

PROVISIONS IN CULTURE AND RECREATION BILL: REPLACEMENT OF THE FOOTBALL LICENSING AUTHORITY BY SPORTS GROUND SAFETY AUTHORITY AND OTHER PROVISIONS - REGULATORY IMPACT ASSESSMENT.

The Issue and Objective

The Culture and Recreation Bill includes provisions to rename the Football Licensing Authority (FLA) as the Sports Ground Safety Authority; to end the current system of special licensing of sports grounds for certain football matches and to extend its advisory role beyond the grounds where such football matches are played to other major spectator sports. The principal objectives are to lift the regulatory burden on those sports grounds liable to the current FLA licensing system which the Government believes is no longer required and to enable the FLA's current expertise on sports ground safety issues to be accessible to other spectator sports.

Risk Assessment

2. The Safety of Sports Grounds Act 1975 applies to all open air sports grounds with built accommodation for spectators. Safety controls are imposed primarily through safety certificates issued by local authorities for sports grounds designated by the Secretary of State; currently those with accommodation for over 5,000 spectators where Premier and Football League matches are played, and for over 10,000 where rugby, cricket and other football matches are played. The Fire Safety and Safety of Places of Sport Act 1987 introduced safety certification by local authorities of permanent stands able to accommodate, under cover, at least 500 spectators (so-called regulated stands) at sports grounds not designated under the 1975 Act. Local authorities are advised to take into account the technical advice contained in the Government's Guide to Safety at Sports Grounds (the Green Guide).

3. With its history of safety disasters, football has been treated as a special case. The report by the late Lord Justice Taylor into the Hillsborough Disaster in 1989 led to the Government's all-seater requirement for Premier and First Division grounds, and to a high standard of terracing at lower Division clubs. These requirements have now largely been met by the hard work of the clubs concerned overseen by the FLA (which was created under the Football Spectators Act 1989) through its licensing system. The FLA licensing system operates in

addition to the general safety certification duties of local authorities under the Safety of Sports Grounds Act 1975.

4. The FLA also has an important statutory duty to keep under review the discharge by local authorities of these duties so far as they relate to sports grounds in England and Wales at which Premier, Football League and international matches are played. The FLA is empowered to require local authorities to include conditions in the safety certificates which these authorities issue in relation to such sports grounds.

5. Implementation of the programme of major structural improvements flowing from the Taylor Report and the FLA's licensing regime is now almost complete, though many clubs are undertaking or planning further developments on their own initiative. Work remains outstanding at 12 grounds where the club has been given extra time to comply either because it is relocating or because it has only recently been promoted into the Football League First or Third Division.

6. Football grounds are now significantly safer than in the past. Since 1989 there has been only one fatal incident inside a ground (in 1993), following which two spectators were convicted of manslaughter. Structural changes have been accompanied by safety management improvements. For example all Premier and Football League grounds have safety officers (compared with fewer than 10 in 1989. All are now equipped with control rooms, CCTV and entry monitoring systems. A football stewarding qualification is now in place.

7. Injury statistics have been collected from the clubs. They should be treated with some caution because the quality of the response was initially variable though it has steadily improved. Figures for the 1997/98 to 1998/99 seasons are as follows.

<u>Season</u>	1999/20	1998/99	1997/98	1997/98
<u>Usable returns</u>	94	93	88	71
<u>Attendances (000)</u>	32,157	26,550	25,549	21,258

<u>Treated for injuries</u>	2,213	2,169	2,167	1,834
of which				
<u>Taken to hospital</u>	209	291	344	319
<u>% of total attendances</u>	0.0068	0.0082	0.0085	0.0086
<u>treated for injuries</u>				

While these figures are generally encouraging, the Government is alive to the ever present risk of complacency - whether at ground management, local authority or Government level. Lord Justice Taylor identified complacency as the main enemy of safety and highlighted the short-lived impact of previous disaster reports on safety culture.

