

Status: Point in time view as at 02/04/2007.

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SCHEDULES

SCHEDULE 1

Section 3

THE OLYMPIC DELIVERY AUTHORITY

PART 1

CONSTITUTION

Membership

- 1 (1) The Secretary of State shall, having consulted the Mayor of London—
- (a) appoint the members of the Olympic Delivery Authority, and
 - (b) appoint one of the members as Chairman.
- (2) The Secretary of State shall aim to ensure that the Authority has neither less than 7 nor more than 11 members at any time.
- (3) In appointing members of the Authority the Secretary of State shall have regard to the desirability of their having experience relevant to—
- (a) the nature of the Authority's functions, and
 - (b) the places in relation to which they are likely to be exercised.

Tenure

- 2 A person shall hold and vacate office as Chairman or other member of the Authority in accordance with the terms of his appointment (subject to this Schedule).
- 3 The Chairman or another member of the Authority may resign by notice in writing to the Secretary of State.
- 4 The Chairman or another member of the Authority may be removed from office by the Secretary of State on the grounds that—
- (a) a bankruptcy order has been made against him, his estate has been sequestrated or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
 - (b) the Secretary of State, having consulted the Mayor of London, thinks that the Chairman or other member is unable, unfit or unwilling to discharge the functions of his office.
- 5 A person who ceases, otherwise than by virtue of paragraph 4, to be Chairman or another member of the Authority may be re-appointed.

Staff

- 6 (1) The Authority shall appoint a chief executive.

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- (2) But the first chief executive shall be appointed by the Secretary of State; and before making an appointment under this sub-paragraph the Secretary of State shall consult—
- (a) either—
 - (i) the Chairman, or
 - (ii) a person whom the Secretary of State intends to appoint as Chairman, and
 - (b) the Mayor of London.
- (3) The Authority—
- (a) may not appoint a person as chief executive without the Secretary of State's approval, and
 - (b) may (subject to paragraph (a)) appoint the Chairman as chief executive.
- (4) The Secretary of State shall consult the Mayor of London before giving approval for the purpose of sub-paragraph (3)(a).
- 7 (1) The Authority shall appoint a finance director.
- (2) The Authority may not appoint a person as finance director without the Secretary of State's approval.
- 8 (1) The Authority shall appoint a director of transport.
- (2) The Authority may not appoint a person as director of transport without the Secretary of State's approval.
- 9 The Authority may appoint other staff.

Committees

- 10 (1) The Authority may establish a committee.
- (2) A committee—
- (a) must include a member of the Authority,
 - (b) may, with the approval of the Secretary of State, include one or more persons who are not members of the Authority, and
 - (c) may not include staff of the Authority.
- 11 (1) A committee of the Authority may establish a sub-committee.
- (2) A sub-committee—
- (a) must include a member of the Authority,
 - (b) must include a member of the committee that established the sub-committee,
 - (c) may include one or more members of other committees,
 - (d) may, with the approval of the Secretary of State, include one or more persons who are members neither of a committee of the Authority nor of the Authority, and
 - (e) may not include staff of the Authority.

Status

- 12 The Authority shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

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Supervision

- 13 In Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13) (departments, &c. subject to investigation) insert at the appropriate place— “ Olympic Delivery Authority. ”

Disqualification

- 14 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (other disqualifying offices) insert at the appropriate place— “ Chairman, or member in receipt of remuneration, of the Olympic Delivery Authority. ”
- 15 In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (other disqualifying offices) insert at the appropriate place— “ Chairman, or member in receipt of remuneration, of the Olympic Delivery Authority. ”

PART 2

PROCEEDINGS

Delegation

- 16 The Authority may delegate a function to—
- (a) a member,
 - (b) an employee,
 - (c) a committee, or
 - (d) any other person.
- 17 Where a function is delegated to a committee, the committee may delegate it to—
- (a) a member of the Authority,
 - (b) an employee of the Authority,
 - (c) a member of the committee,
 - (d) a sub-committee, or
 - (e) any other person.

Secretary of State: guidance and directions

- 18 (1) In exercising its functions the Authority shall—
- (a) have regard to any guidance given by the Secretary of State, and
 - (b) comply with any direction given by the Secretary of State.
- (2) A direction may, in particular—
- (a) require the Authority to accept or assume specified duties, rights or liabilities under contracts,
 - (b) require the Authority to obtain the Secretary of State's consent before taking action of a specified kind,
 - (c) require the Authority to provide information,
 - (d) relate to the employment of staff, or
 - (e) with the consent of the Treasury, relate to—
 - (i) the form of accounts, or

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(ii) methods and principles for the preparation of accounts.

