

Section 8: Regulations (England, Wales, Scotland)

Draft Regulations laid before Parliament under sections 20(2) and 26(2) of the London Olympic Games and Paralympic Games Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No.

OLYMPIC GAMES AND PARALYMPIC GAMES, ENGLAND

The London Olympic Games and Paralympic Games (Advertising and Street Trading &c.) (England) Regulations 2011

Made - - - - - ***

Laid before Parliament ***

Coming into force in accordance with regulation 1(1)(b)

These Regulations are made in exercise of the powers conferred by sections 19, 20, 22(8), 25, 26 and 28(6) of the London Olympic Games and Paralympic Games Act 2006¹.

The Secretary of State has consulted in accordance with sections 20(3) and 26(3) and has had regard to the matters referred to in sections 19(2) and 25(2) of that Act.

A draft of these Regulations has been approved by both Houses of Parliament in accordance with sections 20(2) and 26(2) of that Act.

Accordingly, the Secretary of State makes the following Regulations:

¹ 2006 c. 12. Sections 19, 20, 25 and 26 were amended by paragraph 6 of the Schedule to S.I. 2007/2129 and paragraph 8 of the Schedule to S.I. 2010/1551.

PART 1

Introductory

Citation, commencement and duration

1.—(1) These Regulations may be cited as the London Olympic Games and Paralympic Games (Advertising and Street Trading &c.) (England) Regulations 2011.

(2) They come into force on the day after the day on which they are made.

(3) They cease to have effect on 11th September 2012.

Application

2.—(1) These Regulations apply only to—

(a) places in, and

(b) things done in or in respect of,

England including the territorial sea adjacent to England².

(2) The following provisions apply to the Crown—

(a) regulations 4 to 10, and

(b) the other provisions of these Regulations to the extent that they relate to advertising.

General interpretation

3.—(1) In these Regulations—

“the Act” means the London Olympic Games and Paralympic Games Act 2006,

“advertisement” means any word, letter, image, mark, sound, light, model, sign, placard, board, notice, screen, awning, blind, flag, device, costume or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purpose of, promotion, advertisement, announcement or direction,

“advertiser” means a person who engages in advertising activity including a person to whom regulation 5(3) or (4) applies,

“advertising activity” has the meaning given in regulation 4,

“advertising attire” means—

(a) a costume that is an advertisement, or

(b) clothing on which an advertisement is displayed,

“ambush marketing campaign” means a campaign (whether consisting of one act or a series of acts) intended specifically to advertise one or more of the following within an event zone during the relevant event period or periods—

(a) a good or service,

(b) a person who provides a good or service,

“article” includes a living thing,

“building” means a permanent building and excludes any other kind of structure or erection,

“current newspaper or periodical” does not include a newspaper or periodical intended specifically to advertise one or more of the following within an event zone during the relevant event period or periods—

(a) a good or service,

(b) a person who provides a good or service,

“event zone” has the meaning given in Schedule 1,

² Under section 1(5) of the Territorial Sea Act 1987 (1987 c. 49), the reference to the territorial sea adjacent to England in regulation 2(1) is to be construed in accordance with section 1 of that Act.

“itinerant ice cream trading” means selling articles consisting wholly or mainly of ice cream, frozen confectionery or other similar commodities from a vehicle,

“motor vehicle” has the same meaning as in section 185 of the Road Traffic Act 1988³,

“not-for-profit body” means a body which, by virtue of its constitution or any enactment—

- (a) is required (after payment of outgoings) to apply the whole of its income, and any capital which it expends, for charitable or public purposes, and
- (b) is prohibited from directly or indirectly distributing amongst its members any part of its assets (otherwise than for charitable or public purposes),

“performance of a play” means performance of any dramatic piece, whether involving improvisation or not—

- (a) which is given wholly or in part by one or more persons actually present and performing, and
- (b) in which the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, singing or action, involves the playing of a role.

“promotional material” means a document or article distributed or provided wholly or partly for the purpose of promotion, advertisement, announcement or direction,

“public entertainment” means entertainment of one of the following descriptions provided for members of the public—

- (a) a performance of live music,
- (b) any playing of recorded music,
- (c) a performance of dance,
- (d) a performance of a play,
- (e) entertainment of a similar description to that falling within sub-paragraphs (a) to (d),

“railway station” includes all of the following types of station—

- (a) a London Underground station,
- (b) a Greater Manchester Metrolink station,
- (c) a Tyne and Wear Metro station,

“receptacle” means anything which is used (whether or not constructed or adapted for such use) as a container for or for the display of any article, including—

- (a) any vehicle, trailer or barrow, or
- (b) any basket, bag, box, vessel, stall, stand, easel, board, or tray,

“relevant event period” means, in relation to an event zone, a period of time indicated in column (2) of the table in Schedule 2 that is adjacent to the event zone in column (1) of that table,

“street trading” has the meaning given in regulation 11, and

“the Town and Country Planning Regulations” means the Town and Country Planning (Control of Advertisements) (England) Regulations 2007⁴.

(2) A reference to selling an article includes a reference to exposing or offering an article for sale.

(3) A reference to supplying a service includes a reference to offering to supply a service.

³ 1988 c. 52.

⁴ S.I. 2007/783, amended by S.I. 2007/1739.

PART 2

Advertising Activity

Meaning of “advertising activity”

- 4.—(1) In these Regulations—
- “advertising activity” means—
- (a) displaying an advertisement, or
 - (b) distributing or providing promotional material.
- (2) For this purpose “displaying an advertisement” includes all of the following activities—
- (a) projecting, emitting, screening or exhibiting an advertisement,
 - (b) carrying or holding an advertisement or an apparatus by which an advertisement is displayed,
 - (c) providing for—
 - (i) an advertisement to be displayed on an animal, or
 - (ii) an apparatus by which an advertisement is displayed to be carried or held by an animal,
 - (d) wearing advertising attire as part of an ambush marketing campaign.

Control of advertising activity

5.—(1) A person may not engage in advertising activity in an event zone during the relevant event period or periods.

(2) A person is to be treated as engaging in advertising activity (without prejudice to the generality of that expression) if paragraph (3) or (4) applies to that person.

- (3) This paragraph applies to a person who—
- (a) undertakes advertising activity,
 - (b) maintains an advertisement, or
 - (c) arranges for advertising activity to take place.
- (4) This paragraph applies to a person where advertising activity—
- (a) relates to a good, service, business or other concern in which the person has an interest or for which the person is responsible, or
 - (b) takes place on land, premises or other property that the person owns or occupies or of which the person has responsibility for the management.
- (5) Without prejudice to the generality of paragraph (4)—
- (a) a person is to be treated as having an interest in or responsibility for a business or other concern if the person is a director, manager, secretary or other similar officer of the business or concern,
 - (b) a person is to be treated as having an interest in or responsibility for a good or service if the person is a director, manager, secretary or other similar officer of a business or other concern that has an interest in or is responsible for the good or service,
 - (c) a person is to be treated as having responsibility for the management of land, premises or other property if the person is a director, manager, secretary or other similar officer of a business or other concern that owns, occupies or has responsibility for the management of the land, premises or other property.

(6) This regulation applies in relation to advertising activity whether or not it consists of the result or continuation of activity carried out before these Regulations came into force.

Exception for demonstrations, &c

6.—(1) Regulation 5 does not apply to advertising activity that consists of an act, public assembly or public procession intended to—

- (a) demonstrate support for or opposition to the views or actions of any person or body of persons,

- (b) publicise a belief, cause or campaign, or
 - (c) mark or commemorate an event.
- (2) But this exception does not apply to advertising activity that promotes or advertises—
- (a) a good or service, or
 - (b) a person or body (excluding a not-for-profit body) that provides a good or service.

(3) In this regulation, “public assembly” and “public procession” have the same meanings as in section 16 of the Public Order Act 1986⁵ as that section applies in England and Wales.

Exception for certain wearers of costumes and clothing

7.—(1) Regulation 5 does not apply to a person who engages in advertising activity only by wearing advertising attire, unless the person knows or has reasonable cause to believe that he or she is participating in an ambush marketing campaign.

(2) The fact that this exception applies to a person does not affect the application of regulation 5 to any other person (whether in respect of the same advertising activity or otherwise).

Exceptions modelled on the Town and Country Planning Regulations

8.—(1) Regulation 5 does not apply to advertising activity that consists of the display of an advertisement—

- (a) to which Parts 2 and 3 of the Town and Country Planning Regulations (consent for the display of advertisements) do not apply by virtue of regulation 1(3) of those Regulations, or
 - (b) for which consent is granted by regulation 6(1) of those Regulations (deemed consent for the display of advertisements) subject to the conditions and limitations referred to in paragraph (1)(a) and (b) of that regulation.
- (2) But this exception does not apply to the display of an advertisement—
- (a) within Class A (advertisements displayed on enclosed land) if the enclosed land on which the advertisement is displayed is—
 - (i) a railway station (and its yards) or bus station (together with its forecourt, whether enclosed or not), or
 - (ii) enclosed land (including a sports stadium or other building) on which a London Olympic Event⁶ is taking place or to take place,
 - (b) within Class C (advertisements incorporated in the fabric of buildings) which was not in existence on the date on which these Regulations came into force,
 - (c) within Class I (advertisements displayed inside buildings) if the building in which the advertisement is displayed—
 - (i) is or forms part of a railway station or bus station, or
 - (ii) is a sports stadium or other building in which a London Olympic Event is taking place or to take place,
 - (d) within Class 1B (advertisements displayed by local planning authorities) that—
 - (i) is not displayed wholly for the purpose of announcement or direction in relation to any of the functions of the local planning authority by which it is displayed, and
 - (ii) is not reasonably required to be displayed for the safe or efficient performance of those functions,
 - (e) within Class 3D (advertisements announcing local events and activities) if the advertisement promotes or advertises—
 - (i) a good or service, or
 - (ii) a person or body (excluding a not-for-profit body) that provides a good or service,
 - (f) within Class 7B (flags on residential development sites) that does not relate to the development or to a person carrying out the development or an aspect of the development,

⁵ 1986 c. 64. The definition of “public assembly” so far as it relates to England and Wales was amended by section 57 of the Anti-social Behaviour Act 2003 (2003 c. 38).

⁶ “London Olympic Event” is defined in section 1(3)(b) of the Act.

- (g) within Class 8 (advertisements on hoardings),
 - (h) within Class 9 (advertisements on highway structures),
 - (i) within Class 12 (advertisements displayed inside buildings) if the building in which the advertisement is displayed—
 - (i) is or forms part of a railway station or bus station, or
 - (ii) is a sports stadium or other building in which a London Olympic Event is taking place or to take place,
 - (j) within Class 13 (advertisements on sites used for preceding ten years for display of advertisements without express consent),
 - (k) within Class 14 (advertisements displayed after expiry of express consent),
 - (l) within Class 15 (advertisements on balloons),
 - (m) within Class 16 (advertisements on telephone kiosks).
- (3) In this regulation—
- (a) a reference to a “Class” of advertisement is a reference to the corresponding Class of advertisement in Schedule 1 or 3 to the Town and Country Planning Regulations⁷, and
 - (b) “forecourt” has the same meaning as in Schedule 3 to the Town and Country Planning Regulations⁸.
- (4) For the purposes of this regulation—
- (a) a reference to a building in Schedule 1 or 3 to the Town and Country Planning Regulations is to be construed in accordance with the definition of building in regulation 3(1), and
 - (b) a reference to a vehicle in Schedule 1 to the Town and Country Planning Regulations includes a bicycle.

Other exceptions

9.—(1) Regulation 5 does not apply to advertising activity of a description falling within paragraphs (2) to (7).

- (2) Displaying an advertisement that is employed wholly as—
 - (a) a memorial, or
 - (b) a railway signal,
- (3) Distributing or providing a current newspaper or periodical, either without a receptacle or with a receptacle that does not—
 - (a) exceed 1 metre in length or width or 2 metres in height,
 - (b) occupy a ground area exceeding 0.25 square metre,
 - (c) stand on the carriageway of a street, or
 - (d) cause undue interference or inconvenience to persons using the street, and
- (4) Advertising activity undertaken in accordance with a condition attached to an authorisation granted under regulation 14 (street trading authorised by the Olympic Delivery Authority &c.).
- (5) Displaying an advertisement on an aircraft for one or more of the following purposes—
 - (a) complying with the law of the United Kingdom or any other country, being law in force in relation to the aircraft,
 - (b) securing the safety of the aircraft or any person or property therein,
 - (c) the furtherance, by or on behalf of a Government department, by a person acting under any public duty or by a person providing ambulance or rescue facilities by air, of measures in connection with circumstances, existing or imminent at the time the aircraft is used, which may cause danger to persons or property,
 - (d) civil defence, military or police purposes.

⁷ Class 5 in Schedule 3 to the Town and Country Planning Regulations was amended by regulation 2 of S.I. 2007/1739.

⁸ See paragraph 1(1) of Part 2 to Schedule 3 to the Town and Country Planning Regulations.

(6) Displaying a mark or inscription (other than an illuminated sign) on the body of an aeroplane or helicopter.

(7) Displaying an advertisement on an item of street furniture provided that the advertisement—

- (a) is not illuminated,
- (b) bears only the name, contact details and device (or any one or more of those things) of the manufacturer, owner or operator of the street furniture, and
- (c) is not displayed as part of an ambush marketing campaign.

Advertising undertaken or authorised by the London Organising Committee

10.—Regulation 5 does not apply to advertising activity undertaken or controlled by—

- (a) the London Organising Committee⁹, or
- (b) any person authorised by the Committee (whether or not subject to terms and conditions imposed by the Committee and whether or not in accordance with a sponsorship or other commercial agreement with the Committee).

(2) Subject to these Regulations, the Committee has an absolute discretion in respect of each application to it for authorisation.

(3) The Committee must have regard to the provisions of the Host City Contract¹⁰ before engaging in advertising activity or granting an authorisation under this regulation.