8. The Government is satisfied that the safety risks in football grounds can now be sufficiently addressed by the local authority statutory safety certification process, backed by the Football Licensing Authority's current power under the 1989 Act to review the discharge of these functions. So there is no continuing need for the additional tier of FLA licensing. Other major spectator sports grounds, and stands within sports grounds, are regulated by local authorities under the 1975 and 1987 Acts without this additional tier. While these sports grounds are not trouble free there is no need for a further licensing tier though there is a demand for advice from the FLA in other sports which is not currently available due to the limited definition of the FLA's statutory role.

Options

9. Given the above risk assessment and the decision to end the current FLA licensing regime the Government considered four options addressing sports ground safety issues:

- i) abolition of the FLA and ending its oversight of local authority safety certification of Premier and Football League and International football grounds;
- ii) abolition of the FLA and passing its oversight role to another body;

iiia) retaining the FLA's current oversight powers and giving it the power to offer advice on other sports stadia;

iiib) retaining the FLA's current oversight powers and extending those powers to other sports stadia.

10. These options were considered as part of the 1998 Comprehensive Spending Review when the completion of the programme of major structural improvements flowing from the Taylor Report was in prospect. The Government has been encouraged by the general improvement in the standard of safety certificates and by the initiatives taken by the governing bodies of the major spectator sports to improve safety arrangements.

Option (i) - abolition of the FLA and ending its oversight of local authority safety certification of Premier and Football League football grounds

11. A key consideration is how confident Government can be that safety improvements at FLA-regulated football grounds warrant a return to the pre-Hillsborough situation where regulation of safety at such grounds was based solely on local authority safety certification. The FLA provides guidance on good practice and standards with a view to ensuring a consistent approach. It works closely with each local authority. If it were abolished, there is a risk that practices would gradually diverge and that, at some local authorities, standards would slip, especially when staff changes and structural changes lead to a loss of continuity and expertise in this specialist area. The Government therefore concluded in 1998 that the FLA's powers of review of local authority safety certification of football grounds should be retained. This was supported by the results of the consultation exercise (89% were in favour including 86% of the local authorities who responded).

Option (ii) - abolition of the FLA and passing its oversight role to another body

12. The Government concluded that the FLA remained best placed to exercise those oversight powers and there was no significant benefit but possible costs to transferring those powers to another body such as the Health and Safety Executive (the primary focus of which is

employee safety. We concluded therefore that **option (ii)** was not the best means of retaining those powers.

Option (iiia) - retaining the FLA's current oversight powers and giving it the power to offer advice on other sports grounds.

13. The Government believes that there is a clear need to maintain the technical expertise built up by the FLA while operating its licensing regime and oversight of local authorities. We believe that continuing expertise is needed to ensure the major improvements within football prompted by the Taylor Report continue. We also see the need for that expertise to be developed to advise the Secretary of State for Culture, Media and Sport on his responsibilities for sports ground safety which extend across all sports and to lower football leagues. Further, to promote consistency in the application of safety measures and good practice, we want the valuable source of expertise built up by the FLA to be available outside football - to other sports, local authorities issuing safety certificates to sports outside football and other interested parties. This thinking was confirmed by the 87% of respondents to the consultation exercise who were in favour of the creation of the SGSA with its advisory role beyond Premier and Football League grounds. The Government is proposing that the SGSA's advisory role may where appropriate be provided on a cost-recovery basis.

Option (iiib) - retaining the FLA's current oversight powers and extending those powers to other sports grounds.

14. The FLA's statutory duty to keep under review the discharge by local authorities of their safety certification duties so far as they relate to sports grounds in England and Wales at which Premier, Football League and international matches are played has contributed significantly to the improvements of the safety culture both within local authority safety teams and individual grounds' managements. When considering the future role of the FLA, the Government looked at whether it would be sensible to use the opportunity of any future legislation on this issue to extend the FLA 's oversight of local authorities' safety certification process from those at which certain designated football matches are played to an oversight of local authorities' general safety certification duties across all sports.

