
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2011 No.

The London Olympic Games and Paralympic Games
(Advertising and Trading) (Scotland) Regulations 2011

PART 3

Trading Activity

Interpretation of Part 3

12.—(1) In this Part—

- (a) any reference (however phrased) to selling an article includes a reference to offering or exposing an article for sale;
- (b) any reference (however phrased) to supplying a service includes a reference to offering to supply a service;
- (c) “motor vehicle” has the same meaning as in section 185 of the Road Traffic Act 1988⁽¹⁾;
- (d) “open public place” means—
 - (i) a road; or
 - (ii) another place—
 - (aa) to which the public have access (whether generally or only for the purpose of the trading); and
 - (bb) which is not in a building except one designed or generally used for the parking of cars;
- (e) “performance of a play” means performance of any dramatic piece, whether improvisational or not—
 - (i) given wholly or in part by one or more persons actually present and performing; and
 - (ii) 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;
- (f) “public entertainment” means entertainment of one of the following descriptions provided for members of the public—
 - (i) a performance of live music;
 - (ii) any playing of recorded music;
 - (iii) a performance of dance;
 - (iv) a performance of a play;
 - (v) any entertainment of a similar description to that in heads (i) to (iv);

⁽¹⁾ 1988 c.52.

- (g) “selling an article” includes trading by a person acting as a pedlar whether or not under the authority of a pedlar’s certificate granted under the Pedlars Act 1871(2); and
 - (h) “trading activity” means carrying out one or more of the following activities in an open public place—
 - (i) selling an article;
 - (ii) supplying a service;
 - (iii) making an appeal to members of the public to give money or other property (or both) for charitable or other purposes (whether authorised or not under any enactment);
 - (iv) providing public entertainment for gain or reward.
- (2) In determining whether an activity is trading activity for the purposes of this Part, the following matters are to be disregarded—
- (a) that any gain or reward arising from the activity does not accrue to the person actually carrying out the activity;
 - (b) 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 a transaction;
 - (c) that 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) that an article actually sold or service actually supplied was different from that originally offered or exposed for sale.