(4) The Committee's right to engage in advertising activity pursuant to this regulation and any authorisation granted by it are subject to all of the following conditions—

- (a) that the advertiser hold any licence which, in addition to authorisation by or under this regulation, is required before a person may engage in advertising activity (whether in a particular place or generally),
- (b) that no advertisement be sited or displayed so as to—
 - (i) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military),
 - (ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air, or
 - (iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle,
- (c) that the advertiser maintain any advertisement in a condition that does not—
 - (i) impair the visual amenity of the site, or
 - (ii) endanger the public.

(5) In this regulation, “licence” includes any kind of consent, certificate, permission or authority (by whatever name) granted by a landowner, local authority or other person in accordance with any enactment, Charter or other document.

⁹ “the London Organising Committee” is defined in section 1(3)(d) of the Act. Since the passing of the Act, the London Organising Committee has changed its registered name to The London Organising Committee of the Olympic Games and Paralympic Games Limited.

¹⁰ “Host City Contract” is defined in section 1(3)(e) of the Act.

PART 3

Street Trading

Meaning of “street trading”

11.—(1) In these Regulations, “street trading” means carrying out one or more of the following activities in an open public place—

- (a) selling an article,
- (b) supplying a service,
- (c) trading as a pedlar under a pedlar’s certificate under the Pedlars Act 1871¹¹,
- (d) doing anything authorised by regulations made under section 5 of the Police, Factories, &c. (Miscellaneous Provisions) Act 1916¹² (regulation of street collections),
- (e) conducting a public charitable collection that—
 - (i) is conducted in accordance with sections 48 or 49 of the Charities Act 2006¹³ (restrictions on conducting collections in a public place and door to door), or
 - (ii) is an exempt collection by virtue of section 50 of that Act (exemption for local, short-term collections),
- (f) itinerant ice cream trading,
- (g) providing public entertainment for gain or reward.

(2) For this purpose “open public place” means—

- (a) a highway, or
- (b) another place—
 - (i) to which the public have access (whether generally or only for the purpose of the trading), and
 - (ii) which is not in a building other than one designed or generally used for the parking of cars.

(3) In determining whether activity amounts to street trading for the purposes of these Regulations the following matters are to be disregarded—

- (a) the fact that gain or reward arising from the activity does not accrue to the person actually carrying out the activity,
- (b) the fact that either party to a transaction is not in an open public place when one of the following activities occurs—
 - (i) an offer or exposure of an article for sale,
 - (ii) an offer to supply a service,
 - (iii) the completion of the transaction,
- (c) the fact that a transaction is not completed in an open public place, if one of the following activities occurs in such a place—
 - (i) an offer or exposure of an article for sale,
 - (ii) an offer to supply a service,
- (d) the fact that an article actually sold or service actually supplied is different from that offered or exposed for sale.

¹¹ 1871 c. 96.

¹² 1916 c. 31. Section 5 was amended by section 3 of the Statute Law Revision Act 1927 (c. 42), paragraph 22 of Schedule 29 to the Local Government Act 1972 (c.70), section 31(5) and (6) of the Criminal Law Act 1977 (c. 45), Schedule 4 to the Civic Government (Scotland) Act 1982 (c. 45), section 46 of the Criminal Justice Act 1982 (c. 48), section 78(2)(f) of the Police (Northern Ireland) Act 2000 (c. 32), paragraph 15 of Schedule 8 and Schedule 9 to the Charities Act 2006 (c. 50), and paragraph 1 of the Schedule to S.I. 2006/2951.

¹³ 2006 c. 50.

Control of street trading

12.—(1) A person may not engage in street trading in an event zone during the relevant event period or periods.

(2) A person is to be treated as engaging in street trading (without prejudice to the generality of that expression) if paragraph (3) or (4) applies to that person.

(3) This paragraph applies to a person who—

- (a) undertakes street trading, or
- (b) arranges for street trading to take place.

(4) This paragraph applies to a person where street trading—

- (a) is undertaken by a business or other concern in which the person has an interest or for which the person is responsible, or
- (b) takes place on land that the person owns or occupies or of which the person has responsibility for the management.

(5) But paragraph (4) does not apply to a person who proves that—

- (a) the street trading took place without their knowledge, or
- (b) they took all reasonable steps to prevent the street trading taking place or, where it has taken place, to prevent it continuing or recurring.

(6) Without prejudice to the generality of paragraph (4)—

- (a) a person is to be treated as having an interest in or responsibility for a business or other concern if the person is a director, manager, secretary or other similar officer of the business or concern,
- (b) a person is to be treated as having responsibility for the management of land if the person is a director, manager, secretary or other similar officer of a business or other concern that owns, occupies or has responsibility for the management of the land.

(7) This regulation applies in relation to street trading whether or not it consists of the result or continuation of activity carried out before these Regulations came into force.

Exceptions

13.—(1) Regulation 12 does not apply to street trading of a description falling within paragraphs (2) to (8).

(2) Trading as a newsvendor, provided that—

- (a) the only articles sold are current newspapers or periodicals, and
- (b) they are sold either without a receptacle or with a receptacle that does not—
 - (i) exceed 1 metre in length or width or 2 metres in height,
 - (ii) occupy a ground area exceeding 0.25 square metre,
 - (iii) stand on the carriageway of a street, or
 - (iv) cause undue interference or inconvenience to persons using the street.

(3) Selling an article to an occupier of premises adjoining any highway from a vehicle which is used only for the regular delivery of milk or other perishable goods to that person.

(4) Selling a motor vehicle on private land generally used for the sale of motor vehicles.

(5) Supplying motor vehicle cleaning services on private land generally used for the supply of those services.

(6) Supplying motor vehicle parking services in a building designed or generally used for the parking of motor vehicles.

(7) Providing a public sanitary convenience.

(8) Supplying public transport services.

(9) Street trading on private land adjacent to exempt premises provided that the trading—

- (a) forms part of the usual business of the owner of the premises or a person assessed for uniform business rate in respect of the premises, and

- (b) takes place during the period during which the premises are open to the public for business.
- (10) Paragraph (3) does not apply to itinerant ice cream trading.
- (11) In this regulation—
 - “exempt premises” means—
 - (a) a shop,
 - (b) a restaurant, bar, or other premises used for the supply of meals, refreshments or alcohol, or
 - (c) a petrol filling station,
 - “sanitary convenience” has the meaning given in section 126 of the Building Act 1984¹⁴.

Street trading authorised by the Olympic Delivery Authority &c.

14.—(1) Regulation 12 does not apply to street trading undertaken in accordance with an authorisation granted by the Authority¹⁵.

(2) Subject to these Regulations, the Authority has an absolute discretion in respect of each application for authorisation.

(3) The Authority must have regard to the provisions of the Host City Contract before granting an authorisation under this regulation.

(4) An authorisation granted under this regulation is subject to the condition that any person who engages in street trading in reliance on the authorisation hold any licence which, in addition to authorisation under this regulation, is required before the person may engage in street trading (whether in a particular place or generally).

(5) In this regulation—

“Authority” means—

- (a) the Olympic Delivery Authority, or
- (b) a person to whom the function of granting authorisations for the purpose of this regulation is delegated by the Olympic Delivery Authority, and

“licence” includes any kind of consent, certificate, permission or authority (by whatever name) granted by a landowner, local authority or other person in accordance with any enactment, Charter or other document.

PART 4

Rights of review

Interpretation of this Part

15. In this Part—

“applicant” has the meaning given in regulation 16(1),

“authorisation” means an authorisation granted—

- (a) under regulation 10(1)(b) in relation to advertising activity, or
- (b) under regulation 14 in relation to street trading, and

“authoriser” means—

- (a) in relation to an application for an authorisation under regulation 10(1)(b), the London Organising Committee, or

¹⁴ 1984 c. 55. There are amendments to section 126 that are not relevant to these Regulations.

¹⁵ Under section 25(7) of the Act, an authorisation granted by the Authority under regulation 13 may be subject to terms and conditions.

- (b) in relation to an application for an authorisation under regulation 14—
 - (i) the Olympic Delivery Authority, or
 - (ii) a person to whom the function of granting authorisations for the purpose of regulation 14 is delegated by the Olympic Delivery Authority.

Right to seek review

16.—(1) A person who has applied for an authorisation (an “applicant”) and is dissatisfied with the decision of the authoriser may request the authoriser to review its decision.

(2) Such a request must—

- (a) be in writing,
- (b) include or be accompanied by such information or evidence as the applicant considers relevant, and
- (c) be made within 14 days of the date on which the authoriser’s decision was communicated to the applicant.

(3) Within 14 days of the date on which an authoriser receives such a request, it must review its decision.

(4) On reviewing its decision, the authoriser may—

- (a) confirm its original decision, or
- (b) substitute a new decision for its original decision.

(5) The authoriser must send a written notice to the applicant informing him or her of its decision on the review and the reasons for that decision.

PART 5

Compensation

Interpretation of this Part

17. In this Part—

“claimant” has the meaning given in regulation 19(1),

“decision notice” means a notice issued by a relevant authority under regulation 21(2)(b) or (3),

“enforcement officer” means a person designated for the purpose of section 22 or 28 of the Act (enforcement powers) by the Olympic Delivery Authority,

“notice of claim” has the meaning given in regulation 19(1),

“police authority” and “police force” have the meanings given in section 101 of the Police Act 1996¹⁶, and

“relevant authority”, in relation to the exercise or purported exercise of a power under section 22 or 28 of the Act, means—

- (a) if the exercise or purported exercise of the power was by an enforcement officer, the Olympic Delivery Authority, or
- (b) if the exercise or purported exercise of the power was by a constable, the police authority for the police force of which the constable is a member,

Entitlement to compensation for damage to property

18.—(1) A person whose property is damaged in the course of the exercise or purported exercise of a power under section 22 or 28 of the Act is entitled to compensation from the relevant authority in accordance with this Part.

¹⁶ 1996 c.16. The definition of “police authority” in section 101 was amended by section 312 of the Greater London Authority Act 1999 (c.29). There are other amendments to section 101 which are not relevant to these Regulations.

(2) But a person who is responsible for a contravention of these Regulations is not entitled to compensation.

(3) The amount of compensation payable is the total of—

- (a) the value of the property damaged, and
- (b) any other loss which flowed directly from the damage to the property.

Notice of claim

19.—(1) A person who claims to be entitled to compensation under this Part (a “claimant”) may send a written notice (a “notice of claim”) to the relevant authority claiming that compensation.

(2) A notice of claim must be sent within—

- (a) 30 days of the date on which damage occurred, or
- (b) such longer period as agreed by the relevant authority in writing.

(3) A notice of claim must include or be accompanied by all of the following information and evidence—

- (a) the claimant’s full name,
- (b) the date on which the damage occurred,
- (c) the address or location at which the damage occurred,
- (d) the amount of compensation claimed (in accordance with regulation 18(3)),
- (e) a description of—
 - (i) the property damaged,
 - (ii) the nature of the damage, and
 - (iii) the nature of any further loss which flowed from the damage for which compensation is claimed,
- (f) photographs, receipts, quotations or other evidence as to the matters referred to in subparagraphs (a) to (e).

Initial consideration of claim

20.—(1) Within 14 days of the date on which the relevant authority receives a notice of claim it must determine whether it has received sufficient information and evidence to enable it to decide the following matters—

- (a) whether the claimant is entitled to compensation under this Part,
- (b) where the claimant is entitled, the amount of the compensation.

(2) If the authority determines that it has not received sufficient information or evidence, it must send the claimant a written notice stating the further information or evidence that it requires.

(3) The claimant must send the authority the information or evidence stated in such a notice within—

- (a) 14 days of the date on which a claimant receives the notice, or
- (b) such longer period as agreed by the relevant authority in writing.

(4) Within 7 days of the date on which the authority receives any further information or evidence, it must make the determination referred to in paragraph (1) again (and the other paragraphs of this regulation apply to that new determination).

Authority’s decision on a claim

21.—(1) If a relevant authority determines under regulation 20 that it has received sufficient information and evidence it must, within 14 days of the date of that determination, decide the matters referred to in regulation 20(1)(a) and (b).

(2) If the authority decides that the claimant is entitled to compensation it must—

- (a) pay to the claimant the amount of compensation stated in the notice of claim, or

- (b) if it decides that the claimant is entitled to a lesser amount of compensation than that stated in the notice of claim, send a written notice to the claimant—
 - (i) offering that lesser amount to him or her, and
 - (ii) stating the reasons for its decision.
- (3) If the authority decides that the claimant is not entitled to compensation it must send a written notice to the claimant—
 - (i) declining the claim, and
 - (ii) stating the reasons for its decision.
- (4) A claimant who receives a decision notice offering a lesser amount of compensation than that stated in the notice of claim may agree, in writing, to accept that lesser amount (in which case the authority must pay that amount to the claimant).
- (5) A decision notice must contain particulars of the claimant's rights to—
 - (a) request a review of the decision, under regulation 22, and
 - (b) appeal a decision on a review, under regulation 23.

Review of decision on a claim

22.—(1) A claimant who receives a decision notice may request the relevant authority to review its decision.

- (2) Such a request must—
 - (a) be in writing,
 - (b) be made within—
 - (i) 14 days of the date on which the decision notice was received, or
 - (ii) such longer period agreed by the relevant authority in writing, and
 - (c) include or be accompanied by such information or evidence as the claimant considers relevant.
- (3) Within 14 days of the date on which a relevant authority receives such a request it must review its decision under regulation 21.
- (4) On reviewing its decision, the authority may—
 - (a) confirm the original decision, or
 - (b) substitute a new decision for the original decision.
- (5) But where the authority decided under regulation 21(2)(b) that the claimant was entitled to a lesser amount of compensation than that stated in the notice of claim, on reviewing its decision it may not substitute a lesser amount of compensation for that stated in the decision notice.
- (6) The authority must send a written notice to the claimant informing him or her of its decision on the review and the reasons for that decision.
- (7) A notice under paragraph (6) must contain particulars of the claimant's right to appeal a decision on a review under regulation 23.

