

LONDON OLYMPIC GAMES AND PARALYMPIC GAMES (AMENDMENT) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1 – Removal of infringing articles

New section 31A – Cases involving criminal proceedings

27. New section 31A deals with seized infringing articles whose retention is justified for the purpose of enabling them to be used as evidence in criminal proceedings for contravention of the advertising and trading regulations. It provides that the ODA must store any perishable article (so far as is reasonably practicable) and take care of any animal, pending its return or disposal in accordance with the new sections of the 2006 Act: see new section 31A(2) and (3).
28. Under new section 31A, the ODA must return an infringing article to the owner:
- a) at the conclusion, or on discontinuance, of the criminal proceedings; or
 - b) if proceedings are not issued within the relevant period prescribed in the section (28 days for trading offences and 56 days for advertising offences), at the end of that period.
29. However, the ODA is not required to return an infringing article in any of the following circumstances:
- a) Where the ODA, having undertaken such enquiries as it considers appropriate, fails to establish who or where the owner of the article is. In these circumstances, the ODA may apply to a magistrates' court (or, in Scotland, a sheriff) for a disposal order under new section 31D (about which, see below).
 - b) Where the owner disclaims the article or refuses to accept it. In these circumstances, the ODA must sell or otherwise dispose of the article in accordance with new section 31E (about which, see below).
 - c) Where the article is a perishable article that has ceased to be useable for trade. In these circumstances, the ODA may dispose of the article as it thinks appropriate.
 - d) Where the court, in criminal proceedings for contravention of the regulations, has ordered the infringing article to be forfeited in exercise of its general powers in criminal cases under section 143 of the Powers of Criminal Courts (Sentencing Act) 2000 (or, in Scotland, section 21 of the Proceeds of Crime (Scotland) Act 1995).
 - e) Where (without ordering the infringing article to be forfeited) the court, in criminal proceedings for contravention of the regulations, awards costs to the ODA against the owner which are not paid within 28 days. In these circumstances,

*These notes refer to the London Olympic Games and Paralympic Games
(Amendment) Act 2011 (c.22) which received Royal Assent on 14th December 2011*

the ODA must sell or otherwise dispose of the article in accordance with new section 31E (about which, see below).