

GLASGOW COMMONWEALTH GAMES ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Street Trading Etc.

Section 2: Ban on outdoor trading in the vicinity of Games locations

14. This section makes it an offence to trade within the vicinity of a Games location at particular times (the “trading offence”). Indoor trading (i.e. trading in a building) is not covered by the offence. Scottish Ministers are given a power to make further provision about trading around Games locations which can be used to set out further exceptions to the offence. The offence does not apply to any trading by the Organising Committee or the Commonwealth Games Federation although the trading regulations may require either or both to comply with prescribed conditions.
15. The Commonwealth Games Federation may find it necessary to adjust the requirements which are placed on host cities, or the proposed sporting programme or venues may alter during the period leading up to the Games. For this reason, the detail of these restrictions will be brought forward in subordinate legislation in order to make a proper assessment of what is required and where closer to 2014. The regulations are likely to apply restrictions for different periods and in different ways for different Games locations. This would enable the characteristics of different venues and different events to be taken into account and ensure that any restrictions are proportionate in their compliance with the Host City Contract. For example, Strathclyde Park is currently proposed to be used only for the one day Triathlon where as the SECC Arena is currently proposed to be used for 11 days of Netball. The extent and the duration of restrictions will therefore reflect the nature and use of the venue.

Section 3: Trading activities, places and prohibited times

16. This section allows the trading regulations to define what activities will be treated as trading. It also allows those regulations to define what is meant by “vicinity of a Games location” for this purpose and to set the times during which the trading prohibition will apply.

Section 4: Authorised trading

17. This section allows the trading regulations to determine circumstances in which the Organising Committee may authorise persons to trade in a way which would otherwise constitute a trading offence. Such authorisation will be subject to any conditions imposed by the trading regulations and by the Organising Committee under section 5.
18. Subsection (2) provides that the regulations may require the authorisation to be granted only if a trading licence already exists for a particular place, or if the person applying for authorisation already holds a trading licence. Regulations may also provide for the

authorisation to be treated as if it were a trading licence which would eliminate the need for the authorised trader, for example, to obtain a street trading licence under another enactment once authorised under the Act. Regulations 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 5: Trading authorisation: conditions

19. This section provides that an authorisation to trade under section 4 will be subject to any conditions imposed by the trading regulations and may be subject also to conditions imposed by the Organising Committee. Trading in breach of these conditions will constitute unauthorised trading and will be an offence.

Section 6: Trading permitted without authorisation

20. This section allows the trading regulations to determine circumstances in which trading which would otherwise constitute a trading offence would be permitted without the need for authorisation from the Organising Committee. This could be by reference to the person who is trading, the nature or purpose of the trading or the application of any profits. For example, the regulations could exempt certain news vendors, milk deliveries or charitable sales from being required to seek authorisation reflecting the fact that certain trading activities do not require a street trading licence under other enactments.

Section 7: Existing trading licences

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

Section 8: Alternative arrangements where existing trading banned during Games

22. This section places a duty on councils to work with existing licensed street traders and market operators to try to identify alternative trading arrangements during the times when the trading offence applies.

Section 9: Guidance and information about trading

23. This section allows the Organising Committee to issue guidance about trading within the vicinity of Games locations. It also allows for the trading regulations to require prescribed persons to inform others of the likely effect of the ban on trading in the vicinity of Games locations (section 2) and of the trading regulations. Those regulations may also require a person who grants a trading licence to inform the licensee of the effect of section 7.