
STATUTORY INSTRUMENTS

2021 No. 1198

**SPORTS GROUNDS AND
SPORTING EVENTS, ENGLAND**

**The Birmingham Commonwealth Games
(Advertising and Trading) Regulations 2021**

Made - - - - 25th October 2021
Laid before Parliament 29th October 2021
Coming into force - - 19th November 2021

The Secretary of State, in exercise of the powers conferred by sections 13(2), 13(4), 15(2), 16(2), 16(4), 19(1) and 31(2) of the Birmingham Commonwealth Games Act 2020⁽¹⁾, makes the following Regulations.

In accordance with sections 15(3) and 19(2) of that Act, the Secretary of State has consulted with the Organising Committee, the local authorities for areas that include any place where the Regulations will have effect, and other persons whom the Secretary of State considered it appropriate to consult.

PART 1

Introductory

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Birmingham Commonwealth Games (Advertising and Trading) Regulations 2021.

(2) They come into force on 19th November 2021.

(3) These Regulations extend to England and Wales.

(4) These Regulations apply in relation to England only.

General interpretation

2.—(1) In these Regulations—

“the Act” means the Birmingham Commonwealth Games Act 2020;

(1) 2020 c. 10.

“event road” means any road on a relevant map that is marked with a blue line;

“hand-held device” means a hand-held mobile telephone or other personal interactive communication device;

“railway station” includes a West Midlands Metro station;

“relevant map” has the meaning given by regulation 5;

“street” has the same meaning as in paragraph 1(1) of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982⁽²⁾.

(2) Any reference in these Regulations to a person doing something in or on a railway station includes doing something in or on any part of a railway station (including its yards), whether on, above or under the ground.

PART 2

Specified Games locations, advertising or trading in, or in the vicinity of, a Games location, and specified periods

Specified Games locations

3. The Games locations⁽³⁾ which are specified for the purposes of section 13(2) (advertising offence) and section 16(2) (trading offence) of the Act are set out in Schedule 1.

Advertising or trading in, or in the vicinity of, a Games location

4.—(1) Subject to paragraph (2), a person is to be treated, for the purposes of section 13 and section 16 of the Act, as advertising⁽⁴⁾ or trading⁽⁵⁾ in, or in the vicinity of, a Games location when that person is—

- (a) advertising or trading in or on a railway station where any part of that station is on, above or under the ground in the non-shaded area that is bounded by a dotted green line on a relevant map;
- (b) advertising or trading on an event road;
- (c) advertising or trading in any other place within the non-shaded area that is bounded by a dotted green line on a relevant map;
- (d) advertising or trading—
 - (i) on any pavement that is outside the non-shaded area that is bounded by a dotted green line on a relevant map but is on any side of any part of a road that is within the non-shaded area that is bounded by a dotted green line on a relevant map (including on anything on or above the pavement), or
 - (ii) on any land or water that is outside the non-shaded area that is bounded by a dotted green line on a relevant map but is within two metres of any side of any part of a road that is within the non-shaded area that is bounded by a dotted green line on a relevant map (including on anything on or above the land or water) where there is no pavement, or where any pavement extends less than two metres from the side of the road;

(2) 1982 c. 30.

(3) “Games location” is defined in section 24(1) of the Act.

(4) “Advertising” is defined in section 24(1) of the Act.

(5) “Trading” is defined in section 16(2) of the Act.

- (e) advertising or trading on any part of any bridge which is outside the non-shaded area that is bounded by a dotted green line on a relevant map where the bridge carries an event road; or
 - (f) advertising on the frontage or roof of any building or frontage of any bridge, where—
 - (i) that frontage or roof can be seen from any place within sub-paragraphs (a) to (e), and
 - (ii) any part of the frontage or roof is within 25 metres of that place.
- (2) Where the Games location is the road race course or the time trial course—
- (a) a person is not to be treated as advertising on any pavement or land in the circumstances described in paragraph (1)(d) where that person is advertising on the frontage of any building on that pavement or land;
 - (b) paragraph (1)(f) does not apply.
- (3) In this regulation—
- “road race course” means the Games location specified in paragraph 9 of Schedule 1;
 - “time trial course” means the Games location specified in paragraph 13 of Schedule 1.
- (4) Any reference in this regulation to a place (including references to a railway station, event road, pavement, land or water) includes the airspace above that place.

Meaning of “relevant map”

5. A “relevant map” is a map of a specified Games location and its vicinity, bearing the name of the specified Games location, the title of these Regulations and the date October 2021, of which copies are set out in Schedule 2 and are available by appointment for inspection during normal office hours at:

- (a) the Department for Digital, Culture, Media and Sport, 100 Parliament Street, Westminster, London, SW1A 2BQ; and
- (b) the Birmingham Organising Committee for the 2022 Commonwealth Games, One Brindley Place, Birmingham, West Midlands, B1 2JB.

Specified periods

6. Schedule 3 sets out the periods which are specified for the purposes of section 13(2) and section 16(2) of the Act.

PART 3

Exceptions to the advertising offence

Exceptions for charities

7.—(1) Section 13(1) of the Act (advertising offence) does not apply to Games location advertising⁽⁶⁾ carried out by a charity wholly or partly for the purpose of—

- (a) promoting that charity; or
- (b) promoting a service listed in paragraph (3).

(2) The exception in paragraph (1) does not apply to anything done by a charity partly for the purpose of—

- (a) promoting a product; or

(6) “Games location advertising” is defined in section 13(2) of the Act.

- (b) promoting a business, other than a charity.
- (3) The services listed in this paragraph are—
 - (a) the prevention or relief of poverty;
 - (b) the advancement of health or the saving of lives;
 - (c) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
 - (d) the relief of those in need because of youth, age, ill-health, disability, financial hardship or other disadvantage;
 - (e) the promotion of the efficiency of the police, fire and rescue services or ambulance services.
- (4) In this regulation—
 - “charity” has the meaning given to it in section 1 of the Charities Act 2011(7), but does not include relevant higher education providers;
 - “relevant higher education provider” means an institution which is registered in the register of English higher education providers maintained by the Office for Students(8) under section 3 of the Higher Education and Research Act 2017 (register of English higher education providers)(9), but does not include an institution within the further education sector as defined by section 91(3) of the Further and Higher Education Act 1992 (interpretation of Education Acts)(10).

Exceptions modelled on the Town and Country Planning Regulations

- 8.—(1)** Section 13(1) of the Act does not apply to Games location advertising consisting of the display of an advertisement within—
- (a) a class specified in column (1) of Schedule 1 to the Town and Country Planning Regulations(11) (subject to paragraph (2)), provided that the display (or as the case may be) the advertisement complies with the conditions referred to in regulation 1(3) of those Regulations(12); or
 - (b) a class specified in Part 1 of Schedule 3 to the Town and Country Planning Regulations listed in paragraph (3), subject to—
 - (i) paragraph (4),
 - (ii) the conditions set out in Schedule 2 to the Town and Country Planning Regulations, and
 - (iii) in the case of any class other than Class 12, the conditions and limitations specified in Part 1 of Schedule 3 to the Town and Country Planning Regulations in relation to that class.
- (2) The exception in paragraph (1)(a) (classes specified in column (1) of Schedule 1 to the Town and Country Planning Regulations) does not apply to the display of any of the following advertisements—

(7) 2011 c. 25.

(8) The Office for Students is a body corporate established by section 1 of the Higher Education and Research Act 2017 (c. 29).

(9) 2017 c. 29.

(10) 1992 c. 13; section 91(3) was amended by the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), Schedule 8, paragraph 13.

