

**EXPLANATORY MEMORANDUM TO  
THE OLYMPICS AND PARALYMPICS ASSOCIATION RIGHTS (APPOINTMENT  
OF PROPRIETORS) ORDER 2006**

**2006 No. 1119**

1. This explanatory memorandum has been prepared by the Department for Media, Culture and Sport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

The Olympics and Paralympics association rights are intellectual property rights created in the Olympic Symbol etc. (Protection) Act 1995 (the “1995 Act”). This instrument appoints the proprietors of those rights and provides for the exercise by the appointed proprietors of the rights that attach to the Olympics and Paralympics association rights under the 1995 Act.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None

4. **Legislative Background**

- 4.1. The 1995 Act, under which this instrument was made, creates an intellectual property right known as the Olympics association right. This right entitles its proprietor to use, and control the use by others of, the Olympic symbol, the Olympic motto, six protected Olympics-related words (“Olympic”, “Olympian”, “Olympiad” and the plural forms of those words and their translations) and anything confusingly similar to the protected symbol, motto and words.
- 4.2. Until it was amended in 2006, the 1995 Act provided for the Secretary of State to appoint, by order, one proprietor of the Olympics association right. For the period from 18th October 1995 until the commencement of this instrument, the sole proprietor of the Olympics association right was the British Olympic Association, appointed in the Olympics Association Right (Appointment of Proprietor) Order 1995 (the “1995 Order”).
- 4.3. Following London’s successful bid to host the 2012 Olympic Games and Paralympic Games (together, the “2012 Games”), the 1995 Act was amended, with effect from 30th March 2006, by the London Olympic Games and Paralympic Games Act 2006 (the “2006 Act”). In summary, the amendments:
  - 4.3.1. created the Paralympics association right, which provides similar protection in relation to the Paralympic symbol, the Paralympic motto, six protected Paralympics-related words (“Paralympiad”,

“Paralympian”, “Paralympic” and their plural forms) and anything confusingly similar to the protected symbol, motto and words as is provided under the Olympics association right;

4.3.2. provided for the appointment, by order, of more than one proprietor of each of the Olympics and Paralympics association rights, and for an order appointing multiple proprietors to also make provision about the exercise of rights under the 1995 Act by those proprietors; and

4.3.3. amended the 1995 Act in other ways unrelated to this instrument (for example, by clarifying what acts will give rise to an infringement of the Olympics or Paralympics association rights).

4.4. This instrument is necessary in the light of the amendments to the 1995 Act by the 2006 Act, and the appointment of London as the host city for the 2012 Games. Specifically, the instrument is needed to:

4.4.1. appoint the London Organising Committee of the Olympic Games (“LOCOG”), the company that will stage the 2012 Games, as a proprietor of the Olympics association right, in addition to the British Olympic Association;

4.4.2. appoint LOCOG and the British Paralympic Association as the proprietors of the newly created Paralympics association right; and

4.4.3. provide for the exercise of the rights attaching to the Olympics and Paralympics association rights by the appointed proprietors.

4.5. The instrument supersedes the 1995 Order and, accordingly, revokes it.

## **5. Extent**

This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

The Secretary of State for Culture, Media and Sport has made the following statement regarding Human Rights:

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### *Policy background to the 1995 Act*

7.1. As noted in paragraph 4 above, the 1995 Act (as amended by the 2006 Act) creates two intellectual property rights known as the Olympics association right and Paralympics association right. These rights allow the proprietors of each to control the use of Olympics- and Paralympics-related symbols, mottos and words (see paragraphs 4.1 and 4.3.1 above for details of the protected words).