- (3) Before giving a direction, other than one of a kind described in sub-paragraph (2) (e), the Secretary of State shall, unless he thinks it impracticable because of urgency, consult—
- (a) the Authority, and
 - (b) the Mayor of London.
- (4) Before giving guidance or a direction which the Secretary of State thinks may affect Scotland otherwise than in respect of a reserved matter (within the meaning of the Scotland Act 1998 (c. 46)) the Secretary of State shall consult the Scottish Ministers.

Self-regulation

- 19 The Authority may, subject to this Schedule—
- (a) regulate its own procedure and that of its own committees and sub-committees (and in particular may specify a quorum for meetings), and
 - (b) enable committees and sub-committees to regulate their own procedure (including, in particular, the specification of a quorum for meetings) subject to any provision made by the Authority.

Conflict of interests

- 20 A member or employee of the Authority who is involved in the exercise of the Authority's functions in relation to land may not participate in deliberations or decisions of the Authority acting as a local planning authority in relation to that land.

Non-discrimination

- 21 In Part II of Schedule 1A to the Race Relations Act 1976 (c. 74) (bodies subject to general non-discrimination duty) insert, at the appropriate place in the list headed “ Other bodies, &c. ” “ The Olympic Delivery Authority. ”

Records

- 22 In Schedule 1 to the Public Records Act 1958 (c. 51) (definition of public records) the following entry shall be inserted at the appropriate place in Part II of the Table at the end of paragraph 3— “ Olympic Delivery Authority. ”
- 23 In Part VI of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public authorities: miscellaneous) at the appropriate place insert— “ The Olympic Delivery Authority. ”

Annual report

- 24 (1) As soon as is reasonably practicable after the end of each financial year the Authority shall send to the Secretary of State a report on the exercise of the Authority's functions during the year.
- (2) A report must, in particular, specify any direction given to the Authority under paragraph 18 that had effect during the year to which the report relates.

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- (3) The Secretary of State shall lay before Parliament a copy of each report received by him under this paragraph.

Saving

- 25 The validity of proceedings of the Authority, a committee or a sub-committee shall not be affected by—
- (a) a vacancy among its members, or
 - (b) a defect in the appointment of a person as Chairman or member.

PART 3

MONEY

Income

- 26 (1) The Secretary of State may give financial assistance to the Authority if he thinks that other sources of financial assistance will or may be insufficient for a purpose.
- (2) Financial assistance under sub-paragraph (1)—
- (a) may take the form of grants, loans, guarantees or indemnities, and
 - (b) may be given on conditions (which may include conditions about repayment with or without interest).
- 27 The Authority may accept gifts.

Remuneration, &c.

- 28 (1) The Authority may pay to the Chairman, another member or a member of a committee or sub-committee—
- (a) such remuneration as the Secretary of State may determine, and
 - (b) such travelling and other allowances as the Secretary of State may determine.
- (2) The Authority may pay to or in respect of the Chairman or another member such sums as the Secretary of State may determine by way of, or in respect of, pensions, allowances or gratuities.
- (3) If the Secretary of State thinks that there are special circumstances that make it right for a person ceasing to hold office as Chairman or member of the Authority to receive compensation, the Authority may pay to him such compensation as the Secretary of State may determine.
- 29 (1) The Authority may pay sums to or in respect of a member or former member of staff by way of or in respect of—
- (a) remuneration,
 - (b) allowances,
 - (c) pensions,
 - (d) gratuities, or
 - (e) compensation for loss of employment.

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- (2) In Schedule 1 to the Superannuation Act 1972 (c. 11) (employment to which superannuation schemes may extend) in the list of other bodies insert at the appropriate place— “ The Olympic Delivery Authority. ”

Other payments

- 30 The Authority may make payments in respect of expenditure (which may include expenditure of a capital nature) by—
- (a) the Authority, or
 - (b) a person to whom it delegates functions under paragraph 16 or 17.

Investment

- 31 The Authority may deposit money in an interest-bearing account (but may not otherwise invest).