(11) Class E in Schedule 1 to the Town and Country Planning Regulations was amended by S.I. 2018/1310; Class H in Schedule 1 was amended by S.I. 2012/2372, 2021/617.

(12) Regulation 1(3) of the Town and Country Planning Regulations was amended by S.I. 2021/617.

- (a) an advertisement within Class A (advertisements displayed on enclosed land) where the advertisement is displayed—
 - (i) on enclosed land**(13)**, or part of enclosed land, where that enclosed land, or that part of the enclosed land, is a railway station or bus station, including its forecourt (whether enclosed or not),
 - (ii) on or in a sports stadium, or
 - (iii) on enclosed land where a sporting event forming part of the Games**(14)** is taking place, is to take place, or has taken place on or in that enclosed land;
 - (b) an advertisement within Class C (advertisements incorporated in the fabric of buildings) that was not in existence on the date on which these Regulations came into force;
 - (c) an advertisement within Class I (advertisements displayed inside buildings), other than an exempt business advertisement, where the advertisement is displayed—
 - (i) in a building, or in part of a building, where that building (or that part of the building) is, or forms part of, a railway station or bus station,
 - (ii) in a sports stadium, or
 - (iii) in part of a building where a sporting event forming part of the Games is taking place, is to take place, or has taken place in that part of the building.
- (3) The classes referred to in paragraph (1)(b) (classes specified in Part 1 of Schedule 3 to the Town and Country Planning Regulations) are—
- (a) Class 1 (functional advertisements of government departments and their agencies, local authorities, public transport undertakers, statutory undertakers and Transport for London);
 - (b) Class 2 (miscellaneous advertisements relating to the premises on which they are displayed);
 - (c) Class 3 (miscellaneous temporary advertisements);
 - (d) Class 4 (illuminated advertisements on business premises);
 - (e) Class 5 (other advertisements on business premises)**(15)**;
 - (f) Class 6 (advertisements on forecourts of business premises);
 - (g) Class 7 (flag advertisements)**(16)**;
 - (h) Class 10 (advertisements for neighbourhood watch and similar schemes)**(17)**;
 - (i) Class 11 (directional advertisements);
 - (j) Class 12 (advertisements inside buildings)**(18)**;
 - (k) Class 17 (advertisements on charging points for electric vehicles)**(19)**.
- (4) The exception in paragraph (1)(b) does not apply to the display of any of the following advertisements—
- (a) an advertisement within Class 3D (advertisements announcing local events and activities) that promotes—
 - (i) a product or service, or
 - (ii) a business, other than a charity;

(13) “Enclosed land” is defined in column (2) of Schedule 1 to the Town and Country Planning Regulations.

(14) The “Games” are defined in section 1(3) of the Act.

(15) Class 5 in Schedule 3 to the Town and Country Planning Regulations was amended by regulation 2 of [S.I. 2007/1739](#).

(16) Class 7 in Schedule 3 to the Town and Country Planning Regulations was amended by regulation 2 of [S.I. 2012/2372](#) and regulations 2, 5 and 6 of [S.I. 2021/617](#).

(17) Class 10 in Schedule 3 to the Town and Country Planning Regulations was amended by regulation 23 of [S.I. 2011/3058](#).

(18) Class 12 in Schedule 3 to the Town and Country Planning Regulations was amended by regulation 2 of [S.I. 2011/2057](#).

(19) Class 17 of Schedule 3 to the Town and Country Planning Regulations was inserted by regulation 2 of [S.I. 2011/2057](#).

- (b) an advertisement within Class 3F (advertisements relating to travelling circuses, fairs or similar travelling entertainments);
 - (c) an advertisement within Class 7B (flags on residential development sites) that does not relate to the development or to a person carrying out the development or an aspect of the development;
 - (d) an advertisement within Class 12 (advertisements displayed inside buildings), other than an exempt business advertisement, where the advertisement is displayed—
 - (i) in a building, or in part of a building, where that building (or that part of the building) is, or forms part of, a railway station or bus station,
 - (ii) in a sports stadium, or
 - (iii) in part of a building where a sporting event forming part of the Games is taking place, or is to take place, or has taken place in that part of the building.
- (5) In this regulation—
- “business premises” and “forecourt” have the same meanings as in Schedule 3 to the Town and Country Planning Regulations⁽²⁰⁾;
- “exempt business advertisement” means an advertisement (whether illuminated or not) displayed on business premises within a building (or a forecourt associated with such premises) that refers only to—
- (i) the business carried on,
 - (ii) the goods or services provided, or
 - (iii) the name or qualifications of the person carrying on the business or providing the goods or services,
- on those premises;
- “the Town and Country Planning Regulations” means the Town and Country Planning (Control of Advertisements) (England) Regulations 2007⁽²¹⁾.

Exceptions for newspapers and periodicals

9.—(1) Section 13(1) of the Act does not apply to Games location advertising that consists of selling, distributing or providing a current newspaper or periodical.

(2) The exception in paragraph (1) does not apply to the selling, distribution or provision of a current newspaper or periodical—

- (a) in the street if the selling, distribution or provision is done in a manner that causes undue interference or inconvenience to persons using the street;
- (b) if the version of the newspaper or periodical sold, distributed or provided has been created for the purpose of sale, distribution or provision only to, or principally to, members of the public who are in, or in the vicinity of, a specified Games location; or
- (c) which is accompanied by any item if the whole or principal purpose of including that item is to promote a product, service or business specifically to members of the public who are in, or in the vicinity of, a specified Games location.

(3) For the purposes of this regulation, a person is to be treated as being in, or in the vicinity of, a specified Games location when that person is—

⁽²⁰⁾ See paragraph 1(1) of Part 2 of that Schedule.

⁽²¹⁾ S.I. 2007/783; relevant amending instruments are S.I. 2007/1739, 2011/2057, 2011/3058, 2012/2372, 2018/1310, 2019/907, 2020/632, 2021/617.

- (a) in or on a railway station where any part of that station is on, above or under the ground in the non-shaded area that is bounded by a dotted green line on a relevant map;
- (b) on an event road;
- (c) in any other place within the non-shaded area that is bounded by a dotted green line on a relevant map;
- (d) on any pavement that is outside the non-shaded area that is bounded by a dotted green line on a relevant map but is on any side of any part of a road that is within the non-shaded area that is bounded by a dotted green line on a relevant map; or
- (e) on any land or water that is outside the non-shaded area that is bounded by a dotted green line on a relevant map but is within two metres of any side of any part of a road that is within the non-shaded area that is bounded by a dotted green line on a relevant map where there is no pavement, or where any pavement extends less than two metres from the side of the road.

Exceptions for hand-held devices

10.—(1) Section 13(1) of the Act does not apply to Games location advertising that consists of advertising on a hand-held device unless the advertising is done wholly for the purpose of, or with the principal intention of, promoting a product, service or business specifically to members of the public who are in, or in the vicinity of, a specified Games location.

(2) For the purposes of this regulation, a reference to a person being in, or in the vicinity of, a specified Games location is to be read in accordance with regulation 9(3).

Exceptions for providers of information society services

11. Schedule 4 contains exceptions relevant to providers of information society services.

PART 4

Exceptions to the trading offence

Exceptions to the trading offence

- 12.**—(1) Section 16(1) of the Act (trading offence) does not apply to—
- (a) trading⁽²²⁾ in a specified Games location, except where the activity is done in a relevant public place⁽²³⁾ in a specified Games location;
 - (b) supplying public transport services;
 - (c) trading as a guided tour operator, including transporting people to the start point of a tour;
 - (d) selling, distributing or providing current newspapers or periodicals (subject to paragraph (2));
 - (e) offering or exposing an item for sale from inside a building to a person who is outside that building, provided that offering of or exposing of the item for sale forms part of the usual business of a person who is the ratepayer in respect of the hereditament comprising the building in accordance with the Local Government Finance Act 1988⁽²⁴⁾ (or who would be the ratepayer but for the application of an exemption under Schedule 5 to that Act);

⁽²²⁾ “Trading” is defined in section 16(2) of the Act.

