
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations control advertising and trading activity in areas around London 2012 Olympic and Paralympic Games events in England (“event zones”) during the period or periods when those events take place (the “relevant event period or periods”). Regulation 4 makes clear that nothing in the Regulations authorises a person to do anything that is prohibited by or under any enactment or rule of law, or affects any requirement under an enactment or rule of law that requires a person to hold a licence (as defined in regulation 3) before engaging in a particular activity.

There are 25 event zones. They are defined in Schedule 1 by reference to maps that are available for inspection at the offices of the Department for Culture, Media and Sport, the Olympic Delivery Authority (“ODA”), and the relevant local authority or authorities set out in the table following paragraph 5 of Schedule 1. The relevant event period or periods for each event zone are set out in Schedule 2.

Regulation 6 prohibits a person from engaging in advertising activity in an event zone during the relevant event period or periods (the “advertising prohibition”).

Regulation 5 defines “advertising activity” to mean displaying an advertisement or distributing or providing promotional material. “Advertisement”, “displaying an advertisement” and “promotional material” are defined in the same regulation and specific provision is made in regulation 5(3) for advertisements displayed on mobile telephones and other personal interactive communication devices.

A person is to be treated as contravening the advertising prohibition if the person arranges for advertising activity to take place in an event zone during the relevant event period or periods (see regulation 6(2)). Under regulation 6(3), a person is also to be treated as engaging in advertising activity where such activity:

- relates to a good, service, business or other concern in which the person has an interest or for which the person is responsible, or
- takes place on land, premises or other property that the person owns or occupies or of which the person has responsibility for the management.

Regulation 6(4) specifies people who are to be treated as satisfying these criteria.

Section 21(1) of the London Olympic Games and Paralympic Games Act 2006 (the “2006 Act”) makes it an offence to contravene advertising regulations made under section 19 of that Act. Under section 21(2) of the 2006 Act, a person charged with such an offence has a defence if they prove that the contravention occurred without their knowledge or despite their taking all reasonable steps to prevent it from occurring or (where they became aware of it after its commencement) from continuing.

Regulations 7 to 10 specify exceptions to the advertising prohibition. The exception in regulation 7 is for activity intended to demonstrate support for or opposition to the views or actions of a person or body of persons, publicise a belief, cause or campaign, or mark or commemorate an event. The exception does not apply to advertising activity that promotes or advertises a good, service, or person or body (excluding a not-for-profit body as defined in regulation 5) that provides a good or service.

The exception in regulation 8 is for an individual who engages in advertising activity only by wearing advertising attire, displaying an advertisement on his or her body, or carrying or holding personal property on which an advertisement is displayed. “Advertising attire” is defined in regulation 5 to

mean a costume that is an advertisement or clothing on which an advertisement is displayed. For the exception to apply, the individual must not know or have reasonable cause to believe that he or she is participating in an ambush marketing campaign (also defined in regulation 5). The application of this exception to an individual does not affect the application of the advertising prohibition to any other person (whether in respect of the same advertising activity or otherwise).

The exceptions in regulation 9 are modelled on provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the “Town and Country Planning Regulations”). Under regulation 9(1)(a), the advertising prohibition 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 specified conditions are complied with. Under regulation 9(1)(b) the advertising prohibition 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 the conditions and limitations referred to in regulation 6(1) of those Regulations. But the exception in regulation 9(1) does not apply to the display of an advertisement of a description set out in regulation 9(2) (which describes certain advertisements by reference to the Classes of advertisement in Schedules 1 and 3 to the Town and Country Planning Regulations).

Regulation 10 specifies other exceptions to the advertising prohibition.

In addition to the defence set out in section 21 of the 2006 Act and the exceptions specified in regulations 7 to 10, regulation 11 provides that the advertising prohibition does not apply to advertising activity undertaken or controlled by:

- the London Organising Committee of the Olympic Games and Paralympic Games Limited (“LOCOG”), or
- a person authorised by LOCOG.

LOCOG’s right to engage in advertising activity under regulation 11 and any authorisation granted by it are subject to the conditions specified in regulation 11(4), including that the advertiser hold any licence (as defined in regulation 3) which, in addition to authorisation by or under regulation 11, is required before a person may engage in advertising activity (whether in a particular place or generally). A person who applies for an authorisation and is dissatisfied with LOCOG’s decision may request the ODA to review LOCOG’s decision (see regulation 17).

Regulation 13 prohibits a person from engaging in trading activity in an event zone during the relevant event period or periods (the “trading prohibition”). Section 27 of the 2006 Act provides that it is an offence to contravene trading regulations made under section 25 of that Act.

Regulation 12 defines trading activity as carrying out one or more of the activities specified in that regulation in an open public place. “Open public place” is defined in that regulation to mean a highway or another place to which the public have access and which is not in a building (other than one designed or generally used for the parking of cars). The matters specified in regulation 12(2) are to be disregarded when determining whether activity amounts to trading activity.

A person is to be treated as contravening the trading prohibition if the person arranges for trading activity to take place in an event zone during the relevant event period or periods (see regulation 13(2)). Under regulation 13(3), a person (a “business or land owner”) is also to be treated as engaging in trading activity where trading activity:

- is undertaken by a business or other concern in which the person has an interest or for which the person is responsible, or
- takes place on land that the person owns or occupies or of which the person has responsibility for the management.

Regulation 13(5) specifies people who are to be treated as satisfying these criteria. But Regulation 13(4) provides that a business or land owner is not to be treated as engaging in street trading if he or she proves that the street trading took place without his or her knowledge or that

he or she took all reasonable steps to prevent the street trading taking place or, where it has taken place, to prevent it continuing or recurring.

Regulation 14 specifies exceptions to the trading prohibition.

In addition, regulation 15 provides that the trading prohibition does not apply to trading activity undertaken in accordance with an authorisation granted by the ODA or a person to whom the function of granting authorisations is delegated by the ODA. The ODA (or its delegate, as the case may be) may impose terms and conditions on any authorisation under section 25(7) of the 2006 Act. Under regulation 15(4) an authorisation is subject to the condition that any person who engages in trading activity in reliance on the authorisation hold any licence (as defined in regulation 3) which, in addition to authorisation under regulation 15, is required before the person may engage in street trading (whether in a particular place or generally). A person who applies for an authorisation and is dissatisfied with the ODA's (or its delegate's) decision may request ODA to review the decision (see regulation 17).

Part 5 provides for compensation for a person whose property is damaged in course of the exercise or purported exercise of an enforcement power under section 22 or 28 of the 2006 Act. Under regulation 19(2) a person who, in the reasonable belief of the ODA or (as the case may be) the police authority, is responsible for a contravention of the regulations is not entitled to compensation. The amount of compensation payable is specified in regulation 19(3). Regulations 20 to 24 set out the procedure by which compensation may be obtained.