15. After careful consideration of this issue in the context of the 1998 Comprehensive Spending Review the Government determined that the case for this widening of the FLA's remit outside Premier, Football League and international football had not been made. We do not therefore propose to give the FLA a remit to review all local authority sports ground safety certification. However, the Government is mindful of Lord Justice Taylor's comments on the short-lived impact of previous sports disasters reports on safety culture and therefore proposes to keep this issue under review. We therefore propose in the Culture and Recreation Bill to take a reserve power to widen the SGSA's remit by affirmative order, should any safety incident or evidence emerge at a future date that such an extension of the SGSA's role is needed. The Government believes that this will ensure that the risk of a serious safety incident will be reduced by enabling legislative action without having to secure the necessary Parliamentary time for a Bill on this single issue.

Temporary Stands at Sports Grounds

16. The present requirement for local authorities to certify so-called regulated stands applies only to structures which are intended to be permanent. It does not apply to temporary structures, which are often erected for the durations of particular events at sports grounds. The 1987 Act does not define what constitutes a temporary stand. The Government proposes to require local authorities to certify covered stands able to accommodate over 500 spectators which remain in place for more than 28 days.

17. There have been no significant incidents at sports grounds involving temporary stands in recent years (although a number of injuries resulted from incidents involving the collapse of two such structures at a religious meeting and a pop concert in the early 1990's). Even so, there is a clear case for offering a clear definition of temporary stands in safety legislation. Most local authorities already require safety certificates for stands which are intended to remain in place for over 28 days, applying the definition of temporary included in the Building Regulations. The Government's proposals will bring greater certainty to stadium owners and local authorities by formalising existing practice.

Issue of Equity and Fairness

18. The Government's proposals will bring stadia used for Premier and Football League games onto the same basis as stadia used for other sports with the need only to secure a single safety certificate from the local authority. Similarly, the expertise which the FLA has amassed since 1989 on crowd safety and management issues will now also be available to other sports and to local authorities seeking advice in relation to other sports.

Benefits

19. The Government's proposals will lift an administrative burden from those grounds staging Premier, Football League and international matches in England and Wales and the FLA by removing the current licensing regime. A wide range of sports bodies and local authorities will be able to draw on the expertise on sports ground safety developed by the FLA staff and be able to see that experience tailored for the particular circumstances of spectator sports other than football. That advice will enable grounds to be alert to potential costly safety failures and might also assist clubs in determining how best to obtain value for money when investing in their grounds.

Quantification and valuation of benefits

20. The cost to football clubs of implementing the ground improvements required to comply with the licences issued by the FLA varied from club to club according to the amount of work required and the solution adopted by the club. Many clubs took the opportunity to build new high quality spectator accommodation. The Government itself has contributed some £200 million through the Football Trust towards developments with an overall cost of £700 - 800 million.

21. Local authorities, and to a lesser extent the fire, police and ambulance services, incurred short-term additional costs at varying levels in assessing, approving and monitoring these projects.

22. Once the necessary building work has been completed, the annual cost to the club of licensing is relatively small (probably no more than £200, including a licence fee of £100). The licence effectively only requires the club not to reverse its improvements. Nevertheless the club must still complete and submit a fresh application form each year. While not particularly onerous, it is an administrative burden that will be removed.

23. The resources devoted by the FLA to licensing are already falling. Its inspectors are paying fewer visits to grounds and attending fewer meetings with local authorities and clubs than a year ago. It is likely that, over the course of the year, some 100 Inspector days will be freed for devoting to safety work.

24. Over time, the workload of the FLA board is likely to fall by some 25%, though, with Members being unpaid, the financial savings will be minimal. The small FLA Secretariat is likely to see a reduction in workload equivalent to one quarter of one person / year and some limited savings in stationery costs.