⁽²³⁾ “Relevant public place” is defined in section 16(8) of the Act.

⁽²⁴⁾ 1988 c. 41.

- (f) providing a charge point;
 - (g) providing outdoor exercise classes;
 - (h) providing a parcel delivery locker;
 - (i) trading on a hand-held device;
 - (j) trading on private land adjacent to exempt retail premises provided that the trading activity—
 - (i) forms part of the usual business of a person who is the ratepayer in respect of the hereditament comprising the premises in accordance with the Local Government Finance Act 1988 (or who would be the ratepayer but for the application of an exemption under Schedule 5 to that Act),
 - (ii) takes place during the period for which the premises are open to the public for business, and
 - (iii) does not cause undue interference or inconvenience to persons using a street;
 - (k) offering or exposing an item for sale adjacent to exempt retail premises provided that this activity—
 - (i) forms part of the usual business of a person who is the ratepayer in respect of the hereditament comprising the premises in accordance with the Local Government Finance Act 1988 (or who would be the ratepayer but for the application of an exemption under Schedule 5 to that Act),
 - (ii) takes place during the period for which the premises are open to the public for business, and
 - (iii) does not cause undue interference or inconvenience to persons using a street;
 - (l) providing, or offering to provide, a service at a burial ground or cemetery, provided that the service forms part of the usual services carried out at that burial ground or cemetery;
 - (m) trading at a leisure centre or outdoor sports facility, provided that the trading forms part of the usual business carried out at that leisure centre or outdoor sports facility.
- (2) The exception in paragraph (1)(d) does not apply to selling, distributing or providing a current newspaper or periodical in a street if the selling, distributing or providing is done in a manner that causes undue interference or inconvenience to persons using the street.
- (3) In this regulation—
- “charge point” means a device intended for charging a vehicle that is capable of being propelled by electrical power derived from a storage battery (or for discharging electricity stored in such a vehicle);
- “exempt retail premises” means a building normally used as—
- (a) a shop,
 - (b) a café, restaurant, bar, or otherwise used for the supply of meals, refreshments or alcohol to the public, or
 - (c) a petrol filling station, car showroom or car garage;
- “guided tour operator” means a person who supplies services to the public comprising tours in an area, excluding tours conducted on transport;
- “hereditament” has the same meaning as given in section 64 of the Local Government Finance Act 1988 (hereditaments)(**25**);

(25) Section 64 was amended by the Local Government Finance Act 1992 (c. 14), Schedule 10, paragraph (2), the Local Government and Rating Act 1997 (c. 29), Schedule 3, paragraph 25, and Schedule 4, the Local Government Act 2003 (c. 26), section 66, the Rating (Property in Common Occupation) and Council Tax (Empty Dwellings) Act 2018 (c. 25), section 1(1).

“parcel delivery locker” means a locker for the collection or sending of parcels;

“pedicab” means a pedal cycle, or a pedal cycle in combination with a trailer, constructed or adapted for carrying one or more passengers;

“pedal cycle” includes a power-assisted pedal cycle;

“public transport services” means any service for the carriage of passengers from place to place which is available to the general public (whether or not for payment) and includes taxis, private hire vehicles and cycle hire, but does not include—

(a) pedicabs, including pedicabs that are licensed as taxis, or

(b) water taxi services;

“water taxi services” means services of vessels provided for the primary purpose of carrying members of the public to, from or between locations.

Exceptions for providers of information society services

13. Schedule 4 contains exceptions relevant to providers of information society services.

Nigel Huddleston
Minister for Sport, Tourism, Heritage and Civil
Society
Department for Digital, Culture, Media and
Sport

25th October 2021

SCHEDULES

SCHEDULE 1

Regulation 3

Specified Games locations

1. Alexander Stadium, Perry Barr, Birmingham.
2. The following places, to be known collectively as “Birmingham City Centre”—
 - (1) Centenary Square, Birmingham;
 - (2) Victoria Square, Birmingham;
 - (3) Arena Birmingham, Birmingham; and
 - (4) Smithfield, Birmingham.
3. Cannock Chase Forest, Rugeley, meaning those parts of Cannock Chase Forest that are within the non-shaded area bounded by a dotted green line on the relevant map bearing the name “Cannock Chase Forest”.
4. Coventry Stadium and Arena, Coventry.
5. Edgbaston Stadium, Birmingham.
6. Lee Valley VeloPark, London.
7. The marathon course, being the event roads marked on the relevant maps bearing the name “Marathon Course 1”, “Marathon Course 2” and “Marathon Course 3”.
8. The NEC, Birmingham.
9. The road race course, being the event roads marked on the relevant maps bearing the name “Road Race Course 1” and “Road Race Course 2”.
10. Sandwell Aquatics Centre, Smethwick.
11. St. Nicholas Park, Warwick.
12. Sutton Park, Sutton Coldfield, meaning those parts of Sutton Park that are within the non-shaded area bounded by a dotted green line on the relevant map bearing the name “Sutton Park”.
13. The time trial course, being the event roads marked on the relevant maps bearing the name “Time Trial Course 1”, “Time Trial Course 2”, “Time Trial Course 3” and “Time Trial Course 4”.
14. University of Birmingham, Birmingham, meaning those parts of the University of Birmingham that are within the non-shaded area bounded by a dotted green line on the relevant map bearing the name “University of Birmingham”.
15. University of Warwick, Coventry, meaning those parts of the University of Warwick that are within the non-shaded area bounded by a dotted green line on the relevant map bearing the name “University of Warwick”.
16. Victoria Park, Leamington Spa.
17. West Park, Wolverhampton.

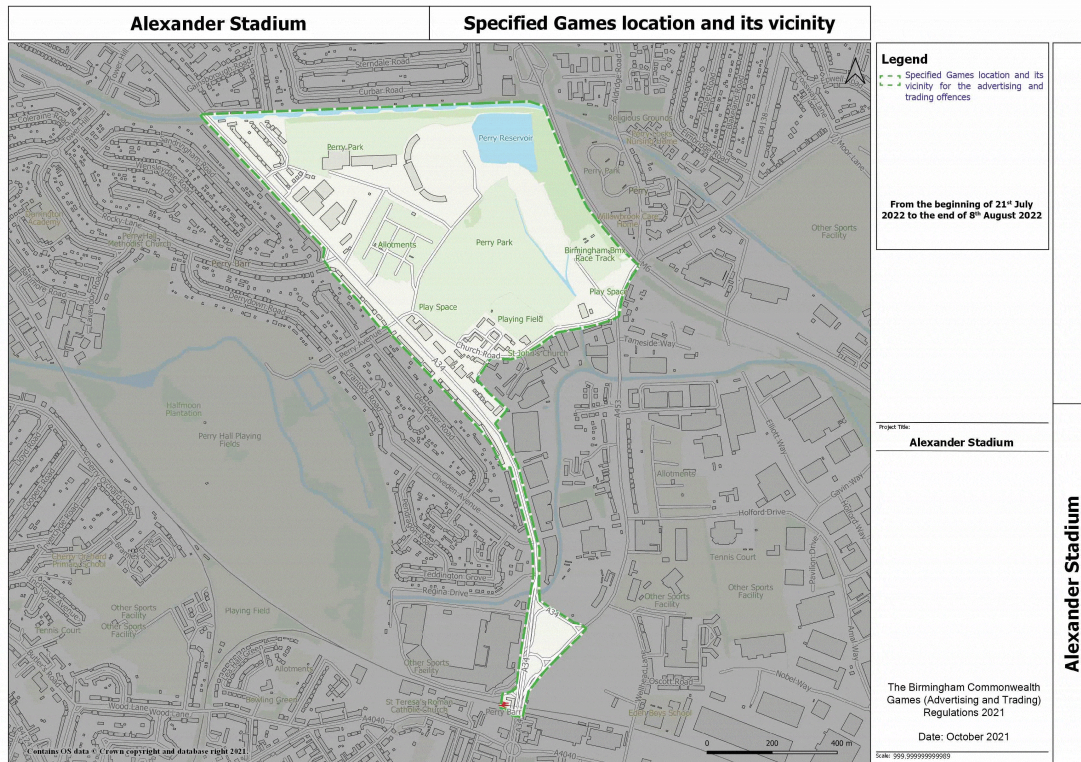
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SCHEDULE 2

