



# Olympic Symbol etc. (Protection) Act 1995

## 1995 CHAPTER 32

### *The Olympics association right*

#### **1 Creation**

- (1) There shall be a right, to be known as the Olympics association right.
- (2) The right shall carry with it the rights and remedies provided by this Act, which shall be exercisable by such person as the Secretary of State may by order made by statutory instrument appoint for the purposes of this subsection.
- (3) An order under subsection (2) above which revokes a previous order under that subsection may contain such supplementary and transitional provision as the Secretary of State thinks fit.
- (4) A statutory instrument containing an order under subsection (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **2 Rights conferred**

- (1) The Olympics association right shall confer exclusive rights in relation to the use of the Olympic symbol, the Olympic motto and the protected words.
- (2) Subject to sections 4 and 5 below, the rights conferred by subsection (1) above shall be infringed by any act done in the United Kingdom which—
  - (a) constitutes infringement under section 3 below, and
  - (b) is done without the consent of the person for the time being appointed under section 1(2) above (in this Act referred to as “the proprietor”).
- (3) The proprietor may exploit the rights conferred by subsection (1) above for gain, but may not make any disposition of, or of any interest in or over, them.
- (4) This section shall not have effect to permit the doing of anything which would otherwise be liable to be prevented by virtue of a right—

- (a) subsisting immediately before the day on which this Act comes into force, or
  - (b) created by—
    - (i) the registration of a design under the Registered Designs Act 1949 on or after the day on which this Act comes into force, or
    - (ii) the registration of a trade mark under the Trade Marks Act 1994 on or after that day.
- (5) Consent given for the purposes of subsection (2)(b) above by a person appointed under section 1(2) above shall, subject to its terms, be binding on any person subsequently appointed under that provision; and references in this Act to doing anything with, or without, the consent of the proprietor shall be construed accordingly.

### 3 Infringement

- (1) A person infringes the Olympics association right if in the course of trade he uses—
- (a) a representation of the Olympic symbol, the Olympic motto or a protected word, or
  - (b) a representation of something so similar to the Olympic symbol or the Olympic motto as to be likely to create in the public mind an association with it,
- (in this Act referred to as “a controlled representation”).
- (2) For the purposes of this section, a person uses a controlled representation if, in particular, he—
- (a) affixes it to goods or the packaging thereof,
  - (b) incorporates it in a flag or banner,
  - (c) offers or exposes for sale, puts on the market or stocks for those purposes goods which bear it or whose packaging bears it,
  - (d) imports or exports goods which bear it or whose packaging bears it,
  - (e) offers or supplies services under a sign which consists of or contains it, or
  - (f) uses it on business papers or in advertising.

### 4 Limits on effect

- (1) The Olympics association right is not infringed by use of a controlled representation where—
- (a) the use consists of use in a work of any of the descriptions mentioned in subsection (3) below, and
  - (b) the person using the representation does not intend the work to be used in relation to goods or services in circumstances which would involve an infringement of the Olympics association right,
- provided the use is in accordance with honest practices in industrial or commercial matters.
- (2) The Olympics association right is not infringed by use of a controlled representation where—
- (a) the use consists of use of a work of any of the descriptions mentioned in subsection (3) below, and
  - (b) the use of the work is not in relation to goods or services,

