
Changes to legislation: There are currently no known outstanding effects for the London Olympic Games and Paralympic Games Act 2006, Cross Heading: Enforcement. (See end of Document for details)

SCHEDULES

SCHEDULE 3

OLYMPIC SYMBOL PROTECTION

Enforcement

12 (1) After section 8 add—

“8A Enforcement by trading standards authority

- (1) A local weights and measures authority may enforce within their area the provisions of section 8.
 - (2) The following provisions of the Trade Descriptions Act 1968 apply in relation to the enforcement of that section as in relation to the enforcement of that Act—
 - (a) section 27 (power to make test purchases),
 - (b) section 28 (power to enter premises and inspect and seize goods and documents),
 - (c) section 29 (obstruction of authorised officers), and
 - (d) section 33 (compensation for loss, &c of goods seized).
 - (3) Subsection (1) above does not apply in relation to the enforcement of section 8 in Northern Ireland; but—
 - (a) the Department of Enterprise, Trade and Investment may enforce that section in Northern Ireland, and
 - (b) for that purpose the provisions of the Trade Descriptions Act 1968 specified in subsection (2) apply as if for the references to a local weights and measures authority and any officer of such an authority there were substituted references to that Department and any of its officers.
 - (4) Nothing in this section shall be construed as authorising a local weights and measures authority to bring proceedings in Scotland for an offence.”
- (2) The London Organising Committee may—
- (a) make arrangements with a local weights and measures authority for the exercise of the authority's power under section 8 of the Olympic Symbol etc. (Protection) Act 1995 (as inserted by sub-paragraph (1));
 - (b) may make payments to a local weights and measures authority in respect of expenses incurred in the exercise of that power.

Commencement Information

II Sch. 3 para. 12 in force at 2.4.2007 by S.I. 2007/1064, art. 2(a)

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13 After section 8A (inserted by paragraph 12 above) insert—

“8B Arrest

(1) After paragraph 21 of Schedule 1A to the Police and Criminal Evidence Act 1984 (arrestable offences) add—

“Olympic Symbol etc. (Protection) Act 1995

21A An offence under section 8 of the Olympic Symbol etc. (Protection) Act 1995 (offences in relation to goods).”

(2) A constable in Scotland may arrest without warrant a person who the constable reasonably believes is committing or has committed an offence under section 8 of the Olympic Symbol etc. (Protection) Act 1995.

(3) Subsection (2) is without prejudice to any power of arrest which is otherwise exercisable by a constable in Scotland.”

Commencement Information

I2 Sch. 3 para. 13 in force at 2.4.2007 for specified purposes by S.I. 2007/1064, art. 2(b)

14 After section 12 (forfeiture) insert—

“12A Detention by Revenue and Customs

(1) The proprietor may give notice in writing to the Commissioners for Her Majesty's Revenue and Customs—

(a) stating that at a time and place specified in the notice, goods which are infringing goods, material or articles are expected to arrive in the United Kingdom—

(i) from outside the European Economic Area, or

(ii) from within the Area but not having been entered for free circulation,

(b) specifying the nature of the controlled representation by reference to which the goods are infringing goods, material or articles, and

(c) requesting the Commissioners to detain the goods.

(2) The Commissioners may detain goods to which a notice under subsection (1) relates.

(3) But the Commissioners may not detain goods—

(a) imported by a person for his private and domestic use, or

(b) to which section 89(3) of the Trade Marks Act 1994 applies (Council Regulation (EC) No. 1383/2003).

(4) If the Commissioners detain goods to which a notice under subsection (1) applies they shall as soon as is reasonably practicable—

(a) give written notice of the detention and the grounds for it to the person in whose name the goods were presented or declared to customs, and

