

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.

Section 33 and Schedule 4: London Olympics association right

93. This section introduces *Schedule 4*. Schedule 4 creates a specific event association right in relation to the 2012 London Olympic and Paralympic Games. It seeks to prevent those who use innovative ways of making an association with the Games (that is, who create an association with the Games without using specific words or symbols protected under trademark or under the Olympic Symbol etc. (Protection) Act) from doing so.
94. *Paragraphs 1 and 2* establish the principle of the London Olympics association right and define it as an attempt in the course of trade to create an association between services or goods or a person who provides good or services and the London Olympic or Paralympic Games. In particular, the concept of association is defined as where a person has created a commercial or contractual, or corporate or financial (eg sponsorship) link between a person, product or service and the Games. *Paragraph 1* also makes clear that the London Olympic association right is not infringed by someone who simply makes a statement that accords with honest commercial practices.
95. *Paragraph 3* sets out words and phrases, the combination of which may be taken into account by a court when considering whether the London Olympics association right has been contravened. *Sub-paragraphs (6) and (7)* of Paragraph 3 allow the Secretary of State to amend the list of words and phrases by order – the order would be subject to the negative resolution procedure. *Sub-paragraph (9)* of Paragraph 3 requires the Secretary of State to consult representatives of the advertising industry, LOCOG and others before altering the list of words. This consultation would follow usual Cabinet Office guidelines as to duration.

96. *Paragraphs 4 and 5* provide exceptions to the London Olympics association right in relation to authorised use. In particular they allow LOCOG to grant authorisations where individuals (most likely to be sponsors of LOCOG and of the Olympic Programme) are given permission to associate themselves with the London Olympic Games. LOCOG will be under a duty to maintain a public register of those individuals who have been granted the right to associate with the London Olympic Games and may charge individuals in relation to those authorisations. *Paragraphs 4 and 5* also allow LOCOG to grant class authorisations that they may grant to specific groups or types of people or organisations.
97. *Paragraphs 6, 7, 8 and 9* provide a number of exceptions to the London Olympic association right. These include specific reporting and information providing exemptions and exceptions relating to indications that describe (amongst other things) the purpose, quality or origin of a product or service.
98. *Paragraph 10* sets out the sections of the OSPA that will also apply to this new London Olympic Association right. These include provisions that protect existing rights and that permit the Secretary of State to issue directions to LOCOG in relation to the exercise of this right.

Section 34: Greater London Authority: powers

99. This section enables the Greater London Authority (GLA) to play its part in delivering the 2012 Olympic Games. The section gives the GLA the power to do anything for the purpose of complying with the obligations which are placed on the Mayor of London in the Host City Contract (whether before, during or after the London Olympics), or to prepare for and manage the London Olympics.
100. In exercising this power, the GLA shall have regard to the desirability of consulting and cooperating with the Secretary of State, the British Olympic Association, LOCOG, and anyone else with experience or knowledge which might be useful in relation to preparing for or managing the London Olympics.
101. When undertaking actions to deliver the Olympic Games, the GLA must consider how best to maximise the benefits to be derived from the preparations for the London Olympics once the Games are over.
102. The GLA is given particular powers to:
- arrange for the construction, improvement or adaptation of premises or facilities,
 - arrange for the provision of services,
 - undertake works,
 - acquire land or other property,
 - enter into agreements,
 - act jointly or co-operate with any other person,
 - give financial and other support to others for activity connected with the London Olympics,
 - take action in respect of places outside London.
103. The GLA may delegate its function under this section to the London Development Agency although the provisions of section 5(2) and (3) of the Regional Development Agencies Act (1998) shall apply: this means that the LDA will still be required to obtain the Secretary of State's consent for certain activities and its powers in relation to housing will still be restricted.

Section 35: Section 34: supplemental

104. When giving financial support to others for activity connected with the London Olympics, the GLA may do so on specific terms or conditions, in particular as regards the payment of interest. The GLA is given the power to accept contributions towards expenditure in connection with the Olympic Games.
105. Once the London Olympics are over, the Secretary of State may, having consulted the Mayor of London, make an order to repeal the powers provided by section 34. This order would be subject to the negative resolution procedure.
106. The order may make incidental, supplementary, consequential or transitional provisions or savings in relation to the cessation of the powers. It may also provide for the transfer of property, rights or liabilities, and make provision relating to the management, control or treatment of anything constructed or done under the GLA's powers to prepare for and stage the Games. The provisions could be of a specific or general nature, and different provisions can be made for different cases or purposes.

Section 36: Regional development agencies

107. *Section 36* amends the purposes of a regional development agency as listed in the Regional Development Agencies Act 1998 to include the purpose of preparing for the London Olympics. A regional development agency may only take action for the purpose of preparing for the Games at the request of the ODA.
108. Where a regional development agency purchases land for the purpose of preparing for the London Olympics:
 - Section 19 of the Acquisition of Land Act 1981, which requires a compulsory purchase order relating to part of a common, open space or allotment to go through a special Parliamentary procedure in specified circumstances, shall not apply.
 - Section 295 of the Housing Act 1985 shall apply in the same way that it applies to land acquired by a local housing authority, so that all rights over such land are extinguished. Any person who suffers loss by the extinguishment of any right is entitled to be paid compensation, in accordance with the Land Compensation Act 1961 (the amount is to be determined by the Lands Tribunal).
 - No other Act shall prevent or restrict the use of a common, open space or allotment for construction, works or any other purpose, although the usual requirements for planning permission will still apply.
 - It will be permitted to compulsorily purchase Crown land or any interest in Crown land.
 - These provisions apply irrespective of whether the purchase is made under the specific Olympic purpose provided by section 36 or not, and irrespective of whether the purchase had any other purpose.
109. Once the London Olympics are over, the Secretary of State may make an order to repeal the powers provided by this section. This order would be subject to a negative resolution procedure.
110. The order may make incidental, supplementary, consequential or transitional provisions or savings in relation to the cessation of the powers. It may also provide for the transfer of property, rights or liabilities, and make provision relating to the management, control or treatment of anything constructed or done under a Regional Development Agency's purpose to prepare for the Games. The provisions could be of a specific or general nature, and different provisions can be made for different cases or purposes.