Appeal to the county court

23.—(1) A claimant that is dissatisfied with a decision of the relevant authority on a review under regulation 22 may appeal to the county court.

- (2) An appeal must be brought within 21 days of the date on which the claimant was notified of the authority's decision on review.
- (3) The court may give permission for an appeal to be brought after the end of that period, but only if it is satisfied—
 - (a) where permission is sought before the end of that period, that there is a good reason for the claimant to be unable to bring the appeal in time, or
 - (b) where permission is sought after the end of that period, that there was a good reason for the claimant's failure to bring the appeal in time and for any delay in applying for permission.

(4) An appeal under this regulation is to be by way of rehearing and the court may make such order confirming, quashing or varying the decision as it thinks fit.

Hugh Robertson
Parliamentary Under Secretary of State

SCHEDULE 1 **Regulation 3**
Meaning of “event zone”

1. In these Regulations, “event zone” means each of the following zones, being, in each case, the area shown on the relevant map bounded externally by a black line and edged internally by a stippled band, including the airspace above the land or water in that area—

- (a) the Broxbourne zone,
- (b) the Coventry Stadium zone,
- (c) the Earls Court zone,
- (d) the Eton Dorney zone,
- (e) the ExCEL zone,
- (f) the Greenwich Park zone,
- (g) the Hadleigh Farm zone,
- (h) the Horse Guards Parade zone,
- (i) the Hyde Park zone,
- (j) the Lord’s Cricket Ground zone,
- (k) the North Greenwich Arena 1 zone,
- (l) the Old Trafford zone,
- (m) the Olympic marathon zone,
- (n) the Olympic Park zone,
- (o) the Olympic race walk zone,
- (p) the Olympic road cycling zone,
- (q) the Olympic time trial zone.
- (r) the Olympic triathlon run zone,
- (s) the Paralympic marathon zone,
- (t) the Paralympic road cycling zone,
- (u) the Royal Artillery Barracks zone,
- (v) the St James’s Park zone,
- (w) the Wembley Arena zone,
- (x) the Wembley Stadium zone,
- (y) the Weymouth and Portland zone,
- (z) the Wimbledon zone.

2. In this Schedule, “the relevant map” means, in relation to each event zone, the map bearing the name of the event zone and the title of these Regulations, of which prints signed by a Director in the Department for Culture, Media and Sport are deposited and available for inspection at the offices of—

- (a) the Department for Culture, Media and Sport,
- (b) the Olympic Delivery Authority, and
- (c) a local authority indicated in column (2) of the following table that is adjacent to the event zone in column (1) of that table.

<i>(1)</i> <i>Event zone</i>	<i>(2)</i> <i>Local authority or authorities</i>
Broxbourne zone	Broxbourne Borough Council
Coventry Stadium zone	Coventry City Council
Earls Court zone	Royal Borough of Kensington and Chelsea
Eton Dorney zone	Royal Borough of Windsor and Maidenhead
ExCEL zone	London Borough of Newham
Greenwich Park zone	London Borough of Greenwich
Hadleigh Farm zone	Castle Point Borough Council
Horse Guards Parade zone	Westminster City Council
Hyde Park zone	Westminster City Council
Lord's Cricket Ground zone	Westminster City Council
North Greenwich Arena 1 zone	London Borough of Greenwich
Old Trafford zone	Trafford Metropolitan Borough Council
Olympic marathon zone	(a) Westminster City Council
	(b) City of London Corporation
Olympic Park zone	(a) London Borough of Hackney
	(b) London Borough of Newham
	(c) London Borough of Tower Hamlets
	(d) London Borough of Waltham Forest
Olympic race walk zone	Westminster City Council
Olympic road cycling zone	(a) Westminster City Council
	(b) Royal Borough of Kensington and Chelsea
	(c) London Borough of Hammersmith and Fulham
	(d) London Borough of Wandsworth
	(e) London Borough of Richmond upon Thames
	(f) Royal Borough of Kingston upon Thames
	(g) Elmbridge Borough Council
	(h) Reigate and Banstead Borough Council
	(i) Mole Valley District Council
	(j) Guildford Borough Council
Olympic time trial zone	(k) Woking Borough Council
	unknown

<i>(1)</i> <i>Event zone</i>	<i>(2)</i> <i>Local authority or authorities</i>
Olympic triathlon run zone	Westminster City Council
Paralympic marathon zone	(a) Westminster City Council (b) City of London Corporation
Paralympic road cycling zone	unknown
Royal Artillery Barracks zone	London Borough of Greenwich
St James's Park zone	Newcastle City Council
Wembley Arena zone	London Borough of Brent
Wembley Stadium zone	London Borough of Brent
Weymouth and Portland zone	Weymouth and Portland Borough Council
Wimbledon zone	London Borough of Merton

3. All parts of a railway station (whether on, above or under the ground and whether within or outside an event zone) are to be taken as being within an event zone if any part of the station is on or above the ground within the event zone.

SCHEDULE 2

Regulation 3

Relevant event period or periods

<i>(1)</i> <i>Event zone</i>	<i>(2)</i> <i>Relevant event period of periods</i>
the Broxbourne zone	From the beginning of 28th July 2012 to the end of 2nd August 2012
the Coventry Stadium zone	(a) From the beginning of 24th July 2012 to the end of 3rd August 2012 (b) From the beginning of 8th August 2012 to the end of 9th August 2012
the Earls Court zone	From the beginning of 28th July 2012 to the end of 12th August 2012
the Eton Dorney zone	(a) From the beginning of 27th July 2012 to the end of 11th August 2012 (b) From the beginning of 30th August 2012 to the end of 2nd September 2012
the ExCEL zone	(a) From the beginning of 27th July 2012 to the end of 12th August 2012 (b) From the beginning of 29th August 2012 to the end of 8th September 2012
the Greenwich Park zone	(a) From the beginning of 27th July 2012 to the end of 12th August 2012

(1) <i>Event zone</i>	(2) <i>Relevant event period of periods</i>
the Hadleigh Park zone	(b) From the beginning of 29th August 2012 to the end of 4th September 2012 From the beginning of 10th August 2012 to the end of 12th August 2012
the Horse Guards Parade zone	From the beginning of 27th July 2012 to the end of 9th August 2012
the Hyde Park zone	From the beginning of 8th August 2012 to the end of 10th August 2012
the Lord's Cricket Ground zone	From the beginning of 26th July 2012 to the end of 3rd August 2012
the North Greenwich Arena 1 zone	(a) From the beginning of 27th July 2012 to the end of 12th August 2012
the Old Trafford zone	(b) From the beginning of 29th August 2012 to the end of 8th September 2012 (a) From the beginning of 25th July 2012 to the end of 26th July 2012
the Olympic marathon zone	(b) From the beginning of 28th July 2012 to the end of 1st August 2012 (c) From the beginning of 3rd August 2012 to the end of 7th August 2012
the Olympic Park zone	(a) From the beginning of 5th August 2012 to the end of that day (b) From the beginning of 12th August 2012 to the end of that day (a) From the beginning of 23rd July 2012 to the end of 13th August 2012 (b) From the beginning of 28th August 2012 to the end of 9th September 2010
the Olympic race walk zone	(a) From the beginning of 4th August 2012 to the end of that day (b) From the beginning of 11th August 2012 to the end of that day
the Olympic road cycling zone	From the beginning of 28th July 2012 to the end of 29th July 2012
the Olympic time trial zone	From the beginning of 1st August 2012 to the end of that day
the Olympic triathlon run zone	(a) From the beginning of 4th August 2012 to the end of that day

(1) <i>Event zone</i>	(2) <i>Relevant event period of periods</i>
the Paralympic marathon zone	(b) From the beginning of 7th August 2012 to the end of that day From the beginning of 9th September 2012 to the end of that day
the Paralympic road cycling zone	From the beginning of 5th September 2012 to the end of 8th September 2012
the Royal Artillery Barracks zone	(a) From the beginning of 27th July 2012 to the end of 5th August 2012 (b) From the beginning of 29th August 2012 to the end of 5th September 2012
the St James's Park zone	(a) From the beginning of 25th July 2012 to the end of 26th July 2012 (b) From the beginning of 28th July 2012 to the end of 4th August 2012
the Wembley Arena zone	(a) From the beginning of 27th July 2012 to the end of 5th August 2012 (b) From the beginning of 8th August 2012 to the end of 12th August 2012
the Wembley Stadium zone	(a) From the beginning of 28th July 2012 to the end of 1st August 2012 (b) From the beginning of 3rd August 2012 to the end of 11th August 2012
the Weymouth and Portland zone	(a) From the beginning of 28th July 2012 to the end of 12th August 2012 (b) From the beginning of 31st August 2012 to the end of 7th September 2012
the Wimbledon zone	From the beginning of 27th July 2012 to the end of 6th August 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations control advertising activity and street trading in areas around London 2012 Olympic and Paralympic Games events in England (“event zones”) during the period or periods when those events take place (the “relevant event period or periods”).

There are 26 event zones. They are defined in Schedule 1 by reference to maps that are available for inspection at the offices of the Department for Culture, Media and Sport, the Olympic Delivery Authority (“ODA”), and the relevant local authority or authorities set out in the table following paragraph 2 of Schedule 1. The relevant event period or periods for each event zone are set out in Schedule 2.

Regulation 5(1) prohibits a person from engaging in advertising activity in an event zone during the relevant event period or periods (the “advertising prohibition”).

Regulation 4 defines “advertising activity” to mean displaying an advertisement or distributing or providing promotional material. “Advertisement” is defined in regulation 3(1) and “displaying an advertisement” includes the activities described in regulation 4(2). “Promotional material” is defined in regulation 3(1).

A person is to be treated as engaging in advertising activity if the person undertakes advertising activity, maintains an advertisement or arranges for advertising activity to take place (see regulation 5(2) and (3)). Under regulation 5(2) and (4), a person is also to be treated as engaging in advertising activity where advertising activity:

- relates to a good, service, business or other concern in which the person has an interest or for which the person is responsible, or
- takes place on land, premises or other property that the person owns or occupies or of which the person has responsibility for the management.

Regulation 5(5) specifies people who are to be treated as satisfying these criteria.

Under section 21(2) of the London Olympic Games and Paralympic Games Act 2006 (the “2006 Act”), a person charged with an offence of contravening the advertising prohibition has a defence if the person proves that the contravention occurred without his or her knowledge or despite his or her taking all reasonable steps to prevent it from occurring or (where he or she became aware of it after its commencement) from continuing.

In addition, regulations 6 to 9 specify exceptions to the advertising prohibition. The exception in regulation 6 is for acts, public assemblies, or public processions intended to demonstrate support for or opposition to the views or actions of a person or body of persons, publicise a belief, cause or campaign, or mark or commemorate an event. The exception does not apply to advertising activity that promotes or advertises a good, service, or person or body (excluding a not-for-profit body as defined in regulation 3(1)) that provides a good or service.

The exception in regulation 7 is for a person who engages in advertising activity only by wearing “advertising attire” (defined in regulation 3(1) to mean a costume that is an advertisement or clothing on which an advertisement is displayed). For the exception to apply, the person must not know or have reasonable cause to believe that he or she is participating in an ambush marketing campaign (also defined in regulation 3(1)). The application of this exception to a person does not affect the application of the advertising prohibition to any other person (whether in respect of the same advertising activity or otherwise).

The exception in regulation 8 is modelled on provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the “Town and Country Planning Regulations”). Under regulation 8(1)(a) the advertising prohibition does not apply to the display of an advertisement which is exempt from the requirement for deemed or express consent under Part 2 or 3 of the Town and Country Planning Regulations (i.e. the display of an advertisement of a description set out in column (1) of Schedule 1 to those Regulations, provided that the relevant conditions and limitations set out in that Schedule are complied with). Under regulation 8(1)(b) the advertising prohibition does not apply to the display of an advertisement for which “deemed consent” is granted by regulation 6(1) of those Regulations (i.e. any Class of advertisement specified in Part 1 of Schedule 3 to those Regulations, subject to the conditions and limitations

referred to in regulation 6(1) of those Regulations). But the exception in regulation 8 does not apply to the display of an advertisement of a description set out in regulation 8(2) (which specifies certain advertisements by reference to the Classes of advertisement in Schedules 1 and 3 to the Town and Country Planning Regulations).

Regulation 9 specifies other exceptions to the advertising prohibition.

In addition to the defence set out in section 21 of the 2006 Act and the exceptions specified in regulations 6 to 9, regulation 10 provides that the advertising prohibition does not apply to advertising activity undertaken or controlled by:

- the London Organising Committee of the Olympic Games and Paralympic Games Limited (“LOCOG”), or
- a person authorised by LOCOG.

LOCOG’s right to engage in advertising activity under regulation 10 and any authorisation granted by it are subject to the conditions specified in regulation 10(4), including that the advertiser hold any licence (as defined in regulation 10(5)) which, in addition to authorisation by or under regulation 10, is required before a person may engage in advertising activity (whether in a particular place or generally). A person who applies for an authorisation and is dissatisfied with LOCOG’s decision may request LOCOG to review its decision (see regulation 16).

Regulation 12 prohibits a person from engaging in street trading in an event zone during the relevant event period or periods (the “street trading prohibition”).

Regulation 11 defines street trading as carrying out one or more of the activities specified in that regulation in an open public place. “Open public place” is defined in regulation 11(2) to mean a highway or another place to which the public have access and which is not in a building (other than one designed or generally used for the parking of cars). The matters specified in regulation 11(3) are to be disregarded when determining whether activity amounts to street trading.

A person is to be treated as engaging in street trading if the person undertakes street trading or arranges for street trading to take place (see regulation 12(2) and (3)). Under regulation 12(2) and (4), a person (a “business or land owner”) is also to be treated as engaging in street trading where street trading:

- is undertaken by a business or other concern in which the person has an interest or for which the person is responsible, or
- takes place on land that the person owns or occupies or of which the person has responsibility for the management.