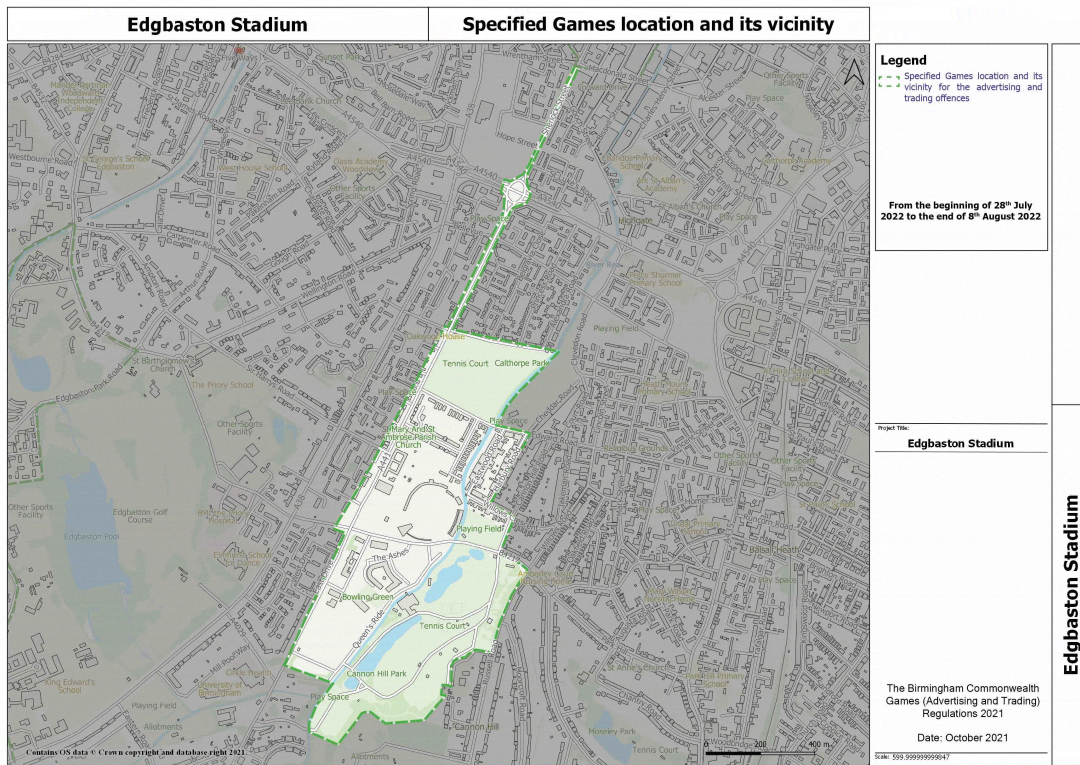
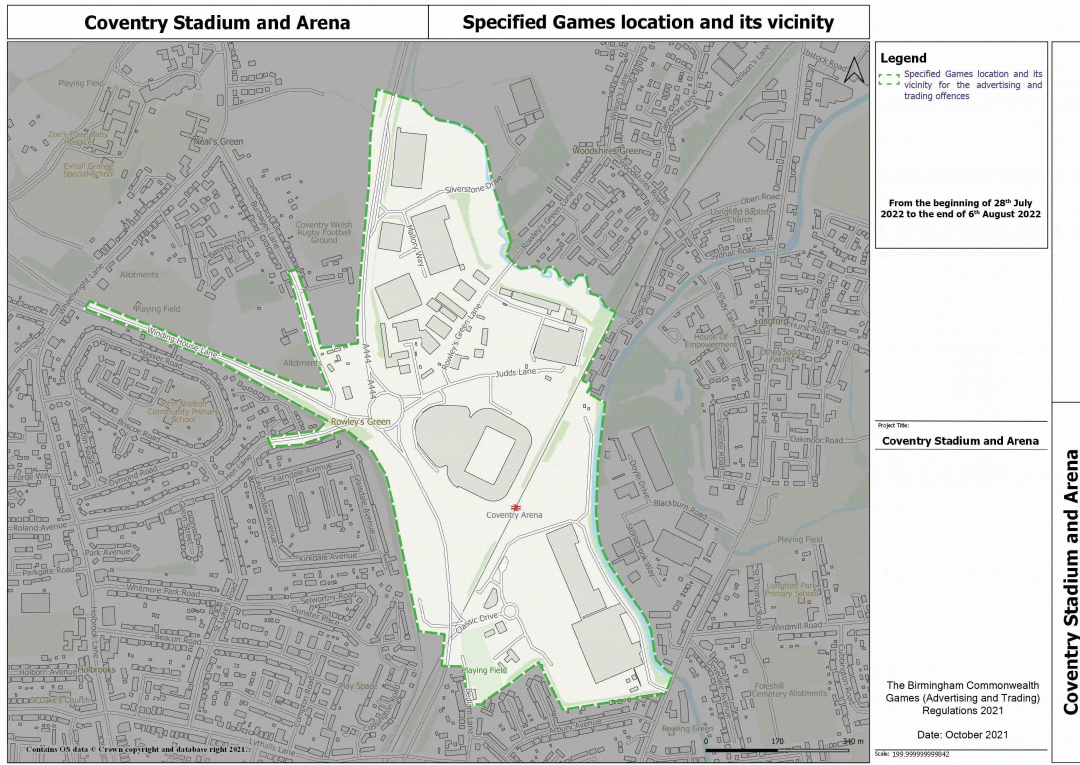
Regulation 5

