



# Birmingham Commonwealth Games Act 2020

## 2020 CHAPTER 10

### PART 3

#### TOUTING, ADVERTISING AND TRADING OFFENCES

##### *Trading*

#### 16 Trading offence

- (1) It is an offence for a person—
  - (a) to carry out Games location trading (see subsection (2));
  - (b) to arrange for such trading to be carried out;
  - (c) to permit the carrying out of such trading.
- (2) For the purposes of this section—

“Games location trading” means—

  - (a) trading in a specified Games location at any time during a specified period, or
  - (b) trading in a relevant public place in the vicinity of a Games location at any time during a specified period;

“relevant public place” has the meaning given by subsection (8);  
“specified” means specified in regulations made by the Secretary of State;  
“trading” means—

  - (a) selling an item, or offering or exposing an item for sale;
  - (b) providing a service, or offering to provide a service, for gain or reward;
  - (c) providing public entertainment for gain or reward;
  - (d) appealing for money or other property (whether for charitable or other purposes).
- (3) Any period specified for the purposes of this section must—

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- (a) begin no earlier than the beginning of the period of 21 days ending immediately before the day on which the Games begin, and
  - (b) end no later than the end of the period of 5 days beginning with the day after the day on which the Games end.
- (4) Regulations made by the Secretary of State may make provision as to when a person is, or is not, to be treated for the purposes of this section as doing something in, or in the vicinity of, a Games location.
- (5) For the purposes of this section a person does not permit the carrying out of Games location trading if the person took all reasonable steps to prevent the trading from occurring or (as the case may be) continuing.
- (6) It is not a defence to an offence under this section that the act constituting the offence was carried out in accordance with a licence (but see section 17).
- (7) A person guilty of an offence under this section is liable on summary conviction to a fine.
- (8) In this section “relevant public place” means—
- (a) a highway,
  - (b) a building to which the public have access and which is designed or generally used for the parking of motor vehicles, or
  - (c) any other place—
    - (i) to which the public have access (whether generally or only for the purposes of trading), and
    - (ii) which is not in a building.
- (9) This section is subject to—
- (a) sections 17 and 18, and
  - (b) any regulations made under section 19(1).
- (See also section 24(2).)

## **17 Authorised trading**

- (1) It is not an offence under section 16—
- (a) to carry out Games location trading in accordance with an authorisation granted by the Organising Committee, or
  - (b) to arrange for, or permit, such trading to be carried out in accordance with such an authorisation.
- (2) An authorisation granted under this section may—
- (a) be granted in respect of a person or a description of person;
  - (b) be granted by reference to the nature, purpose or circumstances of the trading;
  - (c) be subject to conditions;
  - (d) be revoked.
- (3) Conditions imposed under subsection (2)(c) may, for example—
- (a) specify places where trading may, or may not, be carried out;
  - (b) specify periods during which trading may, or may not, be carried out;
  - (c) require steps to be taken for a particular purpose, including, for example—

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- (i) protecting the safety of any person;
    - (ii) preventing or reducing congestion, litter or noise;
  - (d) require a person in respect of whom authorisation is granted to produce evidence of the authorisation on request;
  - (e) be inconsistent with, or more onerous than, the conditions of any other trading licence (whether granted under this section or otherwise).
- (4) In considering whether or not to grant an authorisation under this section, the Organising Committee may have regard to, among other things—
- (a) any agreements entered into (whether by the Secretary of State or otherwise) for the purposes of the Games;
  - (b) any existing trading licences (whether granted under this section or otherwise).
- (5) An authorisation granted under this section must be in writing.

## **18 Exceptions for certain kinds of trading**

- (1) Section 16(1) does not apply in relation to any activity falling within any of the Heads set out in—
- (a) subsection (2) (premises adjoining a highway);
  - (b) subsection (3) (public facilities);
  - (c) subsection (5) (motor vehicles);
  - (d) subsection (6) (the Organising Committee).
- (2) Head 1 is—
- (a) selling an item, or offering or exposing an item for sale, to a person who is in premises adjoining a highway;
  - (b) providing, or offering to provide, a service to such a person;
  - (c) providing a service that consists of doing something in relation to premises adjoining a highway (including, among other things, delivering an item to such premises);
  - (d) appealing for money or other property from a person who is in premises adjoining a highway.
- (3) Head 2 is—
- (a) providing a public lavatory;
  - (b) providing a permanent public call box;
  - (c) providing an automated teller machine.
- (4) In subsection (3)(b) “public call box” has the same meaning as in Class A of Part 16 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 ([S.I. 2015/596](#)).
- (5) Head 3 is—
- (a) providing motor vehicle parking services in a building, or on other land, designed or generally used for the parking of motor vehicles;
  - (b) providing motor vehicle cleaning services on private land generally used for the provision of those services;
  - (c) selling a motor vehicle on private land generally used for the sale of motor vehicles;

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- (d) providing motor vehicle breakdown or recovery services.
- (6) Head 4 is anything done by the Organising Committee.

## **19 Power to provide exceptions to the trading offence**

- (1) The Secretary of State may by regulations provide that section 16(1) does not apply in relation to—
  - (a) conduct of a specified description, including conduct carried out in a specified place or in a place of a specified description;
  - (b) conduct of a specified person or description of person.

“Specified” means specified in the regulations.

- (2) Before making regulations under subsection (1), the Secretary of State must consult—
  - (a) the Organising Committee,
  - (b) the local authority for an area that includes any place where the regulations would have effect, and
  - (c) any other persons whom the Secretary of State considers it appropriate to consult.
- (3) The requirement in subsection (2) may be satisfied by consultation undertaken before the coming into force of this section.