

---

DRAFT SCOTTISH STATUTORY INSTRUMENTS

---

**2013 No.**

The Glasgow Commonwealth Games (Trading  
and Advertising) (Scotland) Regulations 2013

PART 2

Trading Regulations

**Interpretation of Part 2**

**3.—(1)** In this Part—

- (a) any reference (however phrased) to selling an article includes a reference to offering or exposing an article for sale;
- (b) any reference (however phrased) to supplying a service includes a reference to offering to supply a service;
- (c) “motor vehicle” has the same meaning as in section 185 of the Road Traffic Act 1988<sup>(1)</sup>;
- (d) “open public place” means—
  - (i) a road; or
  - (ii) another place—
    - (aa) to which the public have access (whether generally or only for the purpose of the trading); and
    - (bb) which is not in a building (except one designed or generally used for the parking of cars);
- (e) “performance of a play” means performance of any dramatic piece, whether improvisational or not—
  - (i) given wholly or in part by one or more persons actually present and performing; and
  - (ii) in which the whole or a major proportion of what is done by the person performing, whether by way of speech, singing or action, involves the playing of a role;
- (f) “public entertainment” means entertainment of one of the following descriptions provided for members of the public—
  - (i) a performance of live music;
  - (ii) any playing of recorded music;
  - (iii) a performance of dance;
  - (iv) a performance of a play;
  - (v) any entertainment of a similar description to that in heads (i) to (iv);

---

<sup>(1)</sup> 1988 c.52.

- (g) “selling an article” includes trading by a person acting as a pedlar whether or not under the authority of a pedlar’s certificate granted under the Pedlars Act 1871(2);
- (h) “trading activity” means activity which, in terms of regulation 4, is to be treated as trading for the purposes of the trading offence.

### **Trading activity**

4.—(1) The activities set out in paragraph (2) are to be treated as trading for the purposes of the trading offence if carried out in an open public place.

(2) Those activities are—

- (a) selling an article;
- (b) supplying a service;
- (c) making an appeal to members of the public to give money or other property (or both) for charitable or other purposes (whether authorised or not under any enactment);
- (d) providing public entertainment for gain or reward.

(3) In determining whether an activity is to be treated as trading for the purposes of the trading offence, the following matters are to be disregarded—

- (a) that any gain or reward arising from the activity does not accrue to the person actually carrying out the activity;
- (b) that either party to a transaction is not in an open public place when one of the following activities occurs—
  - (i) an offer or exposure of an article for sale;
  - (ii) an offer to supply a service;
  - (iii) the completion of a transaction;
- (c) that a transaction was not completed in an open public place, if one of the following activities occurs in such a place—
  - (i) an offer or exposure of an article for sale;
  - (ii) an offer to supply a service;
- (d) that an article actually sold or service actually supplied was different from that originally offered or exposed for sale.

### **Prescribed places and prohibited times**

5.—(1) The event zones (other than the zones referred to in paragraphs 4, 5 and 6 of Schedule 2) are the places which are to be treated as being in the vicinity of a Games location(3) for the purposes of the trading offence.

(2) The times set out in Schedule 2 are the prohibited times for the purposes of the trading offence.

### **Trading offence**

6.—(1) A person commits the trading offence where—

- (a) that person (at any time or any place) arranges for trading activity to take place in contravention of subsection (1) of section 2 of the Act; or

---

(2) 1871 c.96.

(3) In terms of section 1(2) of the Act, a “Games location” is a place in which an event is held as part of the Games and any other place specified by order (*see* the Glasgow Commonwealth Games (Games Locations) Order 2013 (S.S.I. 2013/259) for such an order).

- (b) trading activity in contravention of that subsection—
  - (i) is undertaken by a business or other concern in which that person has an interest or for which that person is responsible; or
  - (ii) takes place on land that that person owns or occupies or of which that person has responsibility for management.
- (2) Paragraph (1)(b) does not apply to a person who proves that—
  - (a) The trading activity took place without the person’s knowledge; or
  - (b) the person took all reasonable steps to prevent the trading activity taking place or where it has taken place, to prevent it continuing or recurring.
- (3) A person will be treated as having an interest in or responsibility for a business or other concern if the person is an officer of the business or other concern.
- (4) A person will be treated as having responsibility for the management of the land if the person is an officer of a business or other concern that owns, occupies or has responsibility for the management of the land.
- (5) In paragraphs (3) and (4), “officer” means a director, manager, secretary or other similar officer.
- (6) This regulation applies to trading activity whether or not it consists of the result or continuation of activity carried out before these Regulations came into force.

### **Trading permitted without authorisation**

- 7.—(1) The following trading activities are permitted without authorisation—
- (a) selling current newspapers;
  - (b) activity undertaken or controlled by the Organising Committee on enclosed land which is a Games location;
  - (c) selling or delivering an article, or supplying a service, to a person in premises adjoining a road;
  - (d) selling a motor vehicle on private land generally used for the sale of motor vehicles;
  - (e) supplying motor vehicle cleaning services on private land generally used for the supply of those services;
  - (f) supplying motor vehicle parking services in a building designed or on other land designed or generally used for the parking of motor vehicles;
  - (g) supplying motor vehicle breakdown and recovery services;
  - (h) providing a public sanitary convenience;
  - (i) providing a permanent telephone kiosk;
  - (j) providing an automated teller machine in or from a building for cash withdrawals and other banking services;
  - (k) trading as a walking tour operator;
  - (l) supplying public transport services, including tourist services but not including supplying pedicabs; and
  - (m) activity on land adjacent to exempt retail premises provided that the activity—
    - (i) forms part of the usual business of the owner of the premises or a person assessed for rating in respect of the premises; and
    - (ii) takes place during the period for which the premises are open to the public for business.

- (2) Paragraph (1)(a) does not apply to—
- (a) selling current newspapers in a street if the selling is done from a receptacle that causes undue interference or inconvenience to persons using the street; or
  - (b) selling a newspaper if the purchaser is provided with an article or advertising supplement accompanying the newspaper.
- (3) In this regulation—
- “exempt retail premises” means a building normally used as—
- (a) a shop;
  - (b) a restaurant or bar or otherwise used for the supply of meals, refreshments or alcohol to the public; or
  - (c) a petrol filling station;
- “sanitary convenience” means closet or urinal;
- “supplying pedicabs” means supplying pedal operated tricycles for hire;
- “tourist services” means public transport services primarily for the benefit of tourists; and
- “walking tour operator” means a person who supplies services to the public comprising tours of an area on foot.

#### **Trading by master licensee**

- 8.—(1) Any trading activity carried out by the master licensee is permitted without authorisation.
- (2) In paragraph (1), “the master licensee” is Venue Retail 2014 Limited, a company the registration number of which is 08088948 and the registered office of which is at 7 Billing Road, Northampton, NN1 5AN.

#### **Trading authorised by the Organising Committee**

- 9.—(1) The Organising Committee may authorise persons to trade in a way which would otherwise constitute a trading offence.
- (2) Subject to these Regulations, the Organising Committee has an absolute discretion in respect of each application for authorisation.
- (3) The Organising Committee must have regard to the provisions of the Host City Contract before granting an authorisation under this regulation
- (4) An authorisation granted under this regulation is subject to the condition that any person who engages in trading activity in reliance on the authorisation holds any trading licence required for the activity in question.
- (5) Any fee charged by the Organising Committee in connection with an authorisation under this regulation (or an application for such an authorisation) is not to exceed £70.