Regulation 12(6) specifies people who are to be treated as satisfying these criteria. But Regulation 12(5) provides that a business or land owner is not to be treated as engaging in street trading if he or she proves that the street trading took place without his or her knowledge or that he or she took all reasonable steps to prevent the street trading taking place or, where it has taken place, to prevent it continuing or recurring.

Regulation 13 specifies exceptions to the street trading prohibition.

In addition, regulation 14 provides that the street trading prohibition does not apply to street trading undertaken in accordance with an authorisation granted by the ODA or a person to whom the function of granting authorisations is delegated by the ODA. The ODA (or its delegate, as the case may be) may impose terms and conditions on any authorisation under section 25(7) of the 2006 Act. Under regulation 14(4) an authorisation is subject to the condition that any person who engages in street trading in reliance on the authorisation hold any licence (as defined in regulation 14(5)) which, in addition to authorisation under regulation 14, is required before the person may engage in street trading (whether in a particular place or generally). A person who applies for an authorisation and is dissatisfied with the ODA’s (or its delegate’s) decision may request ODA (or its delegate) to review its decision (see regulation 16).

Part 5 provides for compensation for a person whose property is damaged in course of the exercise or purported exercise of an enforcement power under section 22 or 28 of the 2006 Act. Under regulation 18(2) a person who is responsible for a contravention of the regulations is not entitled to compensation. The amount of compensation payable is specified in regulation 18(3).

Draft Regulations laid before the National Assembly for Wales on xx xxx 2011 under sections 20(2) and 26(2) of the London Olympic Games and Paralympic Games Act 2006, for approval by resolution of the National Assembly for Wales.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2011 No. (W.)

**OLYMPIC GAMES AND PARALYMPIC GAMES,
WALES**

Made - - - - - ***

Coming into force in accordance with regulation 1(2)

The Welsh Ministers, in exercise of the powers conferred by sections 19, 20, 22(8), 25, 26 and 28(6) of the London Olympic Games and Paralympic Games Act 2006¹, and now vested in them², make the following Regulations.

The Welsh Ministers have consulted in accordance with sections 20(3) and 26(3) and have had regard to the matters referred to in sections 19(2) and 25(2) of that Act.

A draft of these Regulations was laid before, and approved by a resolution of, the National Assembly for Wales in accordance with sections 20(2) and 26(2) of that Act.

PART 1

Introductory

Title, commencement and duration

1.—(1) The title of these Regulations is the London Olympic Games and Paralympic Games (Advertising and Street Trading &c.) (Wales) Regulations 2011.

(2) They come into force on the day after the day on which they are made.

(3) They cease to have effect on 14 August 2012.

Application

2.—(1) These Regulations apply in relation to Wales.

(2) The following provisions apply to the Crown—

(a) regulations 5 to 11, and

(b) the other provisions of these Regulations to the extent that they relate to advertising.

¹ 2006 c. 12. Sections 19, 20, 25 and 26 were amended by paragraph 6 of the Schedule to S.I. 2007/2129 and paragraph 8 of the Schedule to S.I. 2010/1551.

² By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32), functions of the National Assembly for Wales transferred to the Welsh Ministers.

Interpretation

3.—(1) In these Regulations—

“the Act” means the London Olympic Games and Paralympic Games Act 2006,

“advertisement” means any word, letter, image, mark, sound, light, model, sign, placard, board, notice, screen, awning, blind, flag, device, costume or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purpose of, promotion, advertisement, announcement or direction,

“advertiser” means a person who engages in advertising activity including a person to whom regulation 6(3) or (4) applies,

“advertising activity” has the meaning given in regulation 5,

“advertising attire” means—

- (a) a costume that is an advertisement, or
- (b) clothing on which an advertisement is displayed,

“ambush marketing campaign” means a campaign (whether consisting of one act or a series of acts) intended specifically to advertise one or more of the following within an event zone during the event periods—

- (c) a good or service,
- (d) a person who provides a good or service,

“article” includes a living thing,

“building” means a permanent building and excludes any other kind of structure or erection,

“current newspaper or periodical” does not include a newspaper or periodical intended specifically to advertise one or more of the following within an event zone during the event periods—

- (e) a good or service,
- (f) a person who provides a good or service,

“event periods” means each of the following periods of time—

- (a) from the beginning of 24 July 2012 to the end of 28 July 2012,
- (b) from the beginning of 30 July 2012 to the end of 4 August 2012, and
- (g) from the beginning of 9 August 2012 to the end of 10 August 2012,

“event zone” means the area specified in regulation 4,

“itinerant ice cream trading” means selling articles consisting wholly or mainly of ice cream, frozen confectionery or other similar commodities from a vehicle,

“motor vehicle” has the same meaning as in section 185 of the Road Traffic Act 1988³,

“not-for-profit body” means a body which, by virtue of its constitution or any enactment—

- (h) is required (after payment of outgoings) to apply the whole of its income, and any capital which it expends, for charitable or public purposes, and
- (i) is prohibited from directly or indirectly distributing amongst its members any part of its assets (otherwise than for charitable or public purposes).

“performance of a play” means performance of any dramatic piece, whether involving improvisation or not—

- (j) which is given wholly or in part by one or more persons actually present and performing, and
- (k) in which the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, singing or action, involves the playing of a role.

“promotional material” means a document or article distributed or provided wholly or partly for the purpose of promotion, advertisement, announcement or direction,

“public entertainment” means entertainment of one of the following descriptions provided for members of the public—

³ 1988 c. 52.

- (l) a performance of live music,
 - (m) any playing of recorded music,
 - (n) a performance of dance,
 - (o) a performance of a play,
 - (p) entertainment of a similar description to that falling within sub-paragraphs (a) to (d),
- “receptacle” means anything which is used (whether or not constructed or adapted for such use) as a container for or for the display of any article, including—
- (q) any vehicle, trailer or barrow, or
 - (r) any basket, bag, box, vessel, stall, stand, easel, board, or tray,
- “street trading” has the meaning given in regulation 12, and
- “the Town and Country Planning Regulations” means the Town and Country Planning (Control of Advertisements) Regulations 1992⁴.
- (2) A reference to selling an article includes a reference to exposing or offering an article for sale.
 - (3) A reference to supplying a service includes a reference to offering to supply a service.

Event Zone

4.—(1) In these Regulations, “event zone” means the Millennium Stadium zone, being the area shown on the map bounded externally by a black line and edged internally by a stippled band, including the airspace above that area.

(2) In paragraph (1) “the map” means the map entitled “Map of the Millennium Stadium zone—The London Olympic Games and Paralympic Games (Advertising and Street Trading &c.) (Wales) Regulations 2011” which is deposited and available for inspection at the offices of the Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ, and at the offices of Cardiff Council.

PART 2

Advertising Activity

Meaning of “advertising activity”

- 5.—(1) In these Regulations—
- “advertising activity” means—
- (a) displaying an advertisement, or
 - (b) distributing or providing promotional material.
- (2) For this purpose “displaying an advertisement” includes all of the following activities—
- (a) projecting, emitting, screening or exhibiting an advertisement,
 - (b) carrying or holding an advertisement or an apparatus by which an advertisement is displayed,
 - (c) providing for—
 - (i) an advertisement to be displayed on an animal, or
 - (ii) an apparatus by which an advertisement is displayed to be carried or held by an animal,
 - (d) wearing advertising attire as part of an ambush marketing campaign.

Control of advertising activity

6.—(1) A person may not engage in advertising activity in the event zone during the event periods.

(2) A person is to be treated as engaging in advertising activity (without prejudice to the generality of that expression) if paragraph (3) or (4) applies to that person.

⁴ S.I. 1992/666, amended by S.I. 1994/2351.

- (3) This paragraph applies to a person who—
- (a) undertakes advertising activity,
 - (b) maintains an advertisement, or
 - (c) arranges for advertising activity to take place.
- (4) This paragraph applies to a person where advertising activity—
- (a) relates to a good, service, business or other concern in which the person has an interest or for which the person is responsible, or
 - (b) takes place on land, premises or other property that the person owns or occupies or of which the person has responsibility for the management.
- (5) Without prejudice to the generality of paragraph (4)—
- (a) a person is to be treated as having an interest in or responsibility for a business or other concern if the person is a director, manager, secretary or other similar officer of the business or concern,
 - (b) a person is to be treated as having an interest in or responsibility for a good or service if the person is a director, manager, secretary or other similar officer of a business or other concern that has an interest in or is responsible for the good or service,
 - (c) a person is to be treated as having responsibility for the management of land, premises or other property if the person is a director, manager, secretary or other similar officer of a business or other concern that owns, occupies or has responsibility for the management of the land, premises or other property.
- (6) This regulation applies in relation to advertising activity whether or not it consists of the result or continuation of activity carried out before these Regulations came into force.

Exception for demonstrations, &c

- 7.—(1) Regulation 6 does not apply to advertising activity that consists of an act, public assembly or public procession intended to—
- (a) demonstrate support for or opposition to the views or actions of any person or body of persons,
 - (b) publicise a belief, cause or campaign, or
 - (c) mark or commemorate an event.
- (2) But this exception does not apply to advertising activity that promotes or advertises—
- (a) a good or service, or
 - (b) a person or body (excluding a not-for-profit body) that provides a good or service.
- (3) In this regulation “public assembly” and “public procession” have the same meanings as in section 16 of the Public Order Act 1986⁵ as that section applies in England and Wales.

Exception for certain wearers of costumes and clothing

- 8.—(1) Regulation 6 does not apply to a person who engages in advertising activity only by wearing advertising attire, unless the person knows or has reasonable cause to believe that he or she is participating in an ambush marketing campaign.
- (2) The fact that this exception applies to a person does not affect the application of regulation 6 to any other person (whether in respect of the same advertising activity or otherwise).

Exceptions modelled on the Town and Country Planning Regulations

- 9.—(1) Regulation 6 does not apply to advertising activity that consists of the display of an advertisement—
- (a) to which Parts 2 and 3 of the Town and Country Planning Regulations (consent for the display of advertisements) do not apply by virtue of regulation 3(2) of those Regulations, or

⁵ 1986 c. 64. The definition of “public assembly” so far as it relates to England and Wales was amended by section 57 of the Anti-social Behaviour Act 2003 (2003 c. 38).

- (b) for which consent is granted by regulation 6(1) of those Regulations (deemed consent for the display of advertisements) subject to the conditions and limitations referred to in paragraph (1)(a) and (b) of that regulation.
- (2) But this exception does not apply to the display of an advertisement—
- (a) within Class A (advertisements on balloons),
 - (b) within Class B (advertisements displayed on enclosed land) if the enclosed land on which the advertisement is displayed is—
 - (i) a railway station (and its yards) or bus station (together with its forecourt, whether enclosed or not), or
 - (ii) enclosed land (including a sports stadium or other building) on which a London Olympic Event⁶ is taking place or to take place,
 - (c) within Class D (advertisements incorporated in the fabric of buildings) which was not in existence on the date on which these Regulations came into force,
 - (d) within Class J (advertisements displayed inside buildings) if the building in which the advertisement is displayed—
 - (i) is or forms part of a railway station or bus station, or
 - (ii) is a sports stadium or other building in which a London Olympic Event is taking place or to take place,
 - (e) within Class 1B (advertisements displayed by local planning authorities) that—
 - (i) is not displayed wholly for the purpose of announcement or direction in relation to any of the functions of the local planning authority by which it is displayed, and
 - (ii) is not reasonably required to be displayed for the safe or efficient performance of those functions,
 - (f) within Class 3D (advertisements announcing local events and activities) if the advertisement promotes or advertises—
 - (i) a good or service, or
 - (ii) a person or body (excluding a not-for-profit body) that provides a good or service,
 - (g) within Class 7B (flags on residential development sites) that does not relate to the development or to a person carrying out the development or an aspect of the development,
 - (h) within Class 8 (advertisements on hoardings),
 - (i) within Class 9 (advertisements on highway structures),
 - (j) within Class 12 (advertisements displayed inside buildings) if the building in which the advertisement is displayed—
 - (i) is or forms part of a railway station or bus station, or
 - (ii) is a sports stadium or other building in which a London Olympic Event is taking place or to take place,
 - (k) within Class 13 (advertisements on sites used on and since 1st April 1974 for the display of advertisements without express consent),
 - (l) within Class 14 (advertisements displayed after expiry of express consent).
- (3) In this regulation—
- (a) a reference to a “Class” of advertisement is a reference to the corresponding Class of advertisement in Schedule 2 or 3 to the Town and Country Planning Regulations, and
 - (b) “forecourt” has the same meaning as in Schedule 3 to the Town and Country Planning Regulations⁷.
- (4) For the purposes of this regulation-
- (a) a reference to a building in Schedule 2 or 3 to the Town and Country Planning Regulations is to be construed in accordance with the definition of building in regulation 3(1), and
 - (b) a reference to a vehicle in Schedule 2 to the Town and Country Planning Regulations includes a bicycle.

⁶ “London Olympic Event” is defined in section 1(3)(b) of the Act.

⁷ See paragraph 1(1) of Part 2 to Schedule 3 to the Town and Country Planning Regulations.

Other exceptions

10.—(1) Regulation 6 does not apply to advertising activity of a description falling within paragraphs (2) to (7).

(2) Displaying an advertisement that is employed wholly as—

- (a) a memorial, or
- (b) a railway sign.

(3) Distributing or providing a current newspaper or periodical, either without a receptacle or with a receptacle that does not—

- (a) exceed 1 metre in length or width or 2 metres in height,
- (b) occupy a ground area exceeding 0.25 square metre,
- (c) stand on the carriageway of a street, or
- (d) cause undue interference or inconvenience to persons using the street.

(4) Advertising activity undertaken in accordance with a condition attached to an authorisation granted under regulation 15 (street trading authorised by the Olympic Delivery Authority &c.).

(5) Displaying an advertisement on an aircraft for one or more of the following purposes—

- (a) complying with the law of the United Kingdom or any other country, being law in force in relation to the aircraft,
- (b) securing the safety of the aircraft or any person or property therein,
- (c) the furtherance, by or on behalf of a Government department, by a person acting under any public duty or by a person providing ambulance or rescue facilities by air, of measures in connection with circumstances, existing or imminent at the time the aircraft is used, which may cause danger to persons or property,
- (d) civil defence, military or police purposes.