Maps

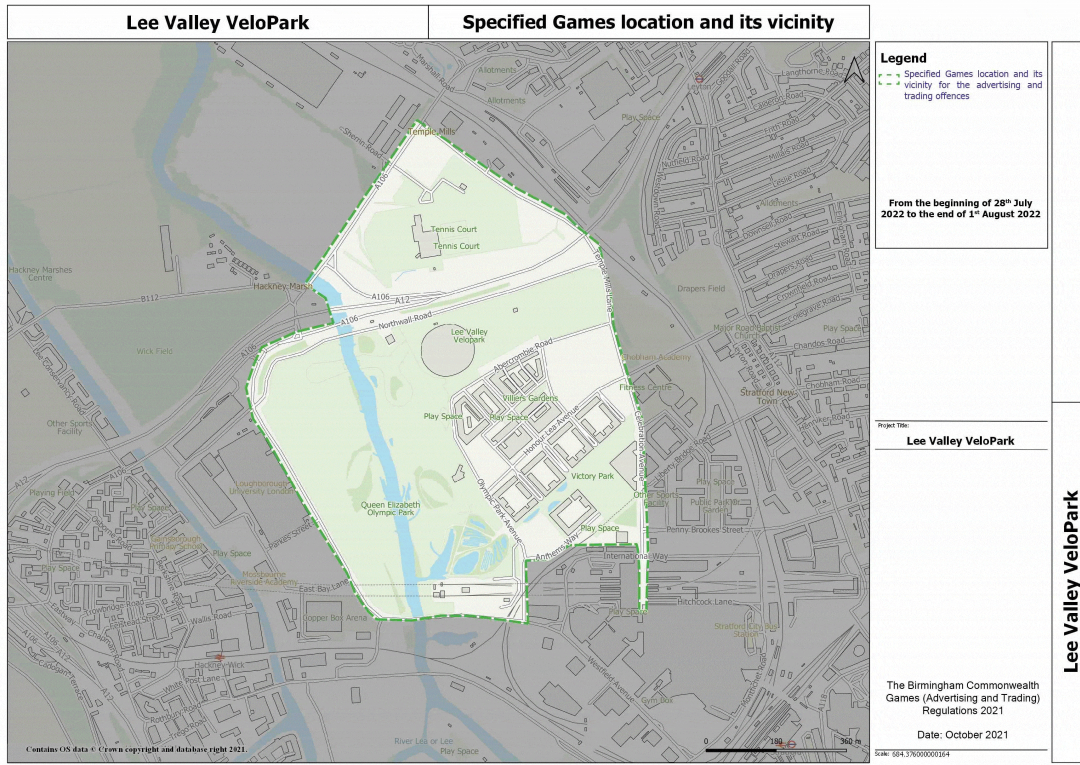
In this Schedule, “the advertising and trading offences” means the offences in sections 13 and 16 of the Birmingham Commonwealth Games Act 2020.



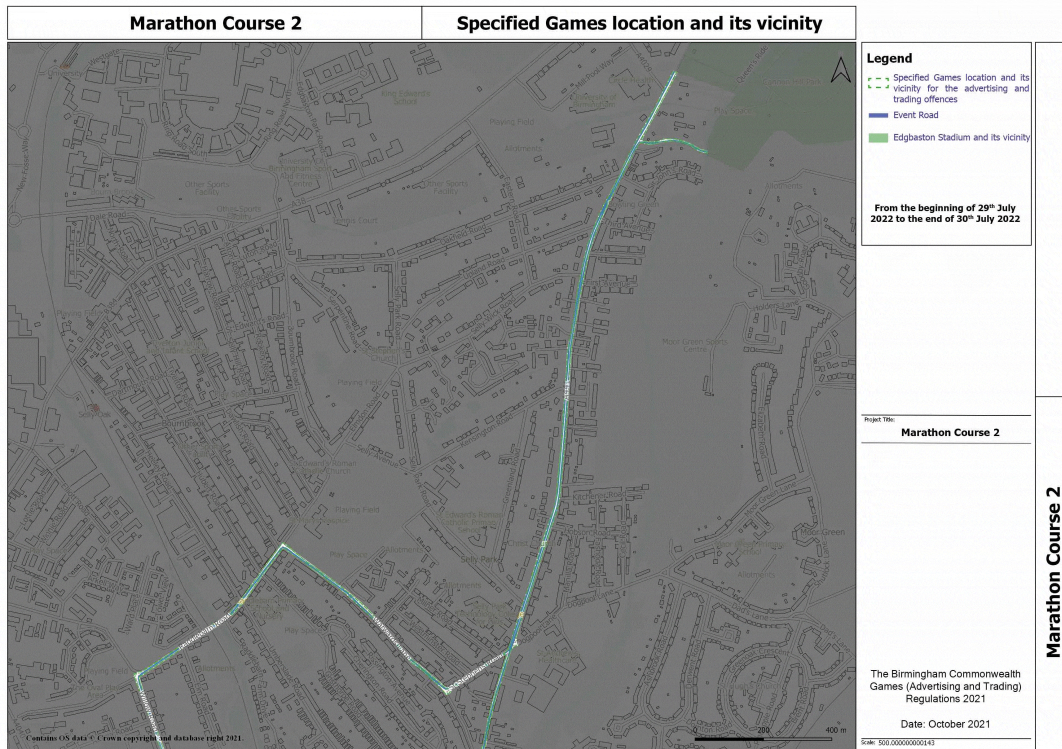
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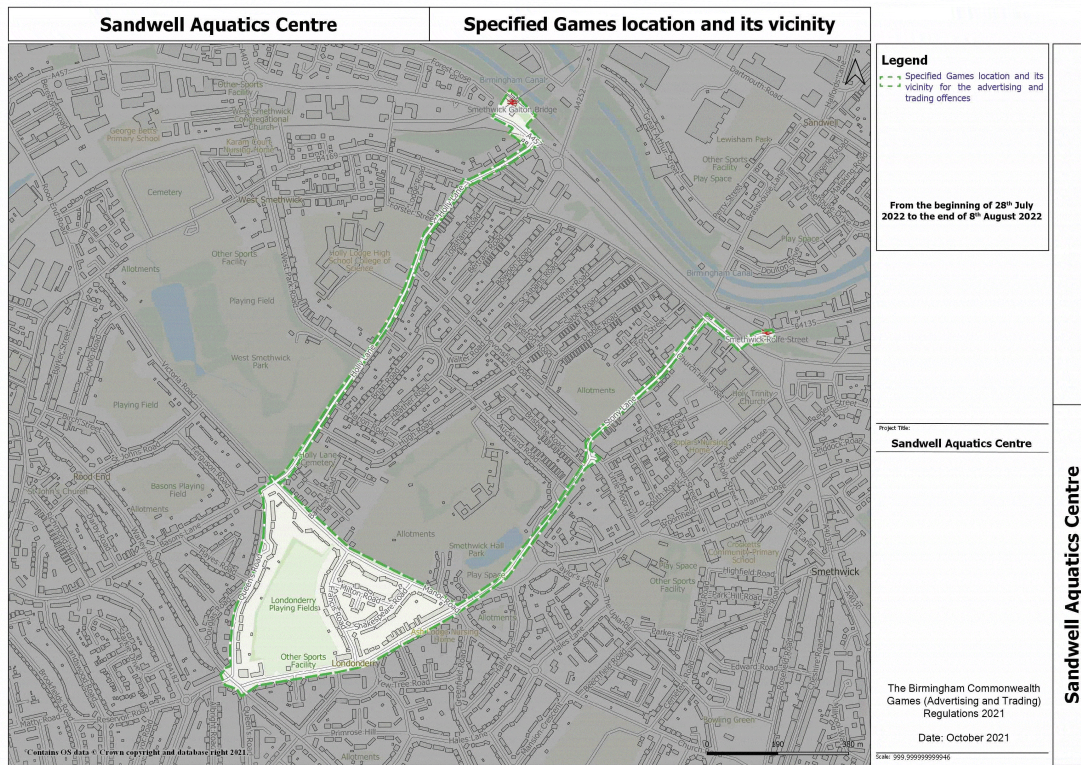
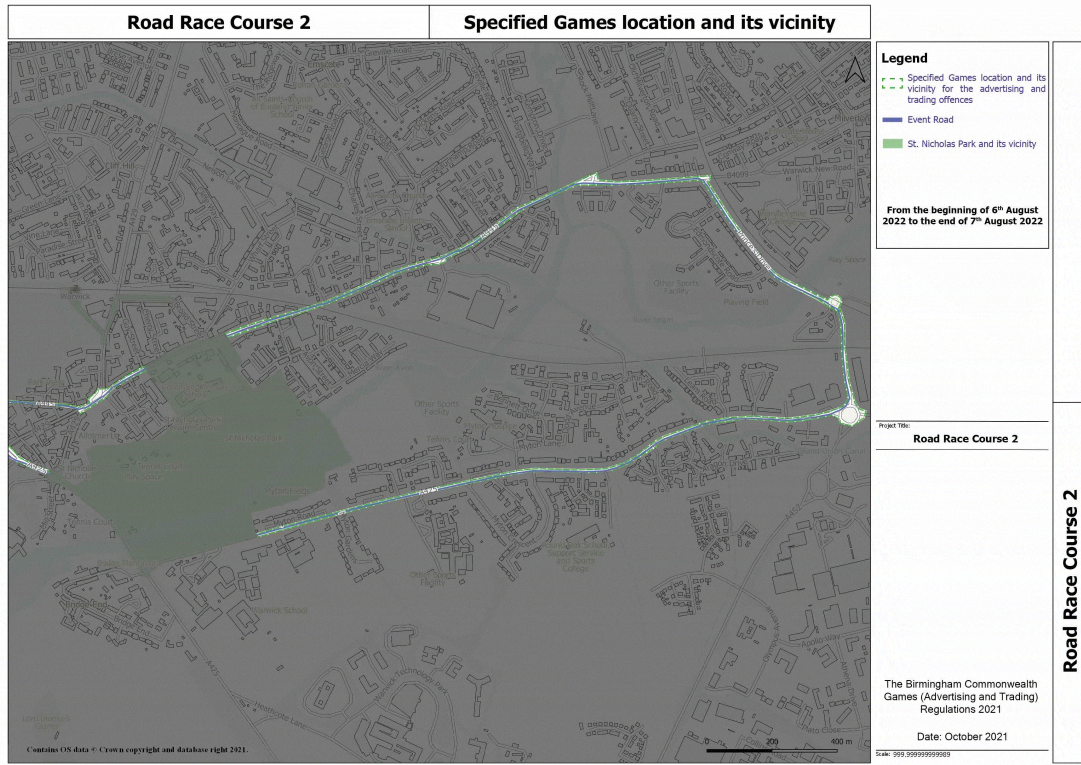
Marathon Course 2