25. **Option (i)** would save £900,000 grant-in-aid a year less the significant costs of winding up the FLA (which would be at least £600,000) but would add a burden to local authorities deprived of an important source of advice and support. There would also be a saving of £9,200 a year in licence fees paid by sports grounds covered by the FLA licensing regime and some minimal lifting in the administrative burden faced. **Option (ii)** would appear to have minimal benefits in that the costs of option (i) would remain but so too would the ongoing costs of oversight of local authorities role. **Option (iiia)** has the same core saving in removing the licensing regime but produces the significant benefits of extending FLA expertise to other sports for the benefit of local authorities, grounds staging other sports and additional sports governing bodies themselves.

26. **Option (iiib)** has exactly the same benefits as option (iiia) with the addition of taking a reserve power to extend the SGSA's oversight role. This reserve power would provide the significant benefit of enabling Government, the SGSA and relevant local authorities to act swiftly in the event of a catastrophic safety failure at a sports ground outside the statutory oversight of the SGSA that revealed weaknesses in the safety certification by the local authority.

Compliance costs for business, charities and voluntary organisations

27. There are no additional compliance costs in Options (i) to (iiia) or from the Government's proposals for business, charities or the voluntary sector as no changes are being made to the current safety certification process by local authorities. If the reserve power under **Option iiib** were utilised there would be additional compliance costs placed those sports grounds brought within the extended remit of the SGSA and further costs on local authorities by SGSA requests under any widened statutory powers.

28. If Government had taken the decision to extend SGSA's remit under Option (iiib) this would be in the light of a catastrophic safety failure. This would almost certainly involve increased SGSA inspection of both a specific category or categories of sports ground and the relevant local authorities. It is not possible to quantify these costs while they would not necessarily be significant they would by definition, be essential to reassure the public as to the safety of such grounds. Such statutory work would not be on a cost-recovery basis.

Other costs

29. Options (i) and (ii) would entail significant costs in winding up the FLA (at least £600,000) and £9,000 per annum licence fee income will be lost. The principal costs arising from **option (iiia)** would fall on those seeking advice from the SGSA for which a charge will be made. It is not envisaged that the SGSA will charge for every piece of advice but rather those which require a significant amount of work (ie assessment of proposals to build a new stadium or major redevelopment). Such costs are unquantifiable ahead of the SGSA determining its charging regime. However, a routine inspection visit and report on a ground with no major problems currently costs the FLA in the region of £250. There would be no further costs under **option (iiib)** not already addressed above.

Business sectors affected

28. Requests for advice are likely to come from those involved with grounds of capacity over 10,000 where rugby, cricket and non Premiership/Football League football matches are played (and thus licensed under the Safety of Sports Ground Act 1975) or grounds with "regulated stands" (under the Fire Safety and Safety of Places of Sport Act 1987 - able to accommodate, under cover, at least 500 spectators and, under the Government's proposals, remaining in place for over 28 days). Smaller clubs applying for grant aid for the Football Foundation and/or Sport England may also seek guidance. The sectors likely to be affected are therefore individual sports ground managements, individual sports clubs which own or use sports grounds, sports governing bodies and local authorities. It is not thought likely that safety consultancy firms would approach the SGSA for such advice except on behalf of a client who would then face those costs.

Cost for a typical business

29. It is difficult to quantify the cost of any such requests for advice when the SGSA's cost recovery regime has yet to be established or the nature of likely requests. It is anticipated that the SGSA would not charge for advice on general principles and good practice (including clarification of points in the Green Guide) but would expect full cost recovery for providing specific and detailed advice on major projects.

30. It is likely that any individual substantial request for which a charge would be made could cost in the region of £500 to £3,000 depending on the nature and level of the request

31. We envisage that the costs of extending the FLA's expertise and knowledge beyond football will be offset by the savings from the ending of the current licensing regime.

