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DRAFT STATUTORY INSTRUMENTS

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**2011 No.**

The London Olympic Games and Paralympic Games  
(Advertising and Trading) (England) Regulations 2011

PART 2

Advertising Activity

**Interpretation of this Part**

**5.—(1) In this Part—**

“advertisement” means any word, letter, image, mark, sound, light, model, sign, placard, board, notice, screen, awning, blind, flag, device, costume or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purpose of, promotion, advertisement, announcement or direction,

“advertiser” means a person who engages in advertising activity,

“advertising activity” means—

- (a) displaying an advertisement, or
- (b) distributing or providing promotional material,

“advertising attire” means—

- (a) a costume that is an advertisement, or
- (b) clothing on which an advertisement is displayed,

“ambush marketing campaign” means a campaign (whether consisting of one act or a series of acts) intended specifically to advertise one or more of the following in an event zone during the relevant event period or periods—

- (a) a good or service,
- (b) a person who provides a good or service,

“displaying an advertisement” includes (without prejudice to the generality of that expression)

- (a) projecting, emitting, screening or exhibiting an advertisement,
- (b) carrying or holding an advertisement or an apparatus by which an advertisement is displayed,
- (c) providing for—
  - (i) an advertisement to be displayed on an animal, or
  - (ii) an apparatus by which an advertisement is displayed to be carried or held by an animal,
- (d) doing one or more of the following as part of an ambush marketing campaign—
  - (i) carrying or holding personal property on which an advertisement is displayed,

- (ii) wearing advertising attire,
- (iii) displaying an advertisement on an individual's body,

“not-for-profit body” means a body which, by virtue of its constitution or any enactment—

- (a) is required (after payment of outgoings) to apply the whole of its income, and any capital which it expends, for charitable or public purposes, and
- (b) is prohibited from directly or indirectly distributing amongst its members any part of its assets (other than for charitable or public purposes),

“promotional material” means a document or article distributed or provided wholly or partly for the purpose of promotion, advertisement, announcement or direction.

(2) In this Part, a reference to a person who engages in advertising activity is to be treated as including a person to whom regulation 6(2) applies.

(3) Advertising activity that consists of the display of an advertisement on a personal communication device is not to be treated as advertising activity for the purposes of this Part unless the advertiser intends the advertisement to be displayed, by means of the device, to the public at large (rather than only to the individual using the device).

(4) In paragraph (3), “personal communication device” means a mobile telephone or other personal interactive communication device.

### **Control of advertising activity**

6.—(1) A person must not engage in advertising activity in an event zone during the relevant event period or periods.

(2) A person is to be treated as contravening paragraph (1) if that person arranges (at any time and in any place) for advertising activity to take place in an event zone during the relevant event period or periods.

(3) A person is also to be treated as contravening paragraph (1) if advertising activity in an event zone during the relevant event period or periods—

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

(4) Without prejudice to the generality of paragraph (3)—

- (a) a person is to be treated as having an interest in or responsibility for a business or other concern if that person is an officer of the business or concern,
- (b) a person is to be treated as having an interest in or responsibility for a good or service if that person is an officer of a business or other concern that has an interest in or is responsible for the good or service, and
- (c) a person is to be treated as having responsibility for the management of land, premises or other property if that person is an officer of a business or other concern that owns, occupies or has responsibility for the management of the land, premises or other property.

(5) In paragraph (4), “an officer” means a director, manager, secretary or other similar officer.

(6) This regulation applies in relation to advertising activity whether or not it consists of the result or continuation of activity carried out before these Regulations came into force.

### **Exception for demonstrations, &c**

7.—(1) Regulation 6 does not apply to advertising activity intended to—

- (a) demonstrate support for or opposition to the views or actions of any person or body of persons,
  - (b) publicise a belief, cause or campaign, or
  - (c) mark or commemorate an event.
- (2) But this exception does not apply to advertising activity that promotes or advertises—
- (a) a good or service, or
  - (b) a person or body (excluding a not-for-profit body) that provides a good or service.

### **Exception for individuals wearing advertising attire, displaying advertisements on their bodies, or carrying personal property**

8.—(1) Regulation 6 does not apply to an individual who engages in advertising activity only by doing one or more of the following, unless the individual knows or has reasonable cause to believe that he or she is participating in an ambush marketing campaign—

- (a) wearing advertising attire,
- (b) displaying an advertisement on the individual’s body,
- (c) carrying or holding personal property on which an advertisement is displayed.

(2) The fact that this exception applies to an individual does not affect the application of regulation 6 to any other person (whether in respect of the same advertising activity or otherwise).

### **Exceptions modelled on the Town and Country Planning Regulations**

9.—(1) Regulation 6 does not apply to advertising activity that consists of—

- (a) the display of an advertisement within a Class specified in column (1) of Schedule 1 to the Town and Country Planning Regulations so long as the display or (as the case may be) the advertisement complies with the conditions referred to in regulation 1(3) of those Regulations, or
- (b) the display of an advertisement within a Class 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)(a) and (b) of those Regulations.

(2) But this exception does not apply to the display of any of the following advertisements—

- (a) an advertisement within Class A (advertisements displayed on enclosed land) where the enclosed land on which the advertisement is displayed is—
  - (i) a railway station (and its yards) or bus station (together with its forecourt, whether enclosed or not), or
  - (ii) enclosed land (including a sports stadium or other building) on or in which a London Olympic Event<sup>(1)</sup> is taking place or to take place,
- (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 building in which the advertisement is displayed—
  - (i) is or forms part of a railway station or bus station, or
  - (ii) is a sports stadium or other building in which a London Olympic Event is taking place or to take place,

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(1) “London Olympic Event” is defined in section 1(3)(b) of the Act.