(6) Displaying a mark or inscription (other than an illuminated sign) on the body of an aeroplane or helicopter.

(7) Displaying an advertisement on an item of street furniture provided that the advertisement—

- (a) is not illuminated,
- (b) bears only the name, contact details and device (or any one or more of those things) of the manufacturer, owner or operator of the street furniture, and
- (c) is not displayed as part of an ambush marketing campaign.

Advertising undertaken or authorised by the London Organising Committee

11.—(1) Regulation 6 does not apply to advertising activity undertaken or controlled by—

- (a) the London Organising Committee⁸, or
- (b) any person authorised by the Committee (whether or not subject to terms and conditions imposed by the Committee and whether or not in accordance with a sponsorship or other commercial agreement with the Committee).

(2) Subject to these Regulations, the Committee has an absolute discretion in respect of each application to it for authorisation.

(3) The Committee must have regard to the provisions of the Host City Contract⁹ before engaging in advertising activity or granting an authorisation under this regulation.

(4) The Committee's right to engage in advertising activity pursuant to this regulation and any authorisation granted by it are subject to all of the following conditions—

- (a) that the advertiser hold any licence which, in addition to authorisation by or under this regulation, is required before a person may engage in advertising activity (whether in a particular place or generally),

⁸ "the London Organising Committee" is defined in section 1(3)(d) of the Act. Since the passing of the Act, the London Organising Committee has changed its registered name to The London Organising Committee of the Olympic Games and Paralympic Games Limited.

⁹ "Host City Contract" is defined in section 1(3)(e) of the Act.

- (b) that no advertisement be sited or displayed so as to—
 - (i) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military),
 - (ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air, or
 - (iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle, and
- (c) that the advertiser maintain any advertisement in a condition that does not—
 - (i) impair the visual amenity of the site, or
 - (ii) endanger the public.

(5) In this regulation, “licence” includes any kind of consent, certificate, permission or authority (by whatever name) granted by a landowner, local authority or other person in accordance with any enactment, Charter or other document.

PART 3

Street Trading

Meaning of “street trading”

12.—(1) In these Regulations, “street trading” means carrying out one or more of the following activities in an open public place—

- (a) selling an article,
- (b) supplying a service,
- (c) trading as a pedlar under a pedlar’s certificate under the Pedlars Act 1871¹⁰,
- (d) doing anything authorised by regulations made under section 5 of the Police, Factories, &c. (Miscellaneous Provisions) Act 1916¹¹ (regulation of street collections),
- (e) conducting a public charitable collection that—
 - (i) is conducted in accordance with sections 48 or 49 of the Charities Act 2006¹² (restrictions on conducting collections in a public place and door to door), or
 - (ii) is an exempt collection by virtue of section 50 of that Act (exemption for local, short-term collections),
- (f) itinerant ice cream trading,
- (g) providing public entertainment for gain or reward.

(2) For this purpose “open public place” means—

- (a) a highway, or
- (b) another place—
 - (i) to which the public have access (whether generally or only for the purpose of the trading), and
 - (ii) which is not in a building other than one designed or generally used for the parking of cars.

(3) In determining whether activity amounts to street trading for the purposes of these Regulations the following matters are to be disregarded—

- (a) the fact that gain or reward arising from the activity does not accrue to the person actually carrying out the activity,

¹⁰ 1871 c. 96.

¹¹ 1916 c. 31. Section 5 was amended by section 3 of the Statute Law Revision Act 1927 (c. 42), paragraph 22 of Schedule 29 to the Local Government Act 1972 (c.70), section 31(5) and (6) of the Criminal Law Act 1977 (c. 45), Schedule 4 to the Civic Government (Scotland) Act 1982 (c. 45), section 46 of the Criminal Justice Act 1982 (c. 48), section 78(2)(f) of the Police (Northern Ireland) Act 2000 (c. 32), paragraph 15 of Schedule 8 and Schedule 9 to the Charities Act 2006 (c. 50), and paragraph 1 of the Schedule to S.I. 2006/2951.

¹² 2006 c. 50.

- (b) the fact that either party to a transaction is not in an open public place when one of the following activities occurs—
 - (i) an offer or exposure of an article for sale,
 - (ii) an offer to supply a service,
 - (iii) the completion of the transaction,
- (c) the fact that a transaction is not completed in an open public place, if one of the following activities occurs in such a place—
 - (i) an offer or exposure of an article for sale,
 - (ii) an offer to supply a service,
- (d) the fact that an article actually sold or service actually supplied is different from that offered or exposed for sale.

Control of street trading

- 13.**—(1) A person may not engage in street trading in the event zone during the event periods.
- (2) A person is to be treated as engaging in street trading (without prejudice to the generality of that expression) if paragraph (3) or (4) applies to that person.
- (3) This paragraph applies to a person who—
- (a) undertakes street trading, or
 - (b) arranges for street trading to take place.
- (4) This paragraph applies to a person where street trading—
- (a) is undertaken by a business or other concern in which the person has an interest or for which the person is responsible, or
 - (b) takes place on land that the person owns or occupies or of which the person has responsibility for the management.
- (5) But paragraph (4) does not apply to a person who proves that—
- (a) the street trading took place without their knowledge, or
 - (b) they took all reasonable steps to prevent the street trading taking place or, where it has taken place, to prevent it continuing or recurring.
- (6) Without prejudice to the generality of paragraph (4)—
- (a) a person is to be treated as having an interest in or responsibility for a business or other concern if the person is a director, manager, secretary or other similar officer of the business or concern,
 - (b) a person is to be treated as having responsibility for the management of land if the person is a director, manager, secretary or other similar officer of a business or other concern that owns, occupies or has responsibility for the management of the land.
- (7) This regulation applies in relation to street trading whether or not it consists of the result or continuation of activity carried out before these Regulations came into force.

Exceptions

- 14.**—(1) Regulation 13 does not apply to street trading of a description falling within paragraphs (2) to (9).
- (2) Trading as a news vendor, provided that—
- (a) the only articles sold are current newspapers or periodicals, and
 - (b) they are sold either without a receptacle or with a receptacle that does not—
 - (i) exceed 1 metre in length or width or 2 metres in height,
 - (ii) occupy a ground area exceeding 0.25 square metre,
 - (iii) stand on the carriageway of a street, or
 - (iv) cause undue interference or inconvenience to persons using the street.

- (3) Selling an article to an occupier of premises adjoining any highway from a vehicle which is used only for the regular delivery of milk or other perishable goods to that person.
- (4) Selling a motor vehicle on private land generally used for the sale of motor vehicles.
- (5) Supplying motor vehicle cleaning services on private land generally used for the supply of those services.
- (6) Supplying motor vehicle parking services in a building designed or generally used for the parking of motor vehicles.
- (7) Providing a public sanitary convenience.
- (8) Supplying public transport services.
- (9) Street trading on private land adjacent to exempt premises provided that the trading—
- (a) forms part of the usual business of the owner of the premises or a person assessed for uniform business rate in respect of the premises, and
 - (b) takes place during the period during which the premises are open to the public for business.
- (10) Paragraph (3) does not apply to itinerant ice cream trading.
- (11) In this regulation—
- “exempt premises” means—
- (a) a shop,
 - (b) a restaurant, bar, or other premises used for the supply of meals, refreshments or alcohol, or
 - (c) a petrol filling station, and
- “sanitary convenience” has the meaning given in section 126 of the Building Act 1984¹³.

Street trading authorised by the Olympic Delivery Authority &c.

15.—(1) Regulation 13 does not apply to street trading undertaken in accordance with an authorisation granted by the Authority¹⁴.

(2) Subject to these Regulations, the Authority has an absolute discretion in respect of each application for authorisation.

(3) The Authority must have regard to the provisions of the Host City Contract before granting an authorisation under this regulation.

(4) An authorisation granted under this regulation is subject to the condition that any person who engages in street trading in reliance on the authorisation hold any licence which, in addition to authorisation under this regulation, is required before the person may engage in street trading (whether in a particular place or generally).

(5) In this regulation—

“Authority” means—

- (a) the Olympic Delivery Authority, or
- (b) a person to whom the function of granting authorisations for the purpose of this regulation is delegated by the Olympic Delivery Authority, and

“licence” includes any kind of consent, certificate, permission or authority (by whatever name) granted by a landowner, local authority or other person in accordance with any enactment, Charter or other document.

¹³ 1984 c.55

¹⁴ Under section 25(7) of the Act, an authorisation granted by the Authority under regulation 15 may be subject to terms and conditions.

PART 4

Rights of review

Interpretation of this Part

16. In this Part—

“applicant” has the meaning given in regulation 17(1),

“authorisation” means an authorisation granted—

- (a) under regulation 11(1)(b) in relation to advertising activity, or
- (b) under regulation 15 in relation to street trading, and

“authoriser” means—

- (c) in relation to an application for an authorisation under regulation 11(1)(b), the London Organising Committee, or
- (d) in relation to an application for an authorisation under regulation 15—
 - (i) the Olympic Delivery Authority, or
 - (ii) a person to whom the function of granting authorisations for the purpose of regulation 15 is delegated by the Olympic Delivery Authority.

Right to seek review

17.—(1) A person who has applied for an authorisation (an “applicant”) and is dissatisfied with the decision of the authoriser may request the authoriser to review its decision.

(2) Such a request must—

- (a) be in writing,
- (b) include or be accompanied by such information or evidence as the applicant considers relevant, and
- (c) be made within 14 days of the date on which the authoriser’s decision was communicated to the applicant.

(3) Within 14 days of the date on which an authoriser receives such a request, it must review its decision.

(4) On reviewing its decision, the authoriser may—

- (a) confirm its original decision, or
- (b) substitute a new decision for its original decision.

(5) The authoriser must send a written notice to the applicant informing him or her of its decision on the review and the reasons for that decision.

PART 5

Compensation

Interpretation of this Part

18. In this Part—

“claimant” has the meaning given in regulation 20(1),

“decision notice” means a notice issued by a relevant authority under regulation 22(2)(b) or (3),

“enforcement officer” means a person designated for the purpose of section 22 or 28 of the Act (enforcement powers) by the Olympic Delivery Authority,

“notice of claim” has the meaning given in regulation 20(1),

“police authority” and “police force” have the meanings given in section 101 of the Police Act 1996¹⁵, and

¹⁵ 1996 c.16.

“relevant authority”, in relation to the exercise or purported exercise of a power under section 22 or 28 of the Act, means—

- (a) if the exercise or purported exercise of the power was by an enforcement officer, the Olympic Delivery Authority, or
- (b) if the exercise or purported exercise of the power was by a constable, the police authority for the police force of which the constable is a member,

Entitlement to compensation for damage to property

19.—(1) A person whose property is damaged in the course of the exercise or purported exercise of a power under section 22 or 28 of the Act is entitled to compensation from the relevant authority in accordance with this Part.

(2) But a person who is responsible for a contravention of these Regulations is not entitled to compensation.

(3) The amount of compensation payable is the total of—

- (a) the value of the property damaged, and
- (b) any other loss which flowed directly from the damage to the property.

Notice of claim

20.—(1) A person who claims to be entitled to compensation under this Part (a “claimant”) may send a written notice (a “notice of claim”) to the relevant authority claiming that compensation.

(2) A notice of claim must be sent within—

- (a) 30 days of the date on which damage occurred, or
- (b) such longer period as agreed by the relevant authority in writing.

(3) A notice of claim must include or be accompanied by all of the following information and evidence—

- (a) the claimant’s full name,
- (b) the date on which the damage occurred,
- (c) the address or location at which the damage occurred,
- (d) the amount of compensation claimed (in accordance with regulation 19(3)),
- (e) a description of—
 - (i) the property damaged,
 - (ii) the nature of the damage, and
 - (iii) the nature of any further loss which flowed from the damage for which compensation is claimed,
- (f) photographs, receipts, quotations or other evidence as to the matters referred to in subparagraphs (a) to (e).

Initial consideration of claim

21.—(1) Within 14 days of the date on which the relevant authority receives a notice of claim it must determine whether it has received sufficient information and evidence to enable it to decide the following matters—

- (a) whether the claimant is entitled to compensation under this Part,
- (b) where the claimant is entitled, the amount of the compensation.

(2) If the authority determines that it has not received sufficient information or evidence, it must send the claimant a written notice stating the further information or evidence that it requires.

(3) The claimant must send the authority the information or evidence stated in such a notice within—

- (a) 14 days of the date on which a claimant receives the notice, or
- (b) such longer period as agreed by the relevant authority in writing.

(4) Within 7 days of the date on which the authority receives any further information or evidence, it must make the determination referred to in paragraph (1) again (and the other paragraphs of this regulation apply to that new determination).

Authority's decision on a claim

22.—(1) If a relevant authority determines under regulation 21 that it has received sufficient information and evidence it must, within 14 days of the date of that determination, decide the matters referred to in regulation 21(1)(a) and (b).

(2) If the authority decides that the claimant is entitled to compensation it must—

- (a) pay to the claimant the amount of compensation stated in the notice of claim, or
- (b) if it decides that the claimant is entitled to a lesser amount of compensation than that stated in the notice of claim, send a written notice to the claimant—
 - (i) offering that lesser amount to him or her, and
 - (ii) stating the reasons for its decision.

(3) If the authority decides that the claimant is not entitled to compensation it must send a written notice to the claimant—

- (i) declining the claim, and
- (ii) stating the reasons for its decision.

(4) A claimant who receives a decision notice offering a lesser amount of compensation than that stated in the notice of claim may agree, in writing, to accept that lesser amount (in which case the authority must pay that amount to the claimant).

(5) A decision notice must contain particulars of the claimant's rights to—

- (a) request a review of the decision, under regulation 23, and
- (b) appeal a decision on a review, under regulation 24.

Review of decision on a claim

23.—(1) A claimant who receives a decision notice may request the relevant authority to review its decision.

