

GLASGOW COMMONWEALTH GAMES ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Enforcement

Section 23: Restrictions on general enforcement power

49. Subsection (1) sets restrictions on the power of enforcement officers to seize infringing articles. They can only do so for the purpose of ending the commission of a Games offence, preventing the future commission of such an offence, enabling the article to be used in proceedings for such an offence (as evidence) or to enable the article to be forfeited in accordance with Part 2 of the [Proceeds of Crime \(Scotland\) Act 1995 \(c 43\)](#) (which makes provision for property which has been used in crime to be forfeited).
50. Subsection (2) requires a seized article to be returned when retention of it is no longer justified for the purposes mentioned in subsection (1); however, this requirement does not apply to perishable articles which no longer have any commercial value.
51. By virtue of subsection (3) an advertisement may be concealed for the purpose of ending the commission of an advertising offence or for preventing the further commission of such an offence. Concealment must cease when no longer required for either of these purposes (subsection (4)).
52. Under subsection (5) an infringing article may be destroyed only if it is appropriate to do so to end or prevent the further commission of an advertising offence and seizure or concealment would not be a reasonable course of action in the circumstances. Destruction is, therefore, only available as a measure of last resort.