

SCHEDULES

SCHEDULE 4

Section 33

LONDON OLYMPICS ASSOCIATION RIGHT

The right

- 1 (1) There shall be a right, to be known as the London Olympics association right, which shall confer exclusive rights in relation to the use of any representation (of any kind) in a manner likely to suggest to the public that there is an association between the London Olympics and—
 - (a) goods or services, or
 - (b) a person who provides goods or services.
- (2) For the purposes of this Schedule—
 - (a) the concept of an association between a person, goods or a service and the London Olympics includes, in particular—
 - (i) any kind of contractual relationship,
 - (ii) any kind of commercial relationship,
 - (iii) any kind of corporate or structural connection, and
 - (iv) the provision by a person of financial or other support for or in connection with the London Olympics, but
 - (b) a person does not suggest an association between a person, goods or a service and the London Olympics only by making a statement which—
 - (i) accords with honest practices in industrial or commercial matters, and
 - (ii) does not make promotional or other commercial use of a representation relating to the London Olympics by incorporating it in a context to which the London Olympics are substantively irrelevant.
- (3) The Secretary of State may by order specify what is to be or not to be treated for the purposes of sub-paragraph (2) as an association between a person, goods or a service and the London Olympics; and an order under this subsection—
 - (a) may include incidental, consequential or transitional provision (which may include provision amending sub-paragraph (2)(a) or (b)),
 - (b) shall be made by statutory instrument, and
 - (c) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

Infringement: general

- 2 (1) A person infringes the London Olympics association right if in the course of trade he uses in relation to goods or services any representation (of any kind) in a manner

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likely to suggest to the public that there is an association between the London Olympics and—

- (a) the goods or services, or
- (b) a person who provides the goods or services.

(2) Sub-paragraph (1) is subject to the provisions of this Schedule.

Infringement: specific expressions

- 3 (1) For the purpose of considering whether a person has infringed the London Olympics association right a court may, in particular, take account of his use of a combination of expressions of a kind specified in sub-paragraph (2).
- (2) The combinations referred to in sub-paragraph (1) are combinations of—
- (a) any of the expressions in the first group, with
 - (b) any of the expressions in the second group or any of the other expressions in the first group.
- (3) The following expressions form the first group for the purposes of sub-paragraph (2)
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- (a) “games”,
 - (b) “Two Thousand and Twelve”,
 - (c) “2012”, and
 - (d) “twenty twelve”.
- (4) The following expressions form the second group for the purposes of sub-paragraph (2)—
- (a) gold,
 - (b) silver,
 - (c) bronze,
 - (d) London,
 - (e) medals,
 - (f) sponsor, and
 - (g) summer.
- (5) It is immaterial for the purposes of this paragraph whether or not a word is written wholly or partly in capital letters.
- (6) The Secretary of State may by order add, remove or vary an entry in either group of expressions.
- (7) An order under sub-paragraph (6)—
- (a) shall be made by statutory instrument, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (8) An order under sub-paragraph (6) which adds or varies an entry in a group of expressions may be made only if the Secretary of State thinks it necessary in order to prevent commercial exploitation of the London Olympics.
- (9) Before laying a draft order in accordance with sub-paragraph (7)(b) the Secretary of State shall consult—

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- (a) one or more persons who appear to him to have relevant responsibility for regulating the advertising industry (including enforcing standards of professional conduct),
- (b) one or more persons who appear to him to represent the interests of the advertising industry,
- (c) the London Organising Committee, and
- (d) such other persons as he thinks appropriate.

Authorised use

- 4 (1) The London Olympics association right is not infringed by use of a representation in accordance with an authorisation granted by the London Organising Committee.
- (2) The London Organising Committee shall make arrangements for the grant of authorisations; and the arrangements may, in particular—
- (a) make provision about charges;
 - (b) enable the Committee to exercise unfettered discretion (subject to any direction under section 15 of the Olympic Symbol etc. (Protection) Act 1995 (c. 32) as applied by paragraph 10 below).
- 5 (1) The London Organising Committee shall maintain a register of persons, and classes of person, authorised for the purposes of paragraph 4.
- (2) The register shall specify in respect of each authorised person—
- (a) his name,
 - (b) his principal place of business,
 - (c) the goods or services to which the authorisation relates,
 - (d) the period in respect of which the authorisation has effect.
- (3) The register shall specify in respect of each authorised class of person—
- (a) the nature of the class,
 - (b) the goods or services to which the authorisation relates (including the circumstances in which it does or does not apply), and
 - (c) the period in respect of which the authorisation has effect.
- (4) The London Organising Committee shall—
- (a) ensure that a copy of the register is accessible to the public by use of the internet, and
 - (b) comply with a written request for a copy of the register or of an entry in the register.
- (5) The London Organising Committee may require a request under sub-paragraph (4) (b) to be accompanied by a specified fee; and the Committee—
- (a) may specify different fees for different purposes,
 - (b) may charge no fee, or waive a fee, in such cases as it thinks appropriate, and
 - (c) may not specify a fee which exceeds any maximum specified by order of the Secretary of State.
- (6) An order under sub-paragraph (5)(c)—
- (a) may make different provision for different purposes,
 - (b) may include transitional provision,
 - (c) shall be made by statutory instrument, and