(2) Such a request must—

- (a) be in writing,
- (b) be made within—
 - (i) 14 days of the date on which the decision notice was received, or
 - (ii) such longer period agreed by the relevant authority in writing, and
- (c) include or be accompanied by such information or evidence as the claimant considers relevant.

(3) Within 14 days of the date on which a relevant authority receives such a request it must review its decision under regulation 22.

(4) On reviewing its decision, the authority may—

- (a) confirm the original decision, or
- (b) substitute a new decision for the original decision.

(5) But where the authority decided under regulation 22(2)(b) that the claimant was entitled to a lesser amount of compensation than that stated in the notice of claim, on reviewing its decision it may not substitute a lesser amount of compensation for that stated in the decision notice.

(6) The authority must send a written notice to the claimant informing him or her of its decision on the review and the reasons for that decision.

(7) A notice under paragraph (6) must contain particulars of the claimant's right to appeal a decision on a review under regulation 24.

Appeal to the county court

24.—(1) A claimant that is dissatisfied with a decision of the relevant authority on a review under regulation 23 may appeal to the county court.

(2) An appeal must be brought within 21 days of the date on which the claimant was notified of the authority's decision on review.

(3) The court may give permission for an appeal to be brought after the end of that period, but only if it is satisfied—

- (a) where permission is sought before the end of that period, that there is a good reason for the claimant to be unable to bring the appeal in time, or
- (b) where permission is sought after the end of that period, that there was a good reason for the claimant's failure to bring the appeal in time and for any delay in applying for permission.

(4) An appeal under this regulation is to be by way of rehearing and the court may make such order confirming, quashing or varying the decision as it thinks fit.

Jane Davidson
Minister for Environment, Sustainability and Housing,
one of the Welsh Ministers

Draft Regulations laid before the National Assembly for Wales on xx xxx 2011 under sections 20(2) and 26(2) of the London Olympic Games and Paralympic Games Act 2006, for approval by resolution of the National Assembly for Wales.

S T A T U T O R Y I N S T R U M E N T S

2011 No. (W.)

**OLYMPIC GAMES AND PARALYMPIC GAMES,
WALES**

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations control advertising activity and street trading in the area around London 2012 Olympic and Paralympic Games events being held in Wales (the “event zone”) during the periods when those events are taking place (the “event periods”).

There is a single event zone in Wales (the Millennium Stadium zone) defined in regulation 4 by reference to the map available for inspection at the offices of the Welsh Assembly Government and Cardiff Council. The event periods for the event zone are set out in regulation 3(1).

Regulation 6(1) prohibits a person from engaging in advertising activity in the event zone during the event period (the “advertising prohibition”).

Regulation 5 defines “advertising activity” to mean displaying an advertisement or distributing or providing promotional material. “Advertisement” is defined in regulation 3(1) and “displaying an advertisement” includes the activities described in regulation 5(2). “Promotional material” is defined in regulation 3(1).

A person is to be treated as engaging in advertising activity if the person undertakes advertising activity, maintains an advertisement or arranges for advertising activity to take place (see regulation 6(2) and (3)). Under regulation 6(2) and (4), a person is also to be treated as engaging in advertising activity where advertising activity:

- relates to a good, service, business or other concern in which the person has an interest or for which the person is responsible, or
- takes place on land, premises or other property that the person owns or occupies or of which the person has responsibility for the management.

Regulation 6(5) specifies people who are to be treated as satisfying these criteria.

Under section 21(2) of the London Olympic Games and Paralympic Games Act 2006 (the “2006 Act”), a person charged with an offence of contravening the advertising prohibition has a defence if the person proves that the contravention occurred without his knowledge or despite his taking all reasonable steps to prevent it from occurring or (where he became aware of it after its commencement) from continuing.

In addition, regulations 7 to 10 specify exceptions to the advertising prohibition. The exception in regulation 7 is for acts, public assemblies, or public processions intended to demonstrate support for or opposition to the views or actions of a person or body of persons, publicise a belief, cause or campaign, or mark or commemorate an event. The exception does not apply to advertising activity that promotes or advertises a good, service, or person or body (excluding a not-for-profit body as defined in regulation 3(1)) that provides a good or service.

The exception in regulation 8 is for a person who engages in advertising activity only by wearing

“advertising attire” (defined in regulation 3(1) to mean a costume that is an advertisement or clothing on which an advertisement is displayed). For the exception to apply, the person must not know or have reasonable cause not to believe that he is participating in an ambush marketing campaign (also defined in regulation 3(1)). The application of this exception to a person does not affect the application of the advertising prohibition to any other person (whether in respect of the same advertising activity or otherwise).

The exception in regulation 9 is modelled on provisions of the Town and Country Planning (Control of Advertisements) Regulations 1992 (the “Town and Country Planning Regulations”). Under regulation 9(1)(a) the advertising prohibition does not apply to the display of an advertisement which is exempt from the requirement for deemed or express consent under Parts 2 or 3 of the Town and Country Planning Regulations (i.e. the display of an advertisement of a description set out in column (1) of Schedule 2 to those Regulations, provided that the relevant conditions and limitations set out in that Schedule are complied with). Under regulation 9(1)(b) the advertising prohibition does not apply to the display of an advertisement for which “deemed consent” is granted by regulation 6(1) of those Regulations (i.e. any Class of advertisement specified in Part 1 of Schedule 3 to those Regulations, subject to the conditions and limitations referred to in regulation 6(1) of those Regulations). But the exception in regulation 9 does not apply to the display of an advertisement of a description set out in regulation 9(2) (which specifies certain advertisements by reference to the Classes of advertisement in Schedules 2 and 3 to the Town and Country Planning Regulations).

Regulation 10 specifies other exceptions to the advertising prohibition.

In addition to the defence set out in section 21 of the 2006 Act and the exceptions specified in regulations 7 to 10, regulation 11 provides that the advertising prohibition does not apply to advertising activity undertaken or controlled by:

- the London Organising Committee of the Olympic Games and Paralympic Games Limited (“LOCOG”), or
- a person authorised by LOCOG.

LOCOG’s right to engage in advertising activity under regulation 11 and any authorisation granted by it are subject to the conditions specified in regulation 11(4), including that the advertiser hold any licence (as defined in regulation 11(5)) which, in addition to authorisation by or under regulation 11, is required before a person may engage in advertising activity (whether in a particular place or generally). A person who applies for an authorisation and is dissatisfied with LOCOG’s decision may request LOCOG to review its decision (see regulation 17).

Regulation 13(1) prohibits a person from engaging in street trading in the event zone during the event period (the “street trading prohibition”).

Regulation 12 defines street trading as carrying out one or more of the activities specified in that regulation in an open public place. “Open public place” is defined in regulation 12(2) to mean a highway or another place to which the public have access and which is not in a building (other than one designed or generally used for the parking of cars). The matters specified in regulation 12(3) are to be disregarded when determining whether activity amounts to street trading.

A person is to be treated as engaging in street trading if the person undertakes street trading or arranges for street trading to take place (see regulation 13(2) and (3)). Under regulation 13(2) and (4), a person (a “business or land owner”) is also to be treated as engaging in street trading where street trading:

- is undertaken by a business or other concern in which the person has an interest or for which the person is responsible, or
- takes place on land that the person owns or occupies or of which the person has responsibility for the management.

Regulation 13(6) specifies people who are to be treated as satisfying these criteria. But regulation 13(5) provides that a business or land owner is not to be treated as engaging in street trading if he proves that the street trading took place without his knowledge or that he took all reasonable steps to prevent the street trading taking place or, where it has taken place, to prevent it continuing or recurring.

Regulation 14 specifies exceptions to the street trading prohibition.

In addition, regulation 15 provides that the street trading prohibition does not apply to street trading undertaken in accordance with an authorisation granted by the Olympic Delivery Authority (“ODA”) or a person to whom the function of granting authorisations is delegated by the ODA. The ODA (or its delegate, as the case may be) may impose terms and conditions on any authorisation under section 25(7) of the 2006 Act. Under regulation 15(4) an authorisation is subject to the condition that any person who engages in street trading in reliance on the authorisation hold any licence (as defined in regulation 15(5)) which, in addition to authorisation under regulation 15, is required before the person may engage in street trading (whether in a particular place or generally). A person who applies for an authorisation and is dissatisfied with the ODA’s (or its delegate’s) decision may request ODA (or its delegate) to review its decision (see regulation 17).

Part 5 provides for compensation for a person whose property is damaged in the course of the exercise or purported exercise of an enforcement power under section 22 or 28 of the 2006 Act. Under regulation 19(2) a person who is responsible for a contravention of the Regulations is not entitled to compensation. The amount of compensation payable is specified in regulation 19(3).

Draft Regulations laid before the Scottish Parliament under sections 20(2) and 26(2) of the London Olympic Games and Paralympic Games Act 2006, for approval by resolution.

SCOTTISH STATUTORY INSTRUMENTS

2011 No.

**SPORTS GROUNDS AND SPORTING EVENTS
SCOTLAND**

Made - - - - - ***

Coming into force in accordance with regulation 1(1)(b)

The Scottish Ministers make these Regulations in exercise of powers conferred by sections 19, 20(1), 22(8), 25, 26(1), 28(6) and 37 of the London Olympic Games and Paralympic Games Act 2006¹, and all other powers enabling them to do so.

In accordance with sections 20(3) and 26(3) of that Act, and jointly with the Secretary of State, the Scottish Ministers have consulted [bodies and persons as considered appropriate]

The Scottish Ministers have had regard to the matters referred to in sections 19(2) and 25(2) of that Act.

In accordance with sections 20(2) and 26(2) of that Act as modified by section 37(8)(b), a draft has been laid before and approved by resolution of the Scottish Parliament.

PART 1

Introductory

Citation, commencement and duration

1. These Regulations—

- (a) may be cited as the London Olympic Games and Paralympic Games (Advertising and Street Trading) (Scotland) Regulations 2011;
- (b) come into force on the day after the day on which they are made; and
- (c) cease to have effect on 11th September 2012.

Application

2.—(1) These Regulations apply only to—

- (a) places in Scotland and;
- (b) things done in or in respect of Scotland.

(2) The following provisions apply to the Crown—

- (a) regulations 4 and 5 to 10; and
- (b) any other provisions of these Regulations to the extent that they relate to advertising.

¹ 2006 c.12. Sections 19, 20, 25, 26 and 37 were amended by paragraph 6(1) of the Schedule to the Transfer of Functions (Olympics and Paralympics) Order 2007 (S.I. 2007/2129).

General interpretation

3.—(1) In these Regulations—

“the Act” means the London Olympic Games and Paralympic Games Act 2006;

“advertisement” means any word, letter, image, mark, sound, light, model, sign, placard, board, notice, screen, awning, blind, flag, device, [costume] or representation—

- (a) whether illuminated or not; and
- (b) in the nature of, and employed wholly or partly for the purpose of, advertisement, promotion, announcement or direction;

“advertiser” means a person who engages in or is treated as engaging in advertising activity under these Regulations;

“advertising activity” has the meanings given in regulation 4;

“advertising attire” means—

- (c) a costume that is an advertisement; or
- (d) clothing on which an advertisement is displayed;

“ambush marketing campaign” means a campaign (whether consisting of one act or a series of acts) intended specifically to advertise within an event zone during the relevant event period one or more of the following—

- (e) a good or service;
- (f) a person who provides a good or service;

“article” includes a living thing;

“building” means a permanent building and excludes any other kind of structure or erection;

“current newspaper or periodical” excludes a newspaper or periodical intended specifically to advertise within an event zone during the relevant event period one or more of the following—

- (g) a good or service;
- (h) a person who provides a good or service;

“event zone” has the meaning given in the Schedule;

“ice cream trading” means selling articles consisting wholly or mainly of ice cream, frozen confectionery or similar commodities from a vehicle;

“motor vehicle” has the same meaning as in section 185 of the Road Traffic Act 1988²;

“not-for-profit body” means a body which, by virtue of its constitution or any enactment—

- (i) is required (after payment of outgoings) to apply the whole of its income and any capital which it expends, for charitable or public good purposes; and
- (j) is prohibited from directly or indirectly distributing amongst its members any part of its assets (otherwise than for charitable or public purposes);

“performance of a play” means performance of any dramatic piece, whether improvisational or not—

- (k) given wholly or in part by one or more persons actually present and performing; and
- (l) in which the whole or a major proportion of what is done by the person performing, whether by way of speech, singing or action, involves the playing of a role.

“promotional material” means a document or article distributed or provided wholly or partly for the purposes of promotion, advertisement, announcement or direction;

“public entertainment” means entertainment of one of the following descriptions provided for members of the public—

- (m) a performance of live music;
- (n) any playing of recorded music;
- (o) a performance of dance;
- (p) a performance of a play;

² 1988 c.52.

(q) any entertainment of a similar description to that in sub-paragraphs (a) to (d);

“railway station” includes a subway station;

“receptacle” means—

(r) any vehicle, trailer or barrow; or

(s) any basket, bag, box, vessel, stall, stand, easel, board or tray

used (whether or not constructed or adapted for such use) as a container for or for the display of any article;

“relevant event period” means, in relation to the event zone, 24th July to 28th July and 31st July to 3rd August 2012 ;

“road” has the meaning given in the Roads (Scotland) Act 1984³;

“street trading” has the meaning given in regulation 11; and

“the Planning (Control of Advertisement) Regulations” means the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984⁴.

(2) In these Regulations—

(a) a reference to selling an article includes a reference to offering or exposing an article for sale; and.

(b) a reference to supplying a service includes a reference to offering to supply a service.

PART 2

Advertising

Meaning of “advertising activity”

4.—(1) In this Part—

“advertising activity” means—

(a) displaying an advertisement; or

(b) distributing or providing promotional material.

(2) “Displaying an advertisement” includes—

(a) projecting, emitting, screening or exhibiting an advertisement;

(b) carrying or holding an advertisement or an apparatus by which an advertisement is displayed;

(c) providing for an advertisement to be displayed —

(i) on an animal; or

(ii) on apparatus which is carried or held by an animal;

(d) wearing advertising attire as part of an ambush marketing campaign.