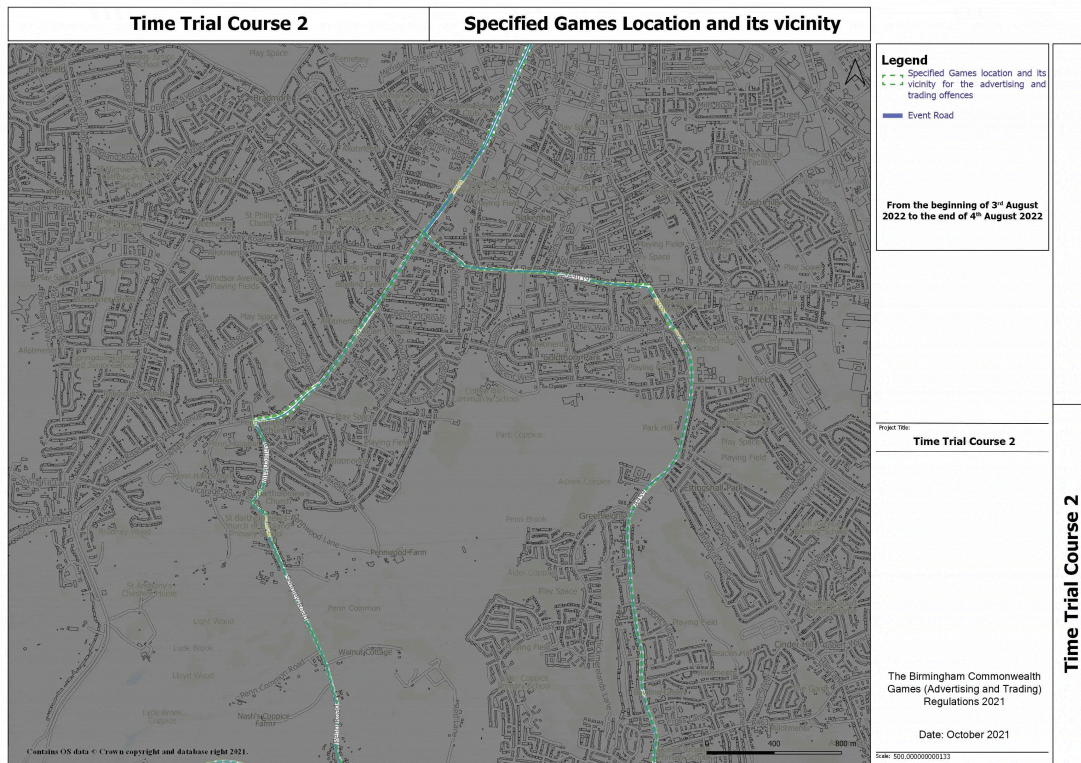
Marathon Course 3

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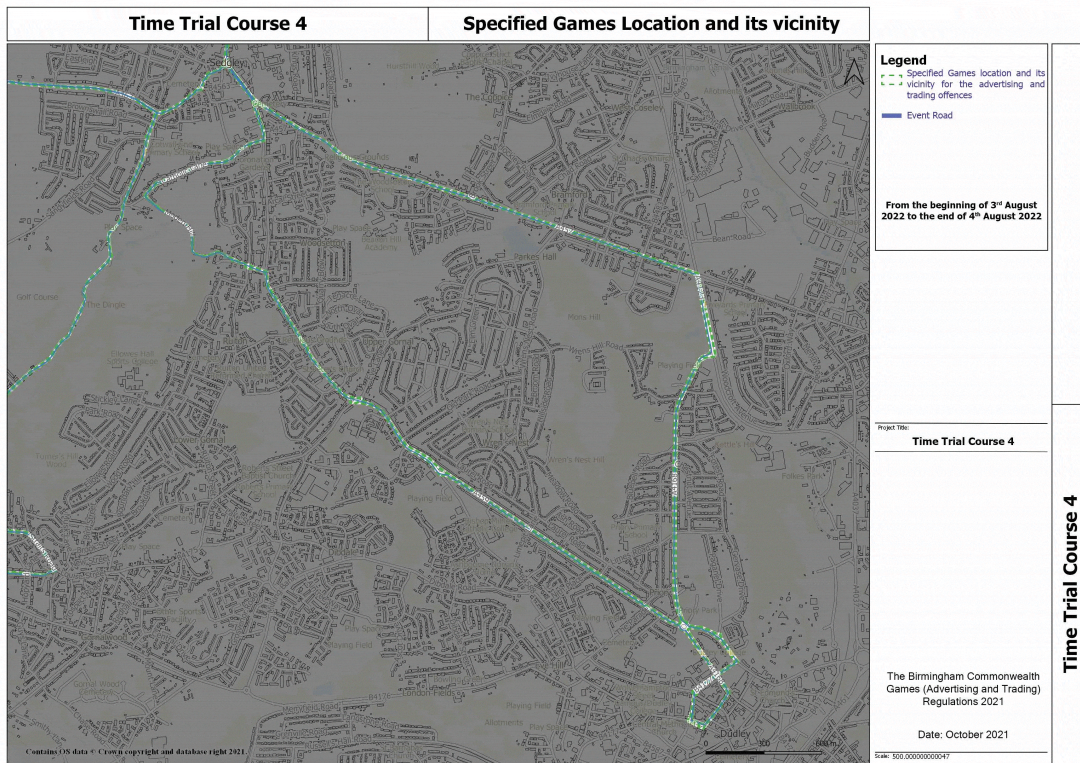
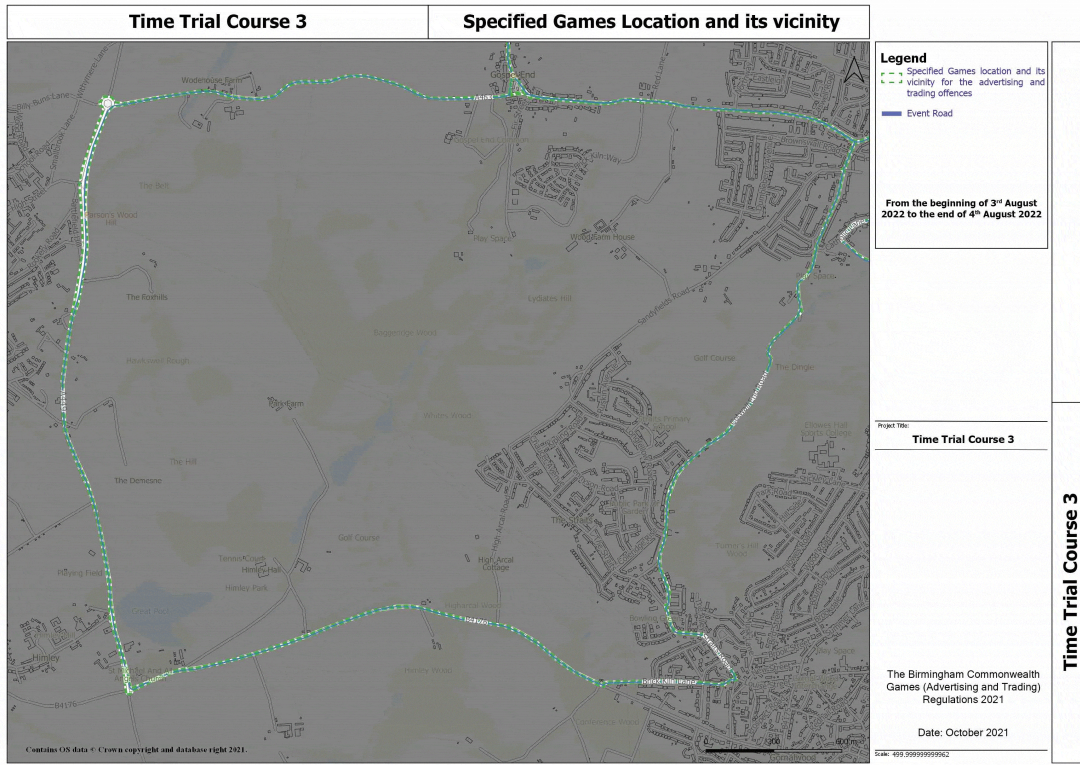
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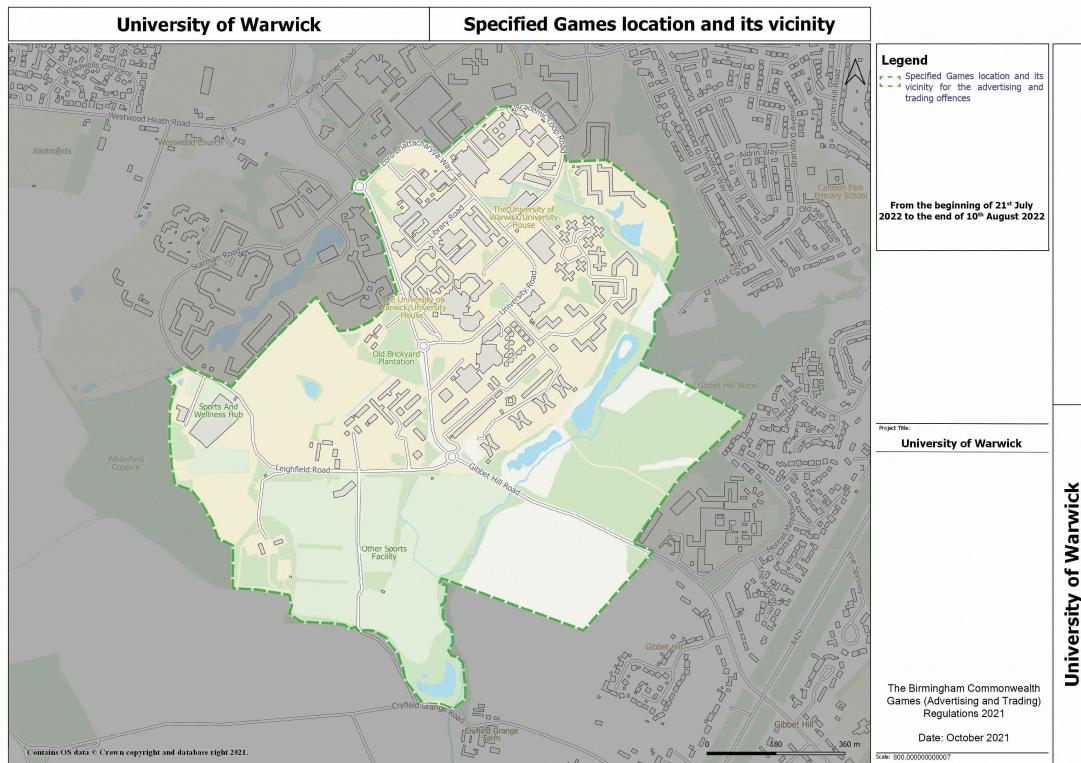
