

2006 No. 1119

TRADE MARKS

COMMERCIAL PROPERTY

**The Olympics and Paralympics Association Rights
(Appointment of Proprietors) Order 2006**

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| <i>Made</i> - - - - | <i>19th April 2006</i> |
| <i>Laid before Parliament</i> | <i>19th April 2006</i> |
| <i>Coming into force</i> - - | <i>12th May 2006</i> |

The Secretary of State, in exercise of the powers conferred by sections 1(2), (2A) and (3), and 5A(2) of the Olympic Symbol etc. (Protection) Act 1995(a), makes the following Order:

Introductory

Citation and commencement

1. This Order may be cited as the Olympics and Paralympics Association Rights (Appointment of Proprietors) Order 2006 and shall come into force on 12th May 2006.

Interpretation

2. In this Order—

“the 1995 Act” means the Olympic Symbol etc. (Protection) Act 1995;

“the 2006 Act” means the London Olympic Games and Paralympic Games Act 2006(b);

“the British Olympic Association” has the same meaning as in section 1(3)(a) of the 2006 Act;

“the British Paralympic Association” means the company limited by guarantee with that name and the registered number 02370578;

“London Organising Committee” has the same meaning as in section 1(3)(d) of the 2006 Act;

“Olympics association right” means the right created in section 1 of the 1995 Act;

“Olympics association right proprietors” means the persons appointed in article 4;

“Paralympics association right” means the right created in section 5A of the 1995 Act;

“Paralympics association right proprietors” means the persons appointed in article 8;

“post-2012 act” means an act which is done, or to be done, in the United Kingdom on or after 1st January 2013; and

(a) 1995 c.32; section 1 was amended by section 32 of, and paragraph 2 of Schedule 3 to, the 2006 Act, and section 5A was inserted by section 32 of, and paragraph 6 of Schedule 3 to, that Act.
(b) 2006 c.12.

“pre-2013 act” means an act which is done, or to be done in, the United Kingdom on or before 31st December 2012.

3. In articles 8 to 11, any reference to the 1995 Act or to a section of that Act shall be taken as a reference to that Act or section as it applies in relation to the Paralympics association right by virtue of section 5A(2) of the 1995 Act.

Olympics association right

Appointment of the proprietors

4. In relation to the Olympics association right, the Secretary of State appoints—

- (a) the British Olympic Association, and
- (b) the London Organising Committee,

for the purposes of section 1(2) of the 1995 Act.

Exercise of rights generally

5. Subject to articles 6 and 7, the rights of the proprietor of the Olympics association right under the 1995 Act shall be exercisable by the Olympics association right proprietors jointly or concurrently.

Exercise of right to consent

6. The right of the proprietor to consent to an act under section 2(2)(b) of the 1995 Act shall—

- (1) in respect of a pre-2013 act, be exercisable by either Olympics association right proprietor without the consent of the other, and
- (2) in respect of a post-2012 act, be exercisable—
 - (a) on or before 30th September 2012, by the Olympics association right proprietors jointly and not concurrently, and
 - (b) after 30th September 2012, by the British Olympic Association and not by the London Organising Committee.

Exercise of right to bring an action for infringement

7.—(1) The right of the proprietor to bring an action for infringement under section 6 of the 1995 Act shall be exercisable—

- (a) where the action is only in respect of a pre-2013 act, by either Olympics association right proprietor, and
- (b) where the action is in respect of a post-2012 act (whether or not it is also in respect of a pre-2013 act), by the British Olympic Association and not by the London Organising Committee.

(2) But, an Olympics association right proprietor that brings an action of the type referred to in paragraph (1)(a) may not, without the leave of the court, proceed with that action unless the other Olympics association right proprietor is either joined as a claimant or added as a defendant.

(3) An Olympics association right proprietor who is added as a defendant under paragraph (2) shall not be made liable for any costs in the action unless it takes part in the proceedings.

(4) Nothing in paragraph (2) affects the granting of interlocutory relief on the application of a single Olympics association right proprietor.

Paralympics association right

Appointment of proprietors

8. In relation to the Paralympics association right, the Secretary of State appoints—

- (a) the British Paralympic Association, and
- (b) the London Organising Committee,

for the purposes of section 1(2) of the 1995 Act.

Exercise of rights generally

9. Subject to articles 10 and 11, the rights of the proprietor of the Paralympics association right under the 1995 Act shall be exercisable by the Paralympics association right proprietors jointly or concurrently.

Exercise of right to consent

10. The right of the proprietor to consent to an act under section 2(2)(b) of the 1995 Act shall—

- (1) in respect of a pre-2013 act, be exercisable by either Paralympics association right proprietor without the consent of the other, and
- (2) in respect of a post-2012 act, be exercisable—
 - (a) on or before 30th September 2012, by the Paralympics association right proprietors jointly and not concurrently, and
 - (b) after 30th September 2012, by the British Paralympic Association and not by the London Organising Committee.