Control of advertising activity

5.—(1) A person must not engage in advertising activity in the event zone during the relevant event period.

(2) A person is to be treated as engaging in advertising activity if that person—

(a) undertakes advertising activity;

(b) maintains an advertisement;

(c) arranges for advertising activity to take place; or

(d) allows or permits advertising activity to take place on land, premises or other property which that person owns, occupies or for which that person has responsibility or management.

³ 1984 c.54.

⁴ S.I. 1984/467 as amended by S.I. 1992/1763, regulation 2.

(3) A person is to be treated as engaging in advertising activity where that person is a director, manager, secretary or other similar officer of a company, business or concern which—

- (a) is the subject of advertising activity; or
- (b) provides a good or service which is the subject of advertising activity.

(4) For the purposes of regulation 5(1)(d) a person is to be treated as engaging in advertising activity if the person is a director, manager, secretary or other similar officer of a company, business or concern that owns, occupies or has responsibility for the management of the land, premises or other property.

(5) This regulation applies in relation to advertising even if it is the continuation of advertising activity that commenced before these Regulations came into force.

Exception for demonstrations, &c.

6.—(1) Regulation 5 does not apply to advertising activity consisting of an act, public assembly or public procession intended to—

- (a) demonstrate support for or opposition to the views or actions of any person;
- (b) publicise a belief, cause or campaign; or
- (c) mark or commemorate an event.

(2) The exception in paragraph (1) does not apply to advertising activity that promotes or advertises—

- (a) a good or service; or
- (b) a person or body (excluding a not-for-profit body) that provides a good or service.

(3) In this regulation—

- (a) “public assembly” has the meaning given by section 16 of the Public Order Act 1986 as that section applies to Scotland; being an assembly of 20 or more persons in a public place wholly or partly open to the air;
- (b) “public procession” has the meaning given by Civic Government (Scotland) Act 1982⁵.

Exception for certain wearers of costumes and clothing

7.—(1) Regulation 5 does not apply to a person who engages in advertising activity only by wearing advertising attire unless the person knows or ought to have reasonably known that the person is participating in an ambush marketing campaign.

(2) [This exception does not affect the application of regulation 5 to any other person (whether in respect of the same advertising activity or otherwise).]

Exceptions modelled on the Planning (Control of Advertisement) Regulations

8.—(1) Regulation 5 does not apply to advertising activity that consists of the display of an advertisement—

- (a) to which the Planning (Control of Advertisement) Regulations do not apply, by virtue regulation 3(1) and (3) (consent for the display of advertisements) of those Regulations;
- (b) for which consent is granted by regulation 10(1) (deemed consent for display of advertisement) of those Regulations, subject to the conditions to set out in Schedule 1 and the conditions set out in Schedule 4 to those Regulations.

(2) The exception in paragraph (1) does not apply to advertising activity in accordance with—

- (a) regulation 3(1)(d), if the enclosed land on which the advertisement is displayed is—
 - (i) a railway station (and its yards);
 - (ii) a bus station (together with its forecourt whether enclosed or not); or
 - (iii) enclosed land (including a sports stadium or other building) in which a London Olympic Event⁶ is taking place or will take place;

⁵ 1982 c.45.

⁶ “London Olympics Event” is defined in section 1(3) of the Act.

- (b) regulation 3(1)(c) (advertisements incorporated in the fabric of a building) of the Planning (Control of Advertisement) Regulations if the advertisement was not in existence at the date these Regulations came into force;
 - (c) regulation 3(1)(f) or regulation 3(3) of the Planning (Control of Advertisement) Regulations in relation to a balloon;
 - (d) regulation 13(1) and (3) (advertisements on sites used for the display of advertisements on 16th August 1948);
 - (e) regulation 19 (display of advertisements after expiry of express consent) of the Planning (Control of Advertisement) Regulations;
 - (f) Class I(2) if the advertisement—
 - (i) is not displayed wholly for the purpose of announcement or direction in relation to the functions of the planning authority by which it is displayed; and
 - (ii) is not reasonably required to be displayed for the safe or efficient performance of those functions;
 - (g) Class III(3) (certain advertisements of a temporary nature) if the advertisement promotes or advertises—
 - (i) a good or service;
 - (ii) a person or body (excluding a not-for-profit body) that provides a good or service;
 - (h) Class V (advertisements within buildings) if the building—
 - (i) is or forms part of a railway station or bus station; or
 - (ii) is a sports stadium or other building in which a London Olympic is taking place or to take place.
- (3) In this regulation—
- (a) a reference to “Class of advertisement” within these Regulations is a reference to the corresponding Class of advertisement in Schedule 4 to the Planning (Control of Advertisement) Regulations;
 - (b) a reference to a building in Schedule 4 to the Planning (Control of Advertisements) Regulations is to be construed in accordance with the definition of building in regulation 3(1) of these Regulations;
 - (c) “forecourt” includes any fence, wall or similar screen or structure enclosing a forecourt and not forming part of the fabric of a building constituting business premises.

Other exceptions

- 9.—(1) Regulation 5 does not apply to advertising activity described in paragraphs (2) to (7).
- (2) Displaying an advertisement employed wholly as—
- (a) a memorial; or
 - (b) as a railway sign.
- (3) Distributing or providing a current newspaper or periodicals either—
- (a) without a receptacle; or
 - (b) with a receptacle which does not—
 - (i) exceed 1 metre in length or 2 metres in height;
 - (ii) occupy a ground area exceeding 0.25 square metre;
 - (iii) stand on the carriageway of a street;
 - (iv) cause undue influence or inconvenience to people using the street.
- (4) Advertising activity undertaken in accordance with a condition attached to an authorisation granted under regulation 14 (street trading authorised by the Olympic Delivery Authority &c).
- (5) Displaying an advertisement on an aircraft for one or more of the following purposes—
- (a) complying with the law of the United Kingdom or any other country, being law in force in relation to the aircraft;

- (b) securing the safety of the aircraft or any person or property;
 - (c) the furtherance, by or on behalf of a Government department, by a person acting under any public duty or by a person providing ambulance or rescue services by air, of measures in connection with circumstances existing or imminent at the time the aircraft is used which may cause danger to persons or property;
 - (d) civil defence, military or police purposes.
- (6) Displaying a mark or inscription (other than an illuminated sign) on the body of an aeroplane or helicopter.
- (7) Displaying an advertisement on street furniture provided that the advertisement
- (a) is not illuminated;
 - (b) bears only the name, contact details and device (or any one or more of those things) of the manufacturer, owner or operator of the street furniture; and
 - (c) is not displayed as part of an ambush marketing campaign.

Advertising undertaken, controlled or authorised by the London Organising Committee

10.—(1) Regulation 5 does not apply to advertising undertaken or controlled by—

- (a) the London Organising Committee⁷; or
- (b) any person authorised by the London Organising Committee (whether or not subject to terms and conditions imposed by the Committee and whether or not in accordance with a sponsorship or other commercial agreement with the Committee).

(2) Subject to these Regulations, the Committee has an absolute discretion in respect of each application for authorisation.

(3) The Committee must have regard to the provisions of the Host City Contract⁸ before engaging in advertising activity or granting an authorisation under this regulation.

(4) The Committee's right to engage in advertising activity and any authorisation granted by it under this regulation are subject to all the following conditions—

- (a) that the advertiser hold any licence which, in addition to authorisation by or under this regulation is required before a person may engage in advertising activity (whether in a particular place or generally);
- (b) that no advertisement be sited or displayed so as to—
 - (i) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle;
- (c) that the advertiser maintain any advertisement in a condition that does not—
 - (i) impair the visual amenity of the site; or
 - (ii) endanger the public.

(5) In this regulation, “licence” includes any kind of consent, certificate, permission or authority (by whatever name) granted by a landowner, local authority or other person in accordance with any enactment, Charter or other document.

⁷ “the London Organising Committee” is defined in section 1(3)(d) of the Act. Since the passing of the Act, the London Organising Committee has changed its registered name to the London Organising Committee of the Olympic Games and Paralympic Games Limited.

⁸ “Host City Contract is defined in section 1(3) of the Act.

PART 3

Street Trading

Meaning of “street trading”

11.—(1) In these Regulations, “street trading” means carrying out one or more of the following activities in an open public place—

- (a) selling an article;
- (b) supplying a service;
- (c) trading as a pedlar under a pedlar’s certificate under the Pedlars Act 1871⁹;
- (d) doing anything authorised by regulations made under section 13 of the Civic Government (Scotland) Act 1982¹⁰ (regulation of street collections);
- (e) conducting a public charitable collection that is—
 - (i) conducted in accordance with [section XX] of the Civic Government (Scotland) Act 1982]; or
 - (ii) an exempt collection by virtue of [Public Charitable Collections (Scotland) Regulations 1984/1988]
- (f) ice cream trading;
- (g) providing public entertainment for gain or reward.

(2) In this regulation “open public place” means—

- (a) a road; or
- (b) another place—
 - (i) to which the public have access (whether generally or only for the purpose of the trading); and
 - (ii) which is not in a building except one designed or generally used for the parking of cars.

(3) In determining whether an activity is street trading for the purposes of these Regulations, the following matters are disregarded—

- (a) any gain or reward arising from the activity does not accrue to the person actually carrying out the activity;
- (b) either party to a transaction is not in an open public place when one of the following activities occurs—
 - (i) an offer or exposure of an article for sale;
 - (ii) an offer to supply a service;
 - (iii) the completion of a transaction;
- (c) a transaction was not completed in an open public place, if one of the following activities occurs in such a place—
 - (i) an offer or exposure of an article for sale;
 - (ii) an offer to supply a service;
- (d) an article actually sold or service actually supplied was different from that originally offered or exposed for sale.

Control of street trading

12.—(1) A person must not engage in street trading in an event zone during the relevant event period.

(2) A person is to be treated as engaging in street trading if that person—

- (a) undertakes street trading, or
- (b) arranges for street trading to take place.

⁹ 1871 c. 96.

¹⁰ 1982 (c.45).

- (3) A person is to be treated as engaging in street trading if the street trading—
- (a) is undertaken by a business or other concern in which the person has an interest or for which the person is responsible, or
 - (b) takes place on land that the person owns or occupies or of which the person has responsibility for the management.
- (4) Paragraphs (2) and (3) will not apply if the person proves that—
- (a) the street trading took place without the person's knowledge; or
 - (b) the person took all reasonable steps to prevent the street trading taking place or, if it has taken place, to prevent it continuing or recurring.
- (5) For the purposes of regulation 12(3) a person is to be treated as engaging in street trading if the person is a director, manager, secretary or other similar officer of a company, business or concern that owns, occupies or has responsibility for the management of the land, premises or other property.
- (6) This regulation applies to street trading even if it is the continuation of street that commenced before the Regulations came into force.

Exceptions

- 13.**—(1) Regulation 12 does not apply to street trading as described in paragraphs (2) to (9).
- (2) Trading as a news-vendor, provided that—
- (a) the only articles sold are current newspapers or periodicals; and
 - (b) such articles are sold either without a receptacle or with a receptacle that does not—
 - (i) exceed 1 metre in length or width or 2 metres in height;
 - (ii) occupy a ground area exceeding 0.25 square metre;
 - (iii) stand on the carriageway of a street; or
 - (iv) cause undue interference or inconvenience to persons using the street.
- (3) Selling an article to an occupier of premises adjoining any road from a vehicle which is used for the regular delivery of milk or other perishable goods to that person [but not including ice cream trading].
- (4) Selling a motor vehicle on private land generally used for the sale of motor vehicles.
- (5) Supplying motor vehicle cleaning services on private land generally used for the supply of those services.
- (6) Supplying motor vehicle parking services in [an area] or building designed or generally used for the parking of motor vehicles.
- (7) Providing a public sanitary convenience.
- (8) Supplying public transport services.
- (9) Trading on private land adjacent to exempt premises provided that the trading—
- (a) forms part of the usual business of the owner of the premises or a person assessed for uniform business rate in respect of the premises; and
 - (b) takes place during the period during which the premises are [normally] open to the public for business.
- (10) Paragraph (3) does not apply to ice cream trading.
- (11) In this regulation, “exempt premises” means—
- (a) a shop;
 - (b) a restaurant, bar or other premises used for the supply of meals, refreshments or alcohol; or
 - (c) a petrol filling station.
- “sanitary convenience” means water closet or urinal.

Street trading authorised by the Olympic Delivery Authority.

14.—(1) Regulation 12 does not apply to street trading undertaken in accordance with an authorisation granted by the Authority¹¹.

(2) Subject to these Regulations, the Authority has an absolute discretion in respect of each application for authorisation.

(3) The Authority must have regard to the provisions of the Host City Contract before granting an authorisation under this regulation.

(4) An authorisation granted under this regulation is subject to the condition that any person who engages in street trading in reliance on the authorisation hold any licence which, in addition to authorisation under this regulation, is required before the person may engage in street trading (whether in a particular place or generally).

(5) In this regulation—

“Authority” means—

- (a) the Olympic Delivery Authority; or
- (b) a person to whom the function of granting authorisations for the purpose of this regulation is delegated by the Olympic Delivery Authority; and

“licence” includes any kind of consent, certificate, permission or authority (by whatever name) granted by a landowner, local authority or other person in accordance with any enactment, Charter or other document.

PART 4**Rights of review****Interpretation of this Part**

15. In this Part—

“applicant” has the meaning given in regulation 16 (right to seek review);

“authorisation” means an authorisation granted—

- (a) under regulation 10(1)(b) (advertising undertaken, controlled or authorised by the London Organising Committee); or
- (b) under regulation 14 (street trading authorised by the Olympic Delivery Authority);

“authoriser” means—

- (c) in relation to an application for an authorisation under regulation 10(1)(b), the London Organising Committee, or
- (d) in relation to an application for an authorisation under regulation 14—
 - (i) the Olympic Delivery Authority; or
 - (ii) a person to whom the function of granting authorisations for the purpose of regulation 14 is delegated by the Olympic Delivery Authority.