- 7.2. The Olympics and Paralympics association rights are one of a range of legal measures by which Olympic and Paralympic intellectual property are protected (the others include, for example, the London Olympics association right created in Schedule 4 to the 2006 Act, and protection of the Olympic- and Paralympic-related marks under the Trade Marks Act 1994).
- 7.3. The main aim of these protections is to safeguard the sponsorship funding base of the British Olympic and Paralympic teams and, now that London has won the right to host the Games, the 2012 Games.
- 7.4. The Olympics and Paralympics association rights effectively allow the proprietors of each to control who may create an association between goods and services and the Olympic or Paralympic Games and movements by the use of the protected symbols etc. to market those goods and services. These rights assist in ensuring exclusivity around the use of the Olympic and Paralympic symbols etc. which, in turn, assists in the Olympic and Paralympic brands being viewed as worthwhile commercial investments by prospective sponsors.
- 7.5. It is important that sponsors' interests, and the funding that flows from them, are protected in this way because, without such funding, there would be a greater call on the public purse to support the British Olympic and Paralympic teams and the 2012 Games. Indeed, without commercial support it might be impossible to stage the 2012 Games at all, or send large British teams to the Olympic and Paralympic Games.
- 7.6. However, it is also important to note that the 1995 Act, and other measures that seek to protect Olympic and Paralympic intellectual property, recognise the need for a balance to be struck between securing sponsors' and licensees' rights and other values, such as freedom of expression. That is why the 1995 Act (and the other legislative schemes mentioned in paragraph 7.2 above) contains a number of exemptions and defences that have the effect of limiting the activities which may be constrained by the Olympics and Paralympics association rights.

*Policy background to this instrument*

- 7.7. This instrument appoints LOCOG and the British Olympic Association, and LOCOG and the British Paralympic Association, as the respective proprietors of the Olympics and Paralympics association rights. It has been made after consultation with, and with the agreement of, LOCOG, and the British Olympic and Paralympic Associations.
- 7.8. Now that London has won the right to host the 2012 Games, it is necessary for LOCOG, the company that will stage the 2012 Games, to be able to exercise the rights of the proprietor of the Olympics and Paralympics association rights (in addition to the British Olympic and Paralympic Associations). That is because LOCOG has to raise, by securing commercial sponsorship agreements, almost all of the funds necessary to stage the 2012 Games. To do this, it must be able to offer potential sponsors and official merchandisers licences that allow them to associate their goods or services with the 2012 Games, including, in some cases, by the use of the Olympic or Paralympic symbols, mottos or protected words.

- 7.9. While the British Olympic and Paralympic Associations will remain, with LOCOG, co-proprietors of their respective rights and will exercise some of the functions that attach to those rights, LOCOG will take over the primary responsibility for licensing and policing use of the Olympic and Paralympic symbols etc from now until 31st December 2012. As a consequence of that, LOCOG will contribute substantially towards the funding of the British Olympic and Paralympic teams up to 2012. This is the subject of agreements between LOCOG and the British Olympic and Paralympic Associations.
- 7.10. The instrument also provides for the exercise of the rights that attach to the Olympics and Paralympics association right. The detail of this provision is explained in the Explanatory Note that accompanies the instrument, and is not repeated here. However, in summary, specific provision is made in the instrument for the exercise of the following:
- 7.10.1. The right to consent to an act under section 2(2)(b) of the 1995. This right effectively allows the proprietors to license the use of an Olympic or Paralympic symbol, motto or protected word. An act which has been consented to by the relevant proprietor will not give rise to an infringement of the Olympics or Paralympics association right, as the case may be.
- 7.10.2. The right to bring an action for infringement of the Olympics or Paralympics association right under section 6 of the 1995 Act.
- The other rights under the 1995 Act are dealt with in the instrument en block.
- 7.11. The terms of the provision in the instrument for the exercise of the rights of the proprietor that are attached to the Olympics and Paralympics association rights are the subject of agreements between LOCOG and the British Olympic and Paralympic Associations.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 This instrument has no impact on the public sector.

## **9. Contact**

Paul Oldfield at the Department for Culture, Media and Sport Tel: 020 7211 6493 or e-mail: paul.oldfield@culture.gsi.gov.uk can answer any queries regarding the instrument.