which it relates is to come into operation, and the date so specified may be a date later than the date of issue of the notice.

(5) If the council receives an application for the transfer of a safety certificate from the holder to some other person, the council—

(a) shall determine whether that person is a qualified person; and

(b) if it determines that he is, may transfer the certificate to him.

(6) An application under paragraph (5) may be made either by the holder of a safety certificate or by a person to whom it is proposed that it should be transferred.

(7) The council shall send a copy of an application for the transfer of a safety certificate to the Chief Constable and the Fire Authority.

(8) The council shall consult the Chief Constable and the Fire Authority about any proposal to amend, replace or transfer a safety certificate.

(9) The holder of a safety certificate may surrender it to the council, and it shall thereupon cease to have effect.

(10) The council may cancel a safety certificate if the holder dies or (if a body corporate) is dissolved.

Appeals

8.—(1) A council shall—

(a) if it determines that an applicant for a safety certificate is not a qualified person, serve on him a notice stating its determination;

(b) if it determines that a person to whom it is proposed in an application under Article 7(5) to transfer a safety certificate is not a qualified person serve on him a notice stating its determination;

and a person on whom such a notice is served may appeal against the determination to the court.

(2) An applicant for a special safety certificate may also appeal to the court against a refusal of his application on grounds other than a determination that he is not a qualified person.

(3) An interested party may appeal to the court against—

(a) the inclusion of anything in, or the omission of anything from, a safety certificate; or

(b) the refusal of the council to amend or replace a safety certificate.

(4) Any appeal to the court under this Article shall be brought—

(a) in accordance with Part VII of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26); and

(b) within the period prescribed under Article 19(1)(c).

(5) Subject to paragraph (6), if a council serves a notice under paragraph (1) on any applicant for a safety certificate, he shall be deemed to have withdrawn his application on the expiry of the period within which an appeal against the council's determination must, by virtue of paragraph (4)(b), be brought.

(6) Paragraph (5) shall not have effect if an appeal is brought before the expiry of the period there mentioned, but if the appeal is withdrawn or the court upholds the council's determination, the appellant shall be deemed to have withdrawn his application on the date of the withdrawal of his appeal or of the court's determination.

(7) Where an appeal is brought against the inclusion of any term or condition in a safety certificate (whether it was included in the certificate originally or only on its amendment or replacement), the bringing of the appeal shall not have the effect of suspending the operation of the term or condition

(8) The council or an interested party may appeal to the county court against an order of the court under this Article.

(9) In this Article "interested party" means—

(a) the holder of the safety certificate;

(b) any other person who is or may be concerned in ensuring compliance with the terms and conditions of the safety certificate;

(c) the Chief Constable; or

(d) the Fire Authority.