Accounts

- 32 (1) The Authority shall—
- (a) keep proper accounting records, and
 - (b) prepare a statement of accounts in respect of each financial year.
- (2) The Authority shall send a copy of a statement under sub-paragraph (1)(b)—
- (a) to the Secretary of State, and
 - (b) to the Comptroller and Auditor General.
- (3) A copy of a statement must be sent under sub-paragraph (2) within such period, beginning with the end of the financial year to which the statement relates, as the Secretary of State may, with the consent of the Treasury, direct.
- (4) The Comptroller and Auditor General shall—
- (a) examine, certify and report on a statement received under this paragraph, and
 - (b) send a copy of the statement and his report to the Secretary of State, who shall lay them before Parliament.

Financial year

- 33 (1) The financial year of the Authority shall be the period of 12 months ending with the 31st March.
- (2) But the first financial year of the Authority shall be the period—
- (a) beginning with the coming into force of section 3, and
 - (b) ending with the following 31st March.

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SCHEDULE 2

Section 8

TRANSFER SCHEMES

Introduction

- 1 In this Schedule—
- “the Authority” means the Olympic Delivery Authority,
 - “transfer scheme” means a scheme under section 8, and
 - “specified person” means a person specified in section 8(3).

Commencement Information

- I1** Sch. 2 para. 1 in force at 30.5.2006 by S.I. 2006/1118, art. 2(2)

Obligation to assist Secretary of State

- 2 The Authority and the specified persons shall on request give the Secretary of State information or assistance in connection with a direction to prepare a transfer scheme which the Secretary of State has given or may give.

Commencement Information

- I2** Sch. 2 para. 2 in force at 30.5.2006 by S.I. 2006/1118, art. 2(2)

Content of transfer scheme

- 3 (1) A transfer scheme may, in particular, make provision in connection with land.
- (2) In particular, a transfer scheme may—
- (a) require the grant of an estate, interest or right;
 - (b) require the creation of an estate, interest or right for the purpose of being transferred;
 - (c) provide for transfer on financial or other terms;
 - (d) impose liabilities on the Authority;
 - (e) impose liabilities on the transferor.

Commencement Information

- I3** Sch. 2 para. 3 in force at 30.5.2006 by S.I. 2006/1118, art. 2(2)

- 4 A transfer scheme—
- (a) may transfer property, rights or liabilities whether or not they would otherwise be capable of being transferred,
 - (b) may transfer rights and liabilities under an enactment, and
 - (c) may dispense with a requirement for consent (whether arising for an enactment, an instrument or an agreement).

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Commencement Information

I4 Sch. 2 para. 4 in force at 30.5.2006 by S.I. 2006/1118, art. 2(2)

- 5 In specifying property, rights or liabilities to be transferred a transfer scheme—
- (a) may use any manner of description (which may include reference to criteria specified in the scheme or to be determined in accordance with the scheme),
 - (b) may provide for exceptions, and
 - (c) may provide for the division of property, rights and liabilities in a manner specified in the scheme or to be determined in accordance with the scheme.

Commencement Information

I5 Sch. 2 para. 5 in force at 30.5.2006 by S.I. 2006/1118, art. 2(2)

- 6 A transfer scheme may make provision—
- (a) for the resolution of disputes as to the effect of the scheme to be referred to arbitration, and
 - (b) for a certificate given by an arbitrator as to the effect of the transfer scheme to be conclusive.

Commencement Information

I6 Sch. 2 para. 6 in force at 30.5.2006 by S.I. 2006/1118, art. 2(2)

- 7 A transfer scheme may make consequential, incidental or transitional provision and may, in particular—
- (a) provide for anything done by or in relation to a specified person to have effect as if done by or in relation to the Authority,
 - (b) permit anything (which may include legal proceedings) which is in the process of being done by or in relation to a specified person when a provision of a transfer scheme takes effect, to have effect as if done by or in relation to the Authority, and
 - (c) may provide for a reference to a specified person in an agreement (whether written or not), instrument or other document to be treated as a reference to the Authority.

Commencement Information

I7 Sch. 2 para. 7 in force at 30.5.2006 by S.I. 2006/1118, art. 2(2)

Exclusions

- 8 (1) Transfer of property, rights or liabilities under a transfer scheme shall be disregarded for the purposes of a provision of a contract or other instrument which refers to transfer or disposal (whether so as to confer a right to terminate or vary or otherwise).
- (2) Nothing in a transfer scheme shall give rise, in relation to land or an interest or estate in land or other property, to any of the following—

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- (a) a right of reverter,
- (b) a right of pre-emption,
- (c) a right of forfeiture,
- (d) a right to compensation, or
- (e) an option or similar right.

