

LONDON OLYMPIC GAMES AND PARALYMPIC GAMES ACT 2006

EXPLANATORY NOTES

TRADING

Section 25: Street trading, & c.

62. This section imposes a duty on the Secretary of State to make regulations to control trading in the vicinity of Games venues. These regulations are required in order to fulfil obligations imposed by the International Olympic Committee and made within the Host City Contract and in order to address issues of amenity and public safety (including avoiding congestion). The regulations will specify the nature and extent of restrictions including the place, time period and type of activity to which restrictions will apply. Regulations may apply during different periods in respect of different places. As is the case in relation to the advertising regulations under sections 19 to 24, 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.
63. *Subsection (4)* provides that the restrictions in the regulations may apply to trading on a highway, in a public place, and to trading on private land but not to trading within buildings (except car parks).
64. The regulations will allow the ODA to authorise trading within the vicinity of Olympic venues. The ODA will be able to delegate the function of granting authorisations. This ability to delegate is required as the ODA may rely on the expertise of local authorities that already license street trading in their areas. The regulations will also include provision about the circumstances in which such authorisations may or may not be granted. For example, the regulations may provide that the ODA is restricted to granting authorisations in relation to areas or types of trading already permitted by the relevant local authority. An authorisation may itself be subject to terms and conditions about the times of trading or steps to be taken to reduce congestion, litter or noise. Such terms and conditions may differ from, or be more onerous than, those of existing trading licences for the same area.

Section 26: Section 25: supplemental

65. *Subsection (1)* sets out in more detail what restrictions and flexibilities will apply to regulations made under section 25. In particular, the regulations may disapply existing legislation in relation to street trading (including legislation about markets) and exceptions to the application of the regulations may be provided. For example, exceptions may be provided to permit certain news vendors and milk floats to trade in the vicinity of venues. Exceptions may also allow charitable sales. *Subsection (2)* applies the affirmative resolution procedure to these regulations. *Subsection (3)* requires the Secretary of State to, before making regulations, consult those authorities responsible for licensing relevant trading, the ODA, LOCOG and persons representing interests likely to be affected by the regulations. *Subsection (4)* gives these regulations

precedence over any other trading licence granted before or after the regulations are made, including rights granted under enactments and Charters. *Subsection (5)* prevents the regulations from 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 27: Offence

66. Contravention of a regulation made under section 25 will be an offence, punishable by a fine. In the Magistrates' Courts the maximum fine will be £20,000, which is higher than the maximum fine that Magistrates can normally apply. The level of fine is applied to this offence for the same reasons provided for the advertising regulations at paragraph 56 above.

Section 28: Enforcement: power of entry

67. This section gives a constable, or enforcement officer designated by the ODA, the power to enter premises on which they reasonably believe a contravention of the regulations is occurring. Officers may remove and retain any offending articles (either something being sold or something containing items for sale) for as long as its removal is justified by a need to:
- End a contravention of regulations made under section 25,
 - Prevent a future contravention of the regulations,
 - Enable an article to be used in evidence in proceedings for an offence under section 27, or
 - Enable the article to be forfeited where the article has been used for the purpose of committing an offence.
68. *Subsection (6)* provides for the Secretary of State to make regulations for a compensation scheme for damage caused by enforcement activities under section 28, although a person who is responsible for a contravention will not be eligible for compensation.

Section 29: Role of Olympic Delivery Authority

69. This section places a duty on the ODA in relation to regulations made under section 25. The ODA is required to inform those people likely to be affected by regulations about the effect of the regulations. It may also provide people with any assistance they need to comply with the regulations and must work with people affected by the regulations to identify alternative ways or places to trade. *Subsection (4)* gives the ODA a specific power of prosecution in England and Wales in relation to offences under section 25. *Subsection (6)* requires the ODA to publish a strategy for how they intend to publicise the nature of regulations, to grant authorisations and to exercise enforcement powers. That strategy is to be approved by the Secretary of State before publication.

Section 30: Other authorities

70. The Secretary of State may make an order requiring those persons who grant authorisations to trade to notify recipients that their rights will be superseded by any relevant regulations made under section 25. Such orders are to be subject to the negative resolution procedure.

Section 31: Sale of tickets

71. This section is based on section 166 of the Criminal Justice and Public Order Act 1994 which deals with ticket touting primarily in relation to tickets for football matches. It creates a criminal offence of touting tickets for the 2012 Olympic Games.

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

72. It will be an offence to sell a ticket (or anything that purports to be a ticket) for an event held as part of the London Olympics or Paralympics in a public place or in the course of a business without the written authorisation of LOCOG. If convicted of such an offence, a person would be liable to a fine up to level 5 on the standard scale (currently £5,000).
73. The definition of “selling a ticket” includes offering to sell a ticket, exposing a ticket for sale, advertising that a ticket is available for purchase and giving (or offering to give) a ticket to someone who is paying for other goods and services. The definition is drafted to include a situation where a ticket is offered as part of a package of other goods because this sort of activity has been used to circumvent ticketing conditions in the past.
74. In *Subsection (2)* the reference to an event held as part of the London Olympics includes non-sporting events and pre-Olympic test events.
75. Under *Subsection (2)(c)*, a person will be treated as acting in the course of a business if they are doing something as a result of which they will make a profit or aim to make a profit.
76. A person (‘the advertiser’) will commit an offence if they advertise that a ticket is available for purchase and if the person making the ticket so available is acting in the course of a business. However, if the only reason the ticket is made available in the course of a business is by reason of subsection 2(c) (that is, that the person makes, or aims to make a profit) and the advertiser did not know or could not reasonably be expected to know that the person offering the ticket for sale was doing so for a profit or with an aim to make a profit then the advertiser will not commit an offence.
77. *Subsections (4) and (5)* provide a defence for internet and other electronic communication service providers of being accessories to a ticket touting offence where they play an unwitting or unknowing role. However, once they become aware that their services are being used for touting tickets contrary to *subsection (1)*, the service provider must withdraw those services in the shortest reasonable time.
78. LOCOG is required to establish a system for granting written authorisations to official ticket sellers. It will be allowed to charge for such authorisations and will be entitled to exercise unfettered discretion in deciding whether or not to authorise vendors.
79. *Subsections (8) to (10)* make necessary amendments so that this provision has the same effect in Scotland as it does in England and Wales.