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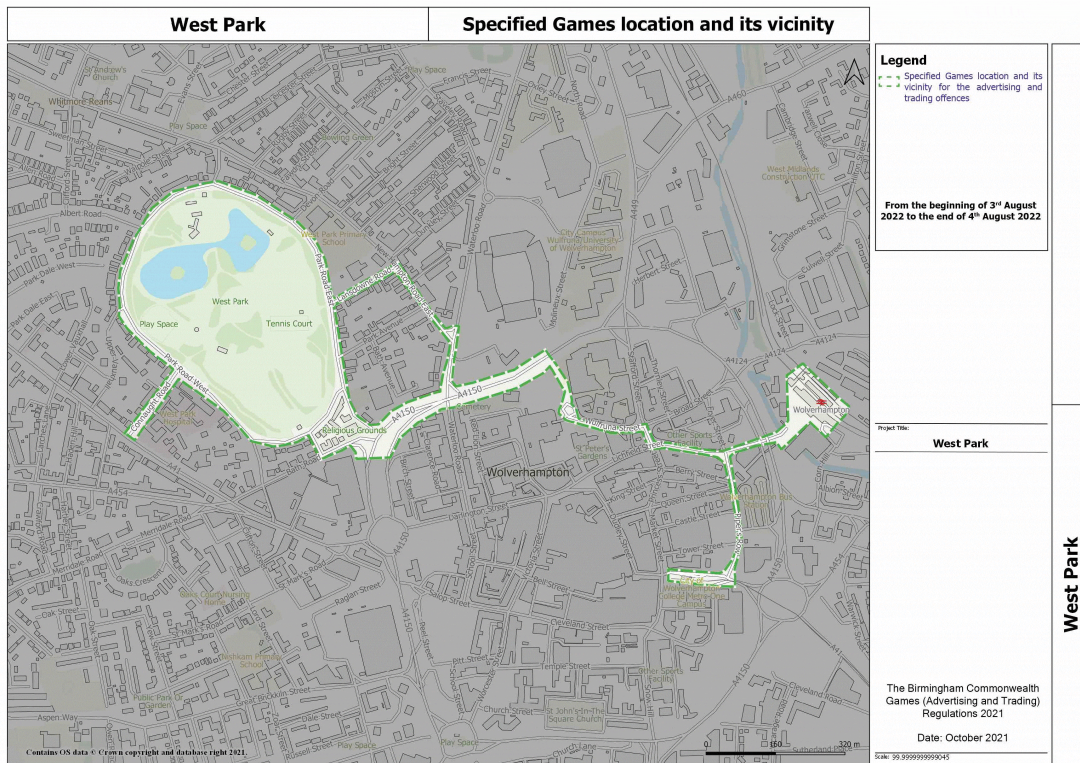
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SCHEDULE 3

Regulation 6

Specified periods

References in column 1 are to be read as references to the specified Games location of the same name (see Schedule 1) and the vicinity of that Games location.