- (d) an advertisement within Class 1B (advertisements displayed by local planning authorities) that—
    - (i) is not displayed wholly for the purpose of announcement or direction in relation to any of the functions of the local planning authority by which it is displayed, and
    - (ii) is not reasonably required to be displayed for the safe or efficient performance of those functions,
  - (e) an advertisement within Class 3D (advertisements announcing local events and activities) that promotes or advertises—
    - (i) a good or service, or
    - (ii) a person or body (excluding a not-for-profit body) that provides a good or service,
  - (f) an advertisement within Class 3F (advertisements relating to travelling circuses, fairs or similar travelling entertainments),
  - (g) 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,
  - (h) an advertisement within Class 8 (advertisements on hoardings),
  - (i) an advertisement within Class 9 (advertisements on highway structures),
  - (j) an advertisement within Class 12 (advertisements displayed inside buildings), other than an exempt business advertisement, where the building in which the advertisement is displayed—
    - (i) is or forms part of a railway station or bus station, or
    - (ii) is a sports stadium or other building in which a London Olympic Event is taking place or to take place,
  - (k) an advertisement within Class 13 (advertisements on sites used for preceding ten years for display of advertisements without express consent),
  - (l) an advertisement within Class 14 (advertisements displayed after expiry of express consent),
  - (m) an advertisement within Class 15 (advertisements on balloons), and
  - (n) an advertisement within Class 16 (advertisements on telephone kiosks).
- (3) In this regulation—
- (a) “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 wholly to any or all of the following: the business carried on, the goods or services provided, or the name or qualifications of the person carrying on the business or providing the goods or services, on those premises,
  - (b) a reference to a “Class” of advertisement is a reference to the corresponding Class of advertisement in Schedule 1 or (as the case may be) 3 to the Town and Country Planning Regulations<sup>(2)</sup>, and
  - (c) “business premises” and “forecourt” have the same meanings as in Schedule 3 to the Town and Country Planning Regulations<sup>(3)</sup>.
- (4) For the purposes of this regulation—
- (a) Part 2 of Schedule 3 to the Town and Country Planning Regulations applies for the interpretation of that Schedule,

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

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

- (b) a reference to a building or a railway station in Schedule 1 or 3 to the Town and Country Planning Regulations is to be construed in accordance with the relevant definition in regulation 3 of these Regulations,
- (c) a reference to displaying an advertisement (however phrased) in Schedule 1 or 3 to the Town and Country Planning Regulations is to be construed in accordance with regulation 5 of these Regulations, and
- (d) a reference to a vehicle in Schedule 1 to the Town and Country Planning Regulations includes a bicycle.

### **Other exceptions**

10.—(1) Regulation 6 does not apply to advertising activity of a description falling within paragraphs (2) to (7).

(2) Displaying an advertisement that is employed wholly as—

- (a) a memorial, or
- (b) a railway signal,

(3) Distributing or providing a current newspaper or periodical.

(4) Advertising activity undertaken in accordance with a condition attached to an authorisation granted under regulation 15 (trading activity authorised by the Olympic Delivery Authority &c.).

(5) Displaying an advertisement on an aircraft for one or more of the following purposes—

- (a) complying with the law of the United Kingdom or any other country, being law in force in relation to the aircraft,
- (b) securing the safety of the aircraft or any person or property therein,
- (c) the furtherance, by or on behalf of a Government department, by a person acting under any public duty or by a person providing ambulance or rescue facilities by air, of measures in connection with circumstances, existing or imminent at the time the aircraft is used, which may cause danger to persons or property,
- (d) civil defence, military or police purposes.

(6) Displaying a mark or inscription (other than an illuminated sign) on the body of an aeroplane or helicopter.

(7) Displaying an advertisement on an item of street furniture provided that the advertisement—

- (a) is not illuminated,
- (b) bears only the name, contact details and device (or any one or more of those things) of the manufacturer, owner and operator of the street furniture (or any one or more of those persons), and
- (c) is not displayed as part of an ambush marketing campaign.

(8) Paragraph (3) does not apply to the distribution or provision of a current newspaper or periodical in a street if the distribution or provision is done from a receptacle that causes undue interference or inconvenience to persons using the street.

### **Advertising undertaken or authorised by the London Organising Committee**

11.—(1) Regulation 6 does not apply to advertising activity undertaken or controlled by—

- (a) the London Organising Committee<sup>(4)</sup>, or
  - (b) any person authorised by the Committee (whether or not subject to terms and conditions imposed by the Committee and whether or not in accordance with a sponsorship or other commercial agreement with the Committee).
- (2) Subject to these Regulations, the Committee has an absolute discretion in respect of each application to it for authorisation.
- (3) The Committee must have regard to the provisions of the Host City Contract<sup>(5)</sup> before engaging in advertising activity or granting an authorisation under this regulation.
- (4) The Committee’s right to engage in advertising activity pursuant to this regulation and any authorisation granted by it are subject to all of the following conditions—
- (a) that the advertiser must hold any licence which, in addition to authorisation by or under this regulation, is required before a person may engage in advertising activity (whether in a particular place or generally),
  - (b) that no advertisement be sited or displayed so as to—
    - (i) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome,
    - (ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air, or
    - (iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle,
  - (c) that the advertiser maintain any advertisement in a condition that does not—
    - (i) impair the visual amenity of the site, or
    - (ii) endanger the public.

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(4) “the London Organising Committee” is defined in section 1(3)(d) of the Act. Since the passing of the Act, the London Organising Committee has changed its registered name to The London Organising Committee of the Olympic Games and Paralympic Games Limited.

(5) “Host City Contract” is defined in section 1(3)(e) of the Act.