

LONDON OLYMPIC GAMES AND PARALYMPIC GAMES ACT 2006

EXPLANATORY NOTES

MISCELLANEOUS

Section 32: Olympic Symbol etc. (Protection) Act 1995 and Schedule 3: Olympic Symbol Protection

80. This section introduces *Schedule 3*. Schedule 3 amends the Olympic Symbol etc. (Protection) Act 1995 (“OSPA”) which creates the Olympic association right, protecting the Olympic symbol, motto and other words relating to the Olympics. Schedule 3 allows for joint proprietorship of the Olympic association right, affords increased protection for the Olympic words, symbols and motto, clarifies exceptions to the Act, and creates a Paralympic association right.
81. *Paragraph 2* provides additional flexibility in relation to proprietorship of the Olympic association right allowing more than one person or body to exercise rights in relation to the Olympic symbol, motto and associated words. Appointments may be made for different purposes, which will allow Paralympic organisations to be joint proprietors of Paralympic words and Olympic organisations to hold rights to Olympic words. Joint proprietorship is necessary because of IOC requirements: the IOC requires rights to Olympic intellectual property to pass from the national organising committee – the British Olympic Association – to the LOCOG in the lead up to and during the Games. However, the British Olympic Association will need to retain residual rights for certain purposes.
82. *Paragraph 3* extends the infringement of the Olympic association right to words that are similar to the protected words in OSPA and which create in the public’s mind an association with the Olympic Games or the Olympic movement. OSPA already provides protection against the use of mottos and symbols similar to the Olympic symbol and motto. This new measure provides protection to words similar to those protected under the Olympic association right.
83. *Paragraph 4* clarifies the exemptions and limitations to the Olympic association right. This includes providing clarity over the definition of “association”, particularly linking it to the idea that someone has created a commercial or contractual, or corporate or financial (eg sponsorship), link between a person, product or service and the Games except where this is in accordance with honest commercial practices. Paragraph 4 also provides the Secretary of State with a power to further clarify the concept of association by order.
84. *Paragraph 4* also provides for limitations and exemptions to the Olympic association right, including reporting on, or providing information about, the Games..
85. *Paragraphs 6 to 9* create a Paralympic association right - analogous to the Olympic association right - offering protection to the Paralympic symbol, motto and associated words. Rights over Paralympic words or symbols which exist at the time that the Paralympic association right is created will be protected. This means that, for example,

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

individuals or companies will be entitled to continue to use existing business names which use words which become protected under the Act.

86. If the International Olympic Committee (IOC) or International Paralympic Committee (IPC) change their motto or symbol, the Secretary of State has power to amend by order that which is protected under the Act.
87. *Paragraph 11* raises the fine which can be imposed for committing an offence under section 8 of OSPA (infringement marketing of goods) during the period from 2 months after Royal Assent until 31 December 2012. In the Magistrates' Courts the maximum fine will be £20,000, which is higher than the maximum fine which Magistrates can normally apply. The section provides for higher fines because the offence is considered to be highly lucrative in the lead up to and during Games time.
88. *Paragraph 12* gives Trading Standards Officers enforcement powers in relation to offences under OSPA and allows LOCOG to make payments to local weights and measures authorities for any enforcement activity they carry out as a result of these increased powers.
89. *Paragraph 13* makes offences under OSPA an arrestable offence.
90. *Paragraph 14* gives Her Majesty's Revenue and Customs (HMRC) officers powers to detain OSPA infringing goods on entry to the UK. These provisions provide HMRC officers with largely analogous powers to those they already hold for trademark infringing goods.
91. *Paragraph 14* specifically provides for HMRC officers to seize goods either where they have notice in writing from LOCOG or the British Olympic Association, or the British Paralympic Association (the "proprietors") or where HMRC officers discover items during their ordinary course of business.
92. *Paragraph 14* also sets out the process for how the proprietors are informed about any seizures, how they are provided with samples and the time limits by which proceedings have to be brought in relation to any infringing goods.