<i>Column 1: Area</i>	<i>Column 2: Specified period</i>
Alexander Stadium	From the beginning of 21st July 2022 to the end of 8th August 2022
Birmingham City Centre	From the beginning of 24th July 2022 to the end of 8th August 2022
Cannock Chase Forest	From the beginning of 2nd August 2022 to the end of 3rd August 2022
Coventry Stadium and Arena	From the beginning of 28th July 2022 to the end of 6th August 2022
Edgbaston Stadium	From the beginning of 28th July 2022 to the end of 8th August 2022
Lee Valley VeloPark	From the beginning of 28th July 2022 to the end of 1st August 2022
Marathon Course	From the beginning of 29th July 2022 to the end of 30th July 2022
The NEC	From the beginning of 21st July 2022 to the end of 10th August 2022
Road Race Course	From the beginning of 6th August 2022 to the end of 7th August 2022
Sandwell Aquatics Centre	From the beginning of 28th July 2022 to the end of 8th August 2022
St. Nicholas Park	From the beginning of 6th August 2022 to the end of 7th August 2022
Sutton Park	From the beginning of 28th July 2022 to the end of 31st July 2022
Time Trial Course	From the beginning of 3rd August 2022 to the end of 4th August 2022
University of Birmingham	From the beginning of 21st July 2022 to the end of 10th August 2022
University of Warwick	From the beginning of 21st July 2022 to the end of 10th August 2022
Victoria Park	From the beginning of 28th July 2022 to the end of 6th August 2022
West Park	From the beginning of 3rd August 2022 to the end of 4th August 2022

SCHEDULE 4

Regulations 11 and 13

Exceptions to the advertising and trading offences for providers of information society services

Exceptions for mere conduits

1.—(1) Sections 13(1) and 16(1) of the Act do not apply to a service provider providing access to a communication network or transmitting, in a communication network, information provided by a recipient of the service, if the service provider does not—

- (a) initiate the transmission,
- (b) select the recipient of the transmission, or
- (c) select or modify the information contained in the transmission.

(2) For the purposes of sub-paragraph (1)—

- (a) providing access to a communication network, and
- (b) transmitting information in a communication network

include the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.

(3) Sub-paragraph (2) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

Exception for caching

2.—(1) Sections 13(1) and 16(1) of the Act do not apply to a service provider storing information provided by a recipient of the service for transmission in a communication network if the first and second conditions are met.

(2) The first condition is that the storage of the information—

- (a) is automatic, intermediate and temporary, and
- (b) is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request.

(3) The second condition is that the service provider—

- (a) does not modify the information,
- (b) complies with any conditions attached to having access to the information, and
- (c) if sub-paragraph (4) applies, promptly removes the information or disables access to it.

(4) This sub-paragraph applies if the service provider obtains actual knowledge that—

- (a) the information at the initial source of the transmission has been removed from the network,
- (b) access to it has been disabled, or
- (c) a court or administrative authority has ordered the removal from the network of, or the disablement of access to the information.

Exception for hosting

3.—(1) Sections 13(1) and 16(1) of the Act do not apply to a service provider storing information provided by a recipient of the service if—

- (a) the service provider has no actual knowledge when the information was provided that its provision constituted an offence under section 13(1) or (as the case may be) section 16(1) of the Act, or

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(b) on obtaining actual knowledge that the provision of the information constituted such an offence, the service provider promptly removed the information or disabled access to it.

(2) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority or control of the service provider.

Interpretation

4. In this Schedule—

“at a distance” means that the service is provided without the parties being simultaneously present;

“at the individual request of a recipient of services” means that the service is provided through the transmission of data on individual request;

“by electronic means” means that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means;

“information society service” means any service normally provided for remuneration, at a distance, by electronic means, and at the individual request of a recipient of a service;

“recipient”, in relation to a service, means a person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible;

“service provider” means a person providing an information society service.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Birmingham Commonwealth Games Act 2020 (“the 2020 Act”) makes it an offence to carry out Games location advertising or to arrange or permit the carrying out of such advertising (section 13 of the 2020 Act). It also makes it an offence to carry out Games location trading or to arrange or permit the carrying out of such trading (section 16 of the 2020 Act).

Section 13(2) of the 2020 Act provides that a person carries out “Games location advertising” if the person does something in, or in the vicinity of, a specified Games location at any time during a specified period, and the thing is done wholly or partly for the purpose of promoting a product, service or business specifically to members of the public who are in, or in the vicinity of, the Games location, or who are watching or listening to a broadcast of a Games event.

Section 16(2) of the 2020 Act provides that a person carries out “Games location trading” if the person carries out trading in a specified Games location at any time during a specified period, or trading in a relevant public place in the vicinity of a Games location at any time during a specified period.

These Regulations specify Games locations and periods for the purposes of section 13 and section 16. They also make provision as to when a person is to be treated (for the purposes of section 13 and section 16) as advertising or trading in, or in the vicinity of, a Games location.

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These Regulations also make provision to specify the conduct to which section 13(1) (the advertising offence) and section 16(1) (the trading offence) does not apply.

Regulation 3 and Schedule 1 set out the specified Games locations for the purposes of section 13 and section 16.

Regulation 4 makes provision as to when a person is to be treated as advertising or trading in, or in the vicinity of, a Games location.

The Regulations use the term “relevant map”. Regulation 5 sets out the meaning of “relevant map”. Copies of these maps are included in Schedule 2 and are available by appointment for inspection during normal office hours at:

- (a) Department for Digital, Culture, Media and Sport, 100 Parliament Street, Westminster, London, SW1A 2BQ, and
- (b) Birmingham Organising Committee for the 2022 Commonwealth Games, One Brindley Place, Birmingham, West Midlands, B1 2JB.

Regulation 6 and Schedule 3 make provision as to the specified periods for each specified Games location and its vicinity.

Regulations 7 to 11 specify exceptions to the advertising offence. Regulation 7 makes provision as to conduct of a charity to which section 13(1) does not apply.

The exceptions in regulation 8 are modelled on provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the “Town and Country Planning Regulations”). Under regulation 8(1)(a), the advertising offence does not apply to the display of an advertisement within a class of advertisement specified in Schedule 1 to the Town and Country Planning Regulations, provided that the conditions mentioned in paragraph (1)(a) are complied with and subject to paragraph (2). Under regulation 8(1)(b), the advertising offence does not apply to the display of an advertisement within a class of advertisement specified in Part 1 of Schedule 3 to the Town and Country Planning Regulations, subject to paragraph (4) and the conditions and limitations listed in paragraph (1)(b)(ii) and (iii).

Regulation 8 refers to enclosed land or parts of buildings where a sporting event forming part of the Games is taking place, is to take place or has taken place. A list of these places is available on the website of the Birmingham Organising Committee for the 2022 Commonwealth Games (<https://www.birmingham2022.com/>) or is available in writing on request by writing to the Organising Committee at its office at One Brindley Place, Birmingham, West Midlands, B1 2JB.

Regulations 9 to 11 specify other exceptions to the advertising offence.

Regulations 12 and 13 make provision about exceptions to the trading offence.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.