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- (b) give the proprietor notice that the goods have been detained, specifying in respect of the goods such information as is available to the Commissioners about—
 - (i) the nature of the goods,
 - (ii) their number,
 - (iii) the place where they were manufactured,
 - (iv) the place from which they were sent,
 - (v) the name and address of the person by whom they were sent,
 - (vi) the name and address of the person mentioned in paragraph (a),
 - (vii) the name and address of the person to whom they were to be delivered, and
 - (viii) the name and address of the person who holds them during detention.
- (5) The Commissioners may provide samples of detained goods to the proprietor on request, in which case he—
 - (a) may use the samples only for the purpose of determining whether they are infringing goods, material or articles,
 - (b) must return the samples to the Commissioners as soon as is reasonably practicable, and
 - (c) must inform the Commissioners as soon as is reasonably practicable whether the goods are infringing goods, material or articles.
- (6) The Commissioners may permit the proprietor on request to inspect detained goods (in which case he must inform the Commissioners as soon as is reasonably practicable whether the goods are infringing goods, material or articles).
- (7) The Commissioners shall release goods detained in pursuance of a notice under subsection (1) if—
 - (a) the Commissioners think that initiating process in proceedings under section 6 in respect of the goods has not been served during the period of 10 working days, in the case of non-perishable goods, or 3 working days, in the case of perishable goods, beginning with the date on which the notice under subsection (4)(b) was received,
 - (b) the Commissioners think that proceedings under section 6 in respect of the goods have been withdrawn, have lapsed or have terminated without an order being made in respect of the goods by virtue of section 7, or
 - (c) the Commissioners are informed by the proprietor that the goods are not infringing goods, material or articles.
- (8) The Commissioners may detain goods which they think, having regard to the nature of the goods and to information provided by the proprietor, may be infringing goods, material or articles; and if the Commissioners detain goods under this subsection—
 - (a) they shall as soon as is reasonably practicable invite the proprietor to give the Commissioners a notice that the goods are infringing goods, material or articles,

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- (b) they shall, when giving an invitation under paragraph (a), give in respect of the goods such information as is available to them about—
 - (i) the nature of the goods,
 - (ii) their number,
 - (iii) the place where they were manufactured,
 - (iv) the place from which they were sent,
 - (v) the name and address of the person by whom they were sent,
 - (vi) the name and address of the person in whose name the goods were presented or declared to customs,
 - (vii) the name and address of the person to whom they were to be delivered, and
 - (viii) the name and address of the person who holds them during detention,
- (c) they may provide samples of the goods to the proprietor on request in which case he —
 - (i) may use the samples only for the purpose of determining whether they are infringing goods, material or articles,
 - (ii) must return the samples to the Commissioners as soon as is reasonably practicable, and
 - (iii) must inform the Commissioners as soon as reasonably practicable whether the goods are infringing goods, material or articles,
- (d) they may permit the proprietor on request to inspect the goods (in which case he must inform the Commissioners as soon as reasonably practicable whether the goods are infringing goods, material or articles),
- (e) if no notice is given in accordance with paragraph (a) within the period of 3 working days beginning with the date on which the invitation under that paragraph is received, the Commissioners shall release the goods, and
- (f) if a notice is given in accordance with paragraph (a), the Commissioners shall proceed as if it were a notice given under subsection (1) above (and as if the goods were detained in pursuance of that notice), but—
 - (i) subsections (4)(b), (5) and (6) shall not have effect, and
 - (ii) subsection (7) shall have effect as if the reference to the notice under subsection (4)(b) were a reference to information under paragraph (b) above.

12B Section 12A: supplementary

- (1) Section 90 of the Trade Marks Act 1994 (c. 26) (regulations as to form of notice, &c.) shall have effect in relation to a notice under subsection 12A(1) or (8)(a) above as in relation to a notice under section 89(1).
- (2) A person who is or was an officer or employee of the proprietor, or who acts or acted on the proprietor's behalf, commits an offence if he discloses information provided in accordance with section 12A(4)(b) or 12A(8)(b) other than—

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- (a) for the purpose of, or with a view to the institution of, proceedings under section 6,
 - (b) for the purpose of complying with an enactment,
 - (c) in pursuance of an order of a court,
 - (d) in a form which ensures that the identity of no person to whom the information relates is specified or can be deduced,
 - (e) with the consent of each person to whom the information relates, or
 - (f) with the consent of the Commissioners for Her Majesty's Revenue and Customs;
- and sections 19(3), (4), (7) and 55(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (defences and penalties) shall have effect in relation to this subsection.
- (3) Section 139(1), (2), (3), (4), (7) and (8) of the Customs and Excise Management Act 1979 (detention of goods: constables, &c.) shall apply in relation to goods liable to detention in accordance with section 12A above as in relation to things liable to forfeiture—
- (a) with the substitution of a reference to this Act for a reference to the customs and excise Acts, and
 - (b) with any other necessary modifications.
- (4) Section 144 of that Act (protection of officers) shall apply in relation to the detention of goods in accordance with section 12A above—
- (a) with the substitution of a reference to proceedings under section 6 above for the reference in section 144(1) to proceedings for condemnation, and
 - (b) with any other necessary modifications.
- (5) In section 12A “working day” means a day that is not a Saturday, a Sunday or a bank holiday (within the meaning of section 1 of the Banking and Financial Dealings Act 1971 (c. 80)).”

Commencement Information

I3 Sch. 3 para. 14 in force at 2.4.2007 by S.I. 2007/1064, art. 2(c)

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