Right to seek review

16.—(1) A person who has applied for an authorisation (“an applicant”) and is dissatisfied with the decision of the authoriser may request the authoriser to review its decision.

(2) Such a request must—

- (a) be in writing;
- (b) include or be accompanied by such information or evidence as the applicant considers relevant; and
- (c) be made within 14 days of the date on which the authoriser’s decision was communicated to the applicant.

¹¹ Under section 25(7) of the Act, an authorisation granted by the Authority under regulation 13 may be subject to terms and conditions.

- (3) An authoriser must review its decision within 14 days of receiving a request for review.
- (4) On reviewing its decision, the authoriser may—
- (a) confirm the original decision; or
 - (b) substitute a new decision for the original decision.
- (5) The authoriser must send a written notice informing its decision on the review to the applicant and the reasons for that decision [within 7 days].

PART 5

Compensation

Interpretation of this Part

17. In this Part—

“claimant” has the meaning given in regulation 19(1);

“decision notice” means a notice issued by a relevant authority under regulation 21(2)(b) or (3);

“enforcement officer” means a person designated for the purposes of section 22 or 28 of the Act by the Olympic Delivery Authority;

“notice of claim” has the meaning given in regulation 20(1);

“police authority” and “police force” have the same meaning as in sections 2 and 3 of the Police (Scotland) Act 1967¹² and includes a joint police board constituted under an amalgamation scheme made under section 19 of the Police (Scotland) Act 1967;

“relevant authority”, in relation to the exercise or purported exercise of a power under section 22 or 28 of the Act means—

- (a) if the exercise or purported exercise of the power was by an enforcement officer, the Olympic Delivery Authority;
- (b) if the exercise or purported exercise of the power was by a constable, the police authority for the police force of which the constable is a member.

Entitlement to compensation for damage to property

18.—(1) A person whose property is damaged in the course of the exercise or purported exercise of a power under section 22 or 28 of the Act is entitled to compensation from the relevant authority in accordance with this Part.

(2) A person responsible for contravention of these Regulations is not entitled to compensation.

(3) The amount of the compensation payable is the total of—

- (a) the value of the property damaged; and
- (b) any further loss which flowed from the damage to the property.

Notice of claim

19.—(1) A person claiming entitlement to compensation under this Part (a “claimant”) must send a written notice (a “notice of claim”) to the relevant authority claiming that compensation.

(2) A notice of claim must be sent within—

- (a) 30 days of the date on which damage occurred; or
- (b) such longer period as agreed by the relevant authority in writing.

(3) A notice of claim must include or be accompanied by the following information and evidence—

- (a) the claimant’s full name;
- (b) the date on which the damage occurred;

¹² 1967 (c.77). The definition of “police authority” in section 2 was amended by 1994 c.29, s. 180(1), Sch. 13 para 71(3); S.I. 1996/323, art. 4(1)(b). Section 3 was amended by section 47(1) of 1994 c.29; S.I. 1995/3003, art. 2, Sch.

- (c) the address or location at which the damage occurred;
- (d) the amount of compensation claimed (in accordance with regulation 19(3)) [and the basis of the calculation of the amount claimed];
- (e) a description of—
 - (i) the property damaged;
 - (ii) the nature of the damage; and
 - (iii) the nature of any further loss which flowed from the damage for which compensation is claimed; and
- (f) photographs, receipts, quotations or other evidence as to the matters referred to in subparagraphs (a) to (e).

Initial consideration of claim

20.—(1) Within 14 days of the date on which a relevant authority receives notice of a claim, the authority must determine whether it has received sufficient information and evidence to enable it to decide—

- (a) whether the claimant is entitled to compensation under this Part; and
- (b) if the claimant is entitled, the amount of compensation.

(2) If the authority determines that it has not received sufficient information or evidence, it must send the claimant a written notice stating the further information or evidence that the authority requires.

(3) The claimant must send the authority the information or evidence stated in the notice within—

- (a) 14 days of the date on which a claimant receives a notice under paragraph (2); or
- (b) such longer period as agreed by the relevant authority in writing.

(4) Within 7 days of the date on which the authority receives any such additional information or evidence, the authority must make the determination referred to in paragraph 1 again (and the other paragraphs of this regulation apply to that new determination).

Authority's decision on a claim

21.—(1) If a relevant authority determines under regulation 20 that it has received sufficient information and evidence it must, within 14 days of the date of that determination, decide the matters referred to in regulation 20(1)(a) and (b).

(2) If the authority decides that the claimant is entitled to compensation it must—

- (a) pay to the claimant the amount of compensation stated in the notice of claim; or
- (b) if it decides that the claimant is entitled to a lesser amount of compensation than that stated in the notice of claim, send a notice to the claimant—
 - (i) offering that lesser amount to the claimant; and
 - (ii) stating the reasons for its decision.

(3) If the authority decides that the claimant is not entitled to compensation it must send a notice to the claimant—

- (i) declining the claim; and
- (ii) stating the reasons for its decision.

(4) A claimant who receives a decision notice offering a lesser amount of compensation than stated in the notice of claim may agree, in writing, to accept that lesser amount (in which case the authority must pay that amount to the claimant).

(5) A decision notice must contain particulars of the claimant's rights to—

- (a) request a review of the decision under regulation 22; and
- (b) appeal a decision on a review under regulation 23.

Review of decision on a claim

22.—(1) A claimant who receives a decision notice may request the relevant authority to review its decision.

(2) Such a request must—

- (a) be in writing;
- (b) be made within—
 - (i) 14 days of the date on which the decision notice was received; or
 - (ii) such longer period agreed by the relevant authority in writing, and

(c) include or be accompanied by such information or evidence as the claimant considers relevant.

(3) Within 14 days of the date on which a relevant authority receives such a request it must review its decision under regulation 21.

(4) On reviewing its decision, the authority may—

- (a) confirm the original decision; or
- (b) substitute a new decision for the original decision.

(5) On reviewing its decision the authority may not substitute a lesser amount of compensation than that stated in the decision notice.

(6) The authority must send a written notice informing of its decision on the review to the claimant and the reasons for that decision.

(7) A notice under paragraph (6) must contain particulars of the claimant's right to appeal a decision on review under regulation 23.

Appeal to the sheriff court in Scotland

23.—(1) A claimant dissatisfied with the decision of the relevant authority on a review under regulation 22 may appeal to the sheriff court in Scotland.

(2) An appeal must be brought within 21 days of the date of notification [issuing] to the claimant of the authority's decision on review.

(3) The court may give permission for an appeal to be brought after the end of that period, but only if it is satisfied—

- (a) if permission is sought before the end of that period, that there is a good reason for the claimant to be unable to bring the appeal in time; or
- (b) if permission is sought after that time, that there was a good reason for the claimant's failure to bring the appeal in time and for any delay in applying for permission.

(4) On appeal under this regulation, the court may make such order confirming, quashing or varying the decision as it thinks fit.

A member of the Scottish Executive

Date

SCHEDULE

Regulation 3

Meaning of “event zone”

24. In these Regulations, “event zone” means the Hampden zone, being the area shown on the relevant map bounded externally by a black line and edged internally by a stippled band, including the airspace above the land in that area.

25. In paragraph (1), “relevant map” means, in relation to the event zone, the map entitled “Hampden Map” referred to in the London Olympic Games and Paralympic Games (Advertising and Street Trading) (Scotland) Regulations 2011, of which prints signed by [xx] in the Scottish Government are deposited and available for inspection at the offices of—

- (a) the Scottish Ministers, Edinburgh;
- (b) Glasgow City Council.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations control advertising activity and street trading in designated areas in Glasgow in respect of the London 2012 Olympic and Paralympic Games events at Hampden Park (“the event zone”) during the period when those events take place (the “relevant event period”). The event zone is set out by reference to a map that is available for inspection at the offices of the Scottish Government, the Olympic Delivery Authority (“ODA”), and Glasgow City Council.

Regulation 5(1) prohibits a person from engaging in advertising activity in the event zone during the relevant event period (the “advertising prohibition”).

Regulation 4 defines “advertising activity” to mean displaying an advertisement or distributing or providing promotional material. “Advertisement” is defined in regulation 3(1) and “displaying an advertisement” includes the activities described in regulation 4(1). “Promotional material” is defined in regulation 3(1).

A person is to be treated as engaging in advertising activity if the person undertakes advertising activity, maintains an advertisement or arranges for advertising activity to take place (see regulation 5(2) and (3)). Under regulation 5(3) a person is to be treated as engaging in advertising activity where advertising activity:

- relates to a good, service, business or other concern in which the person has an interest or for which the person is responsible, or
- takes place on land, premises or other property that the person owns or occupies or of which the person has responsibility for the management.

Regulation 5(4) specifies when a person is to be treated as having an interest or responsibility.

Under section 21(2) of the London Olympic Games and Paralympic Games Act 2006 (the “2006 Act”), a person charged with an offence of contravening the advertising prohibition has a defence if the person proves that the contravention occurred without his or her knowledge or despite his or her taking all reasonable steps to prevent it from occurring or (where he or she became aware of it after its commencement) from continuing.

In addition, regulations 6 to 9 specify exceptions to the advertising prohibition. The exception in regulation 6 is for acts, public assemblies, or public processions intended to demonstrate support for or opposition to the views or actions of a person or body of persons, publicise a belief, cause or campaign, or mark or commemorate an event. The exception does not apply to advertising activity that promotes or advertises a good, service, or person or body (excluding a not-for-profit body as defined in regulation 3(1) that provides a good or service.

The exception in regulation 7 is for a person who engages in advertising activity only by wearing “advertising attire” (defined in regulation 3(1) to mean a costume that is an advertisement or clothing on which an advertisement is displayed). For the exception to apply, the person must not know or have reasonable cause to believe that he or she is participating in an ambush marketing campaign (also defined in regulation 3(1)). The application of this exception to a person does not

affect the application of the advertising prohibition to any other person (whether in respect of the same advertising activity or otherwise).

The exception in regulation 8 is modelled on provisions of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1982 (the “Planning (Control of Advertisements) Regulations”). Under regulation 8(1)(a) the advertising prohibition does not apply to the display of an advertisement which is exempt from the requirement for deemed or express consent under Part 2 or 3 of the Planning (Control of Advertisements) Regulations (i.e. the display of an advertisement of a description set out in column (1) of Schedule 4 to those Regulations, provided that the relevant conditions and limitations set out in that Schedule are complied with). Under regulation 8(1)(b) the advertising prohibition does not apply to the display of an advertisement for which “deemed consent” is granted by regulation 6(1) of those Regulations (i.e. any Class of advertisement specified in Part 1 of Schedule 4 to those Regulations, subject to the conditions and limitations referred to in regulation 6(1) of those Regulations). But the exception in regulation 8 does not apply to the display of an advertisement of a description set out in regulation 8(2) (which specifies certain advertisements by reference to the Classes of advertisement in Schedules 1 and 3 to the Planning (Control of Advertisements) Regulations).

Regulation 9 specifies other exceptions to the advertising prohibition.

In addition to the defence set out in section 21 of the 2006 Act and the exceptions specified in regulations 6 to 9, regulation 10 provides that the advertising prohibition does not apply to advertising activity undertaken or controlled by:

- the London Organising Committee of the Olympic Games and Paralympic Games Limited (“LOCOG”), or
- a person authorised by LOCOG.

LOCOG’s right to engage in advertising activity under regulation 10 and any authorisation granted by it are subject to the conditions specified in regulation 10(4), including that the advertiser hold any licence (as defined in regulation 10(5) which, in addition to authorisation by or under regulation 10, is required before a person may engage in advertising activity (whether in a particular place or generally). A person who applies for an authorisation and is dissatisfied with LOCOG’s decision may request LOCOG to review its decision (see regulation 16).

Regulation 12 prohibits a person from engaging in street trading in an event zone during the relevant event period or periods (the “street trading prohibition”).

Regulation 11 defines street trading as carrying out one or more of the activities specified in that regulation in an open public place. “Open public place” is defined in regulation 11(2) to mean a highway or another place to which the public have access and which is not in a building (other than one designed or generally used for the parking of cars). The matters specified in regulation 11(3) are to be disregarded when determining whether activity amounts to street trading.

A person is to be treated as engaging in street trading if the person undertakes street trading or arranges for street trading to take place (see regulation 12(3) and (3)). Under regulation 12(2) and (4), a person (a “business or land owner”) is also to be treated as engaging in street trading where street trading:

- is undertaken by a business or other concern in which the person has an interest or for which the person is responsible, or
- takes place on land that the person owns or occupies or of which the person has responsibility for the management.

Regulation 12(6) specifies people who are to be treated as satisfying these criteria. But Regulation 12(5) provides that a business or land owner is not to be treated as engaging in street trading if he or she proves that the street trading took place without his or her knowledge or that he or she took all reasonable steps to prevent the street trading taking place or, where it has taken place, to prevent it continuing or recurring.

Regulation 13 specifies exceptions to the street trading prohibition.

In addition, regulation 14 provides that the street trading prohibition does not apply to street trading undertaken in accordance with an authorisation granted by the ODA or a person to whom the

function of granting authorisations is delegated by the ODA. The ODA (or its delegate, as the case may be) may impose terms and conditions on any authorisation under section 25(7) of the 2006 Act. Under regulation 14(4) an authorisation is subject to the condition that any person who engages in street trading in reliance on the authorisation hold any licence (as defined in regulation 14(5) which, in addition to authorisation under regulation 14, is required before the person may engage in street trading (whether in a particular place or generally). A person who applies for an authorisation and is dissatisfied with the ODA's (or its delegate's) decision may request ODA (or its delegate) to review its decision (see regulation 16).

Part 5 provides for compensation for a person whose property is damaged in course of the exercise or purported exercise of an enforcement power under section 22 or 28 of the 2006 Act. Under regulation 18(2) a person who is responsible for a contravention of the regulations is not entitled to compensation. The amount of compensation payable is specified in regulation 18(3).

