

LONDON OLYMPIC GAMES AND PARALYMPIC GAMES ACT 2006

EXPLANATORY NOTES

ADVERTISING

Section 19: Advertising regulations

49. This section imposes a duty on the Secretary of State to make regulations about advertising in the vicinity of Olympic venues. These regulations are required in order to fulfil obligations imposed by the International Olympic Committee and made within the Host City Contract. In particular, the Contract requires that no advertising is placed around Olympic venues so as to be within the view of television cameras covering, or spectators watching, Olympic events.
50. The Secretary of State has broad discretion in the detail to be included in the regulations. The regulations will specify the nature and extent of these restrictions including the place, time period and type of advertisements to which the restrictions will apply. However, *subsection (6)* provides that they will only apply for a period which the Secretary of State considers necessary to comply with the Host City Contract.
51. Much of the detail of the restrictions has been left to secondary legislation in order to make a proper assessment of what is required closer to 2012: the IOC may change the requirements which are placed on host cities and venues may also change. The regulations may apply restrictions for different periods and in a different way for different venues. This will enable the characteristics of different venues and different events to be taken into account: for example, the intention is to restrict advertising around football venues for a limited period as some of those venues will only be used for a very short space of time. The regulations will also include exceptions. It is intended that these will follow exceptions provided in the regulations relating to the control of advertising under the Town and Country Planning Act (1990) as closely as possible.
52. *Subsection (7)* allows for the authorisation of controlled advertising within the vicinity of Olympic venues. Regulations will allow the Secretary of State to authorise a “responsible body” such as the ODA or London Organising Committee of the Olympic Games (“LOCOG”), to undertake advertising (subject to any conditions contained in the regulations), and that responsible body will, in turn, be able to grant subsequent authorisations to other advertisers.
53. *Subsection (8)* provides that the regulations may impose obligations on those who advertise or those who benefit from unauthorised advertising. Regulations may also impose duties on the owners and occupiers of land to ensure that unauthorised advertising – as specified in regulations – does not occur on their land. It allows for these regulations to supersede any previous permissions for the use of that land, for example permissions granted by local planning authorities under the Town and Country Planning Act (1990).

Section 20: Regulations: supplemental

54. *Subsection (1)* sets out in more detail what restrictions and flexibilities will apply to the making of regulations under section 19. For example, the regulations may disapply existing legislation about the control of advertising. In order to ensure consistency with the advertising restrictions in the Town and Country Planning Act 1990, the regulations may apply (with any necessary modifications) to Crown bodies. *Subsection (3)* requires the Secretary of State to undertake consultation before making any regulations under section 19, including by consulting people who represent interests within the advertising industry, the ODA, LOCOG and others likely to be affected by the regulations.
55. In accordance with *subsection (2)* the regulations will be subject to the affirmative resolution procedure in Parliament. *Subsection (4)* prevents the regulations being subject to the process that is applied to hybrid instruments. Very broadly, a hybrid provision is one that has characteristics of both a public and a private provision.

Section 21: Offence

56. This section creates a criminal offence for contravening the regulations made under section 19, punishable by a fine. In the Magistrates' Courts the maximum fine will be £20,000, which is higher than the maximum fine which Magistrates can normally impose. The section provides for higher fines because the offence is considered to be highly lucrative during Games time and is more likely to be committed by corporate bodies. This section also allows for the possibility that the offender may be required to pay the expenses of the ODA or Police Authority who have undertaken enforcement action as described in section 22.

Section 22: Enforcement: power of entry

57. This section gives a constable, or an enforcement officer designated by the ODA, the power to enter land or premises in order to prevent or stop unauthorised advertising as defined in regulations made under section 19. *Subsection (1)(a)* is drafted in sufficiently broad terms to enable officers to enter land wherever a contravention of the regulations is occurring. This will allow, for example, entry onto land outside of the area where the advertising restrictions apply, if that land is being used to project images into an area where the advertising restrictions do apply. This section provides for immediate enforcement and entry powers, although the intention is that the entry will be gained at a reasonable time (*subsection (2)*) and after having taken reasonable steps to establish who owns or occupies the land or premises, and to give them the opportunity to deal with the contravention before entry (*subsection (3)*). Entry into a dwelling would only be permitted under warrant (*subsection (4)*). Officers will be able to seize items used to breach the regulations in order to stop contraventions or if necessary for evidential purposes. *Subsection (6)* allows for the application of the Police Property Act (1897) which governs proceedings for the return of seized property. The section also allows the Secretary of State to make regulations for a compensation scheme for any damage caused by any enforcement activity, although a person responsible for a contravention of the regulations will not be entitled to compensation. The definition of 'infringing article' in *subsection (10)(b)* covers advertisements plus other things such as graffiti which may constitute a contravention of the regulations.

Section 23: Role of Olympic Delivery Authority

58. This section places a duty on the ODA in relation to the regulations made or expected to be made under section 19. Specifically, this duty requires the ODA to inform those people likely to be affected by the regulations about the effect of the regulations, and allows the ODA to provide assistance to persons so that they can comply with the regulations.
59. *Subsection (4)* gives the ODA a specific power of prosecution in England and Wales in relation to offences under section 21.

These notes refer to the London Olympic Games and Paralympic Games Act 2006 (c.12) which received Royal Assent on 30 March 2006

60. *Subsection (6)* requires the ODA to publish a strategy for how they intend to publicise the advertising restrictions and how they will exercise the enforcement powers provided for in section 22. This strategy would, for example, cover matters such as the relevant grade of officer in the ODA that can approve entry onto premises without a warrant.

Section 24: Local planning authorities

61. This section allows the Secretary of State to make an order that requires certain local planning authorities to notify those people to whom they grant consents (in relation to advertisements) of the nature of regulations made and obligations imposed under section 19. Such orders are to be subject to the negative resolution procedure.