Exercise of right to bring action for infringement

11.—(1) The right of the proprietor to bring an action for infringement under section 6 of the 1995 Act shall be exercisable—

- (a) where the action is only in respect of a pre-2013 act, by either Paralympics association right proprietor, and
- (b) where the action is in respect of a post-2012 act (whether or not it is also in respect of a pre-2013 act), by the British Paralympic Association and not by the London Organising Committee.

(2) But, a Paralympics association right proprietor that brings an action of the type referred to in paragraph (1)(a) may not, without the leave of the court, proceed with that action unless the other Paralympics association right proprietor is either joined as a claimant or added as a defendant.

(3) A Paralympics association right proprietor who is added as a defendant under paragraph (2) shall not be made liable for any costs in the action unless it takes part in the proceedings.

(4) Nothing in paragraph (2) affects the granting of interlocutory relief on the application of a single Paralympics association right proprietor.

General

Revocation

12. The Olympics Association Right (Appointment of Proprietor) Order 1995(a) is revoked.

19th April 2006

Richard Caborn
Minister of State
Department for Culture, Media and Sport

(a) S.I. 1995/2473.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints the proprietors of the Olympics and Paralympics association rights (created in the Olympic Symbol etc. (Protection) Act 1995 (as amended) (the “1995 Act”)) and also provides for the exercise of the proprietors’ rights under the 1995 Act. The Olympics and Paralympics association rights entitle their respective proprietors to use, and control the use by others of:

- the Olympic and Paralympic symbols;
- the Olympic and Paralympic mottos;
- protected Olympic- and Paralympic-related words (“Olympiad”, “Olympian”, “Olympic”, and their plural forms, and “Paralympiad”, “Paralympian”, “Paralympic”, and their plural forms); and
- any symbols, mottos or words which are confusingly similar to the above symbols, mottos or words.

In accordance with article 1, the Order comes into force on 12th May 2006.

Article 2 defines terms used in the Order.

Articles 4 to 7 relate to the Olympics association right. In article 4 the Secretary of State appoints:

- the British Olympic Association, and
- the London Organising Committee,

as the proprietors of the Olympics association right for the purposes of the 1995 Act (the “Olympics association right proprietors”).

Article 5, which is subject to articles 6 and 7, provides that the rights of the proprietor of the Olympics association right under the 1995 Act are exercisable by the Olympics association right proprietors jointly or concurrently.

Article 6 provides for the exercise, by the Olympics association right proprietors, of the right of the proprietor to consent to an act under section 2(2)(b) of the 1995 Act (such as consent to the use by another person of the Olympic symbol). Article 6 differentiates between two types of acts to which such consent may relate: an act that is to take place on or before 31st December 2012 (“pre-2013 act”); and an act that is to take place after that date (“post-2012 act”).

In respect of a pre-2013 act, the right to consent is exercisable by either Olympics association right proprietor without the consent of the other. In respect of a post-2012 act, article 6 further differentiates between exercise of the right to consent on or before 30th September 2012, and exercise of the right after that date.

The right to consent to a post-2012 act is exercisable on or before 30th September 2012 by the Olympics association right proprietors jointly and not concurrently. The right to consent to a post-2012 act is exercisable after 30th September 2012 by the British Olympic Association and not by the London Organising Committee.

Article 7 provides for the exercise, by the Olympics association right proprietors, of the right of the proprietor to bring an action for infringement of the Olympics association right under section 6 of the 1995 Act. Article 7 differentiates between two types of actions for infringement: an action only in respect of a pre-2013 act; and an action in respect of a post-2012 act (whether or not such action is also in respect of a pre-2013 act). The former may be brought by either Olympics association right proprietor, while the latter may only be brought by the British Olympic Association.

Under article 7(2), where an Olympics association right proprietor brings an action for infringement only in respect of a pre-2013 act, it must either join the other Olympics association right proprietor as a claimant or add it as a defendant. Article 7(3) provides that, where an

Olympics association right proprietor is added as a defendant in this way, it shall not be liable for any costs in the action unless it takes part in the proceedings. Article 7(4) provides that the requirement to join or add the other Olympics association right proprietor to an action does not affect the granting of interlocutory relief on the application of a single Olympics association right proprietor.

Articles 8 to 11 relate to the Paralympics association right. Article 3 provides that a reference to the 1995 Act or a section of that Act in those articles is to be taken as a reference to the Act or section as it applies to the Paralympics association right. In article 8 the Secretary of State appoints:

- the British Paralympic Association, and
- the London Organising Committee,

as the proprietors of the Paralympics association right for the purposes of the 1995 Act (the “Paralympics association right proprietors”).

Articles 9 to 11 make identical provision in relation to the exercise, by the Paralympics association right proprietors, of the rights of the proprietor of the Paralympics association right under the 1995 Act, as is made in articles 6 to 8 in relation to the exercise, by the Olympics association right proprietors, of the rights of the proprietor of the Olympics association right.

Article 12 revokes the Olympics Association Right (Appointment of Proprietor) Order 1995, which appointed the proprietor of the Olympics association right between 18th October 1995 and the date of the commencement of this Order.

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