- provided the use of the representation is in accordance with honest practices in industrial or commercial matters.
- (3) The descriptions of work referred to in subsections (1)(a) and (2)(a) above are a literary work, a dramatic work, a musical work, an artistic work, a sound recording, a film, a broadcast and a cable programme, in each case within the meaning of Part I of the Copyright, Designs and Patents Act 1988.
- (4) For the purposes of subsection (2)(b) above, there shall be disregarded any use in relation to a work which—
- (a) is of any of the descriptions mentioned in subsection (3) above, and
  - (b) is to any extent about the Olympic games or the Olympic movement.
- (5) For the purposes of subsection (2)(b) above, use of a work in relation to goods shall be disregarded where—
- (a) the work is to any extent about the Olympic games or the Olympic movement, and
  - (b) the person using the work does not do so with a view to gain for himself or another or with the intent to cause loss to another.
- (6) In the case of a representation of a protected word, the Olympics association right is not infringed by use which is not such as ordinarily to create an association with—
- (a) the Olympic games or the Olympic movement, or
  - (b) a quality ordinarily associated with the Olympic games or the Olympic movement.
- (7) In the case of a representation of a protected word, the Olympics association right is not infringed by use which creates an association between the Olympic games or the Olympic movement and any person or thing where the association fairly represents a connection between the two, provided the use is in accordance with honest practices in industrial or commercial matters.
- (8) The Olympics association right is not infringed by use of a controlled representation where—
- (a) the use is in relation to goods which bear, or whose packaging bears, the representation,
  - (b) the goods are not infringing goods by virtue of paragraph (a) or (b) of section 7(2) below, and
  - (c) the use involves doing any of the things mentioned in section 3(2)(c) or (d) above.
- (9) The Olympics association right is not infringed by use of a controlled representation where—
- (a) the use is in relation to goods,
  - (b) the goods have been put on the market in the European Economic Area by the proprietor or with his consent, and
  - (c) the representation was used in relation to the goods when they were so put on the market.
- (10) Subsection (9) above shall not apply where there exist legitimate reasons for the proprietor to oppose further dealings in the goods (in particular, where the condition of the goods has been changed or impaired after they have been put on the market).

- (11) The Olympics association right is not infringed by use of a controlled representation where—
- (a) the use is for the purposes of an undertaking, and
  - (b) the way in which the representation is used for the purposes of the undertaking is a way in which it has been continuously used for those purposes since a date prior to the commencement of this Act.
- (12) In the case of a representation of a protected word, the Olympics association right is not infringed by use as part of—
- (a) the name of a company, being a name which was the company's corporate name immediately before the day on which this Act comes into force, or
  - (b) the name under which a business is carried on, being a business which was carried on under that name immediately before the day on which this Act comes into force.
- (13) The Olympics association right is not infringed by use of a controlled representation where the use—
- (a) takes place under a right subsisting immediately before the day on which this Act comes into force, or
  - (b) is liable to be prevented by virtue of such a right.
- (14) The Olympics association right is not infringed by use of a controlled representation where the use—
- (a) takes place under a right created by—
    - (i) the registration of a design under the Registered Designs Act 1949 on or after the day on which this Act comes into force, or
    - (ii) the registration of a trade mark under the Trade Marks Act 1994 on or after that day, or
  - (b) is liable to be prevented by virtue of such a right.
- (15) The Olympics association right is not infringed by use of a controlled representation for the purposes of—
- (a) judicial or parliamentary proceedings, or
  - (b) a Royal Commission or statutory inquiry.
- (16) In subsection (15) above—
- “judicial proceedings” includes proceedings before any court, tribunal or person having authority to decide any matter affecting a person's legal rights or liabilities;
  - “parliamentary proceedings” includes proceedings of the Northern Ireland Assembly or of the European Parliament;
  - “Royal Commission” includes a Commission appointed for Northern Ireland by the Secretary of State in pursuance of the prerogative powers of Her Majesty delegated to him under section 7(2) of the Northern Ireland Constitution Act 1973; and
  - “statutory inquiry” means an inquiry held or investigation conducted in pursuance of a duty imposed or power conferred by or under an enactment.
- (17) In this section, references to use of a work in relation to goods include use of a work on goods.

## **5 Power to prescribe further limits on effect**

- (1) The Secretary of State may by order made by statutory instrument specify additional cases in which the Olympics association right is not infringed.
- (2) Without prejudice to the generality of subsection (1) above, the matters by reference to which a case may be specified under that subsection include—
  - (a) the description of controlled representation used, and
  - (b) the description of persons by whom a controlled representation is used.
- (3) An order under this section may contain such supplementary and transitional provision and savings as the Secretary of State thinks fit.