32. The proposed definition of non-temporary (and so-called) regulated stands is not expected to impose additional costs or burdens on stadium owners as most local authorities already use this definition in requiring safety certificates. As such, the

Government does not envisage that stadium owners will suffer additional licence fees, or that additional work will be required by local authorities.

Consultation with small business

33. The 1998 consultation exercise took in all affected sports governing bodies and leagues which represent individual clubs and professional/trade associations in engineering and safety industries which contain the only small businesses affected by these proposals.

Results of consultation

34. The Comprehensive Spending Review 1998 consultation paper on sports grounds safety was set out to all local authorities in England and Wales, the relevant sports governing bodies, trade and professional associations in the field of stadium design and safety and organisations involved in or responsible for public safety. Consultees were given 7 weeks to respond. The Government received responses from 89 organisations or individuals including 59 from local authorities 9 from sports governing bodies and 21 from safety/trade/professional organisations. Respondents were overwhelmingly (87%) in favour of reconstitution of the FLA into the SGSA, carrying forward the FLA's duty to review the discharge of local authority safety certification of football matches under the 1975 Act and providing advice. Only 6% were not content with abolition of the current FLA licensing regime.

Summary and Recommendation

Table of costs and benefits

Option (i) or (ii) Expected annual cost	Option (i) or (ii) Expected annual benefit	Option (iia) Expected annual cost	Option(iia) Expected annual benefit	Option (iib) if invoked Expected annual cost	Option(iib) if invoked Expected annual benefit	Grounds staging Premier, Football League and intern'l matches
Loss of important source of advice on safety issues	Savings from no longer having an FLA licence £18,400 a year	None	Continuing advice from FLA on safety matters plus saving from no longer having an FLA licence of £18,400 a year total	None	No additional benefit to that in Option (iia)	
Other sports	None	None	Costs of reimbursing FLA for significant advice requested	Advice received on safety issues. Assistance in delivering safer experience for paying customers	Additional compliance costs in the event of an Order being made affecting that sport following an incident	Restoration of customer confidence in safety following incident which gave rise to invoking this option. Local authorities
Loss of important source of advice on safety issues	No requests from FLA in relation to oversight of licensing - de minimis	Unlikely	Advice received on safety issues and support in tackling problem areas	Additional compliance costs in the event of an Order being made affecting that sport following an incident	Assistance in ensuring all safety issues covered in certification process	FLA
Winding up of FLA - at least £600,000 one-off cost	None	Increased cost of providing some advice for which costs recovery not sought	Increased understanding of crowd safety issues across a range of sport developing safety techniques and expertise still further Saving of £x in ending licensing regime	Increased workload from wider statutory duty .	An effective means of ensuring that local authorities take proper regard of safety in specified sports grounds	Government
Loss of important source of advice on safety issues	£900,000 a year grant in aid no longer spent	None	Enhanced expert advice across all sports safety issues	None		Spectators
Less assurance in safety of football stadia	None	None	Greater assurance in safety at all events in sports grounds	None	Restoration of faith in safety at sports events following incident which gave rise to use of the Order	

35. The Government proposes to end the current FLA licensing system for Premier and Football League grounds and reconstitute the FLA into the SGSA which will provide advice to the Secretary of State and others on sports ground safety issues. The Government intends that the current level of grant-in-aid to the FLA is maintained for the SGSA. Advice to local authorities and sports organisations may be provided on a cost recovery basis. The Government proposes to retain the FLA's statutory duty to review the discharge of local authorities' safety certification of grounds where Premier and Football League matches are played and to take a reserve power to extend that duty to other sports grounds in the event of safety incident at such a sports ground.

Enforcement, Sanctions, Monitoring and Review

36. There are no new regulations to enforce but the SGSA will be on hand to assist local authorities, if requested, in the performance of their statutory safety certification duties across all sports. The SGSA will publish an annual report setting out its own audited performance and assessing the safety culture in England and Wales.

Declaration:

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed

Kate Hoey
Minister for Sport

Date

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