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- (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) If a copy of the register or of an entry in the register issued by the London Organising Committee is certified on behalf of the Committee as an accurate copy, it shall be treated as accurate for all purposes (including for the purposes of legal proceedings) unless the contrary is proved.
- (8) A request for a copy under sub-paragraph (4)(b) may require the copy to be certified in accordance with sub-paragraph (7).

Infringement: other exceptions

- 6 The London Olympics association right is not infringed by the use of a trade mark registered under the Trade Marks Act 1994 (c. 26) in relation to goods or services for which it is registered.
- 7 The London Olympics association right is not infringed by—
 - (a) the use by a person of his own name or address,
 - (b) the use of indications concerning the kind, quality, quantity, intended purpose, value, geographical origin, time of production of goods or of rendering of services, or other characteristics of goods or services,
 - (c) the use of a representation which is necessary to indicate the intended purpose of a product or service;
 provided, in each case, that the use is in accordance with honest practices in industrial or commercial matters.
- 8 (1) The London Olympics association right is not infringed by the use of a representation—
 - (a) in publishing or broadcasting a report of a sporting or other event forming part of the London Olympics,
 - (b) in publishing or broadcasting information about the London Olympics,
 - (c) as an incidental inclusion in a literary work, dramatic work, artistic work, sound recording, film or broadcast, within the meaning of Part I of the Copyright, Designs and Patents Act 1988 (c. 48) (copyright), or
 - (d) as an inclusion in an advertisement for a publication or broadcast of a kind described in paragraph (a) or (b).
 (2) But the exceptions in sub-paragraph (1)(a) and (b) do not apply to advertising material which is published or broadcast at the same time as, or in connection with, a report or information.
- 9 The London Olympics association right is not infringed by the use of a representation in relation to goods if—
 - (a) they were put on the market in the European Economic Area in accordance with an authorisation granted by the London Organising Committee,
 - (b) the representation was used in relation to the goods when they were put on the market, and
 - (c) the London Organising Committee does not oppose further dealings in the goods for legitimate reasons (including, in particular, that the condition of the goods has been changed or impaired after they were put on the market).

Application of Olympic Symbol etc. (Protection) Act 1995

- 10 (1) The following provisions of the Olympic Symbol etc. (Protection) Act 1995 (c. 32) shall have effect (with any necessary modifications) in relation to the London Olympics association right as they have effect in relation to the Olympics association right—
- (a) section 2(2) to (4) (effect of right),
 - (b) section 3(2) (infringement: specific cases),
 - (c) section 4(11) to (14) (infringement: protection for existing rights),
 - (d) section 5 (power to prescribe further limitations),
 - (e) section 6 (action for infringement),
 - (f) section 7 (orders in relation to infringing goods, &c.),
 - (g) section 15 (directions by Secretary of State), and
 - (h) section 16 (action for groundless threats).
- (2) In the application of provisions of that Act by virtue of sub-paragraph (1)—
- (a) a reference to a controlled representation is a reference to a visual or verbal representation (of any kind) likely to create in the public mind an association between the London Olympics and—
 - (i) goods or services, or
 - (ii) a provider of goods or services,
 - (b) a reference to the person appointed under section 1(2) as proprietor shall be taken as a reference to the London Organising Committee,
 - (c) a reference to the commencement of that Act shall be taken as a reference to the commencement of this Schedule, and
 - (d) a reference to the Olympic Games or the Olympic movement or to the Paralympic Games or the Paralympic movement shall be taken as a reference to the London Olympics.
- (3) In each case, a reference in sub-paragraph (1) to a provision of that Act is to that provision as amended by Schedule 3 above.