

GLASGOW COMMONWEALTH GAMES ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Ticket Touting

Section 17: Ban on ticket touting

34. This section makes it an offence to tout Games tickets (the “touting offence”). A Games ticket is defined in section 48 as any ticket, card, electronic device or other thing which entitles an individual to attend an event held as part of the Games or any other event connected with the Games specified by order made by Ministers.
35. Subsection (2) sets out what is meant by touting a Games ticket. A person touts a Games ticket if that person does any of the acts mentioned in subsection (3) in a public place or, even if not in a public place, does the act in connection with the selling of a Games ticket for more than its face value or with a view to making a profit. Note that it is the person disposing of the ticket who must be aiming to make a profit from it, even if the act which constitutes the offence is carried out by someone else. (For example, an advertiser may commit an offence by advertising the sale of tickets by a person where that person is making a profit from the ticket sales, whether or not the advertiser makes a profit from selling advertising space to the ticket seller is irrelevant. Subsection (7) makes this clear.)
36. Subsection (3) lists various activities relating to selling or trading tickets or otherwise dealing in ticket sales. These include selling or offering to sell a Games ticket, exposing a Games ticket for sale or advertising such a ticket, making a ticket available for sale by another person or giving away a ticket where that is conditional upon the payment of booking fee or other charge or the acquisition of some other goods or services. These are all acts that may constitute a touting offence under subsection (2).
37. Subsection (4) gives the Organising Committee and the Commonwealth Games Federation the power to sell or deal with tickets in ways which would otherwise be considered touting, and gives the Organising Committee the power to authorise other persons to sell or deal with tickets in ways which would otherwise be considered touting.
38. The Act cannot make touting activity an offence in other jurisdictions but subsection (5) ensures that persons who engage in touting in places outwith Scotland (perhaps by using computer systems located in another country to effect internet sales) will commit an offence under Scots law.
39. Subsection (6) makes it clear that a booking fee or other charge is counted as part of the amount paid for a Games ticket for the purposes of determining whether or not a touting offence has been committed (i.e. in determining whether a sale is for an amount above face value). Similarly, the value of anything acquired along with the ticket will count towards the amount paid for the ticket (for example, if a small item is sold at an inflated price and the buyer gets a free ticket with the item then that sale and the

*These notes relate to the Glasgow Commonwealth Games Act 2008 (asp 4)
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price paid could be treated as sale of a games ticket for that price). Finally, if a ticket is exchanged rather than sold for money the value of the thing exchanged may be counted as the price paid for the ticket.

Section 18: Exception for certain advertisers etc.

40. This section provides an exception for advertisers from committing a touting offence if the sale of the ticket would be for above the face value of the ticket or with a view to making a profit but the advertiser does not, and could not reasonably be expected to know that fact. If, for example, a newspaper advert for Games tickets displayed a sale price that was obviously in vast excess of the normal face value of tickets to comparable sporting events, the publication that carried that advert could not argue that it could not reasonably have known that the sales were for above face value. In which case the advertising publication would be committing a touting offence.

Section 19: Use of internet etc.

41. This section allows the Scottish Ministers to make regulations to determine circumstances in which use of the internet or other electronic media may or may not constitute a touting offence.

Section 20: Authorised ticket sales

42. This section allows authorisations given for the purpose of section 17(4)(b) to be subject to conditions imposed by the Organising Committee and states that such authorisation must be given in writing. Subsection (4) gives power to the Scottish Ministers to make regulations limiting the amount of any fee charged by the Organising Committee in relation to authorisations.