

GLASGOW COMMONWEALTH GAMES ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Advertising

Section 10: Ban on advertising in the vicinity of Games locations

24. This section makes it an offence to advertise in the vicinity of a Games location at particular times (the “advertising offence”). The Scottish Ministers are given a power to make further provision about advertising around Games locations which can be used to set out further exceptions to the offence. The offence does not apply to advertising by the Organising Committee or the Commonwealth Games Federation although the advertising regulations may require either or both to comply with prescribed conditions.
25. As with the ban on street trading within the vicinity of Games locations (Section 2), much of the detail of the restrictions has been left to secondary legislation in order to enable a full assessment of what is required closer to 2014. This could involve changes in the requirements of the Commonwealth Games Federation or proposed venues which may affect the detail of the regulations.

Section 11: Advertising activities

26. This section provides a definition of activities that will be treated as advertising. It must be a communication to the public or a section of the public for the purpose of promoting an item, service, trade, business or other concern. An illustrative (but not exhaustive) list of activities which will be treated as advertising if done for that purpose is set out in subsection (2).
27. Subsection (4) allows the advertising regulations to define what is meant by “vicinity of a Games location” for this purpose and to set the times during which the advertising prohibition will apply.

Section 12: Authorised advertising

28. This section allows the advertising regulations to determine circumstances in which the Organising Committee may authorise persons to advertise in a way which would otherwise constitute an advertising offence. Such authorisation will be subject to any conditions imposed by the advertising regulations or by the Organising Committee under section 13.
29. Subsection (2) states that the regulations may provide that authorisation is to be granted only if an advertising licence already exists for a particular place, or if the person applying for authorisation already holds an advertising licence. Regulations may also provide for an authorisation to be treated as if it were an advertising licence. This could allow an advertiser to apply to the Organising Committee for authorisation without having to also apply to the council for an advertising licence. Regulations under this

subsection may also set out the procedure for application for authorisation, set a limit on the level of fees that may be charged and provide for a right of appeal against a refusal by the Organising Committee to grant authorisation.

Section 13: Advertising authorisation: conditions

30. This section provides that an authorisation to advertise under section 12 will be subject to any conditions imposed by the advertising regulations and may be subject also to conditions imposed by the Organising Committee. Trading in breach of these conditions will constitute unauthorised advertising and will be an offence.

Section 14: Advertising permitted without authorisation

31. This section allows the advertising regulations to determine circumstances in which advertising which would otherwise constitute an advertising offence would be permitted without the need for authorisation from the Organising Committee. This could be by reference to the person who is advertising, the nature or purpose of the advertising or the circumstances of its display.

Section 15: Existing advertising licences

32. This section makes it clear that holding an advertising licence granted before or after this section comes into force is not a defence against an advertising offence under the Act. A person who holds or is awarded an ordinary advertising licence will, therefore, be required to obtain authorisation from the Organising Committee in order to advertise in the vicinity of a Games location without committing an offence under the Act.

Section 16: Guidance and information about advertising

33. This section allows the Organising Committee to issue guidance about advertising within the vicinity of Games locations. It also allows for the advertising regulations to require prescribed persons to inform others of the likely effect of the ban on advertising in the vicinity of Games locations (section 10) and of the advertising regulations. Those regulations may also require a person who grants an advertising licence to inform the licensee of the effect of section 15.