Commencement Information

I8 Sch. 2 para. 8 in force at 30.5.2006 by S.I. 2006/1118, art. 2(2)

- 9 Nothing in a transfer scheme relating to rights in connection with a contract of employment shall affect the operation of the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I. 1981/1794).

Commencement Information

I9 Sch. 2 para. 9 in force at 30.5.2006 by S.I. 2006/1118, art. 2(2)

Modification of scheme

- 10 (1) This paragraph applies where—
- (a) a specified person has made a transfer scheme, but
 - (b) a transfer under the scheme has not yet taken effect.
- (2) The Secretary of State may—
- (a) require the specified person to modify the transfer scheme, in so far as it relates to the transfer, in such manner as the Secretary of State may specify,
 - (b) specify the date by which the modified scheme is to be prepared and submitted to the Secretary of State, and
 - (c) specify a date on which the modified scheme is to take effect if approved by the Secretary of State.
- (3) The Secretary of State may not require a specified person to modify a scheme unless—
- (a) he has consulted any person whom he thinks may be affected by the modification, and
 - (b) the Mayor of London consents.

Commencement Information

I10 Sch. 2 para. 10 in force at 30.5.2006 by S.I. 2006/1118, art. 2(2)

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SCHEDULE 3

Section 32

OLYMPIC SYMBOL PROTECTION

Introduction

1 The Olympic Symbol etc. (Protection) Act 1995 (c. 32) shall be amended as follows.

Olympics association right: proprietor

2 After section 1(2) (proprietor of Olympics association right) insert—

“(2A) An order under subsection (2) above—

- (a) may appoint more than one person;
- (b) may make different appointments for different purposes;
- (c) may make provision for joint or concurrent exercise of rights;
- (d) may apply (with or without modifications) or make provision similar to a provision of section 23 of the Trade Marks Act 1994 (c. 26) (co-ownership).”

Words similar to protected words

3 (1) At the end of section 3(1)(b) (infringement: similar symbols and mottos) add “ or a word so similar to a protected word as to be likely to create in the public mind an association with the Olympic Games or the Olympic movement ”.

(2) In the application of section 4(11) to (14) (infringement: protection for existing use) to the Olympics association right as it has effect by virtue of sub-paragraph (1) above, a reference to the commencement of the Act shall be treated as a reference to the commencement of that sub-paragraph.

Olympics association right: limitations

4 For section 4(1) to (10) (infringement of Olympics association right: limitations) substitute—

“(1) A person does not infringe the Olympics association right (despite section 3) by the use of a controlled representation—

- (a) in publishing or broadcasting a report of a sporting or other event forming part of the Olympic Games,
- (b) in publishing or broadcasting information about the Olympic Games,
- (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 subsection (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.

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- (3) A person does not infringe the Olympics association right by using a controlled representation in a context which is not likely to suggest an association between a person, product or service and the Olympic Games or the Olympic movement; and for the purpose of this subsection—
- (a) the concept of an association between a person, product or service and the Olympic Games or the Olympic movement 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 Olympic Games or the Olympic movement, but
 - (b) a person does not suggest an association with the Olympic Games or the Olympic movement 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 protected word by incorporating it in a context to which the Olympic Games and the Olympic movement are substantively irrelevant.
- (4) The Secretary of State may by order specify what is to be or not to be treated for the purposes of subsection (3) as an association between a person, product or service and the Olympic Games or the Olympic movement; and an order under this subsection—
- (a) may include incidental, consequential or transitional provision (which may include provision amending subsection (3)(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.
- (5) A person does not infringe the Olympics association right by using a controlled representation in relation to goods if—
- (a) they were put on the market in the European Economic Area by the proprietor or with his consent,
 - (b) the representation was used in relation to the goods when they were put on the market, and
 - (c) the proprietor 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)."

5 At the end of section 5 (Olympics association right: power to prescribe further limitations) add—

“(4) An order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

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The Paralympics

PROSPECTIVE

6 After section 5 insert—

“The Paralympics association right

5A Creation

- (1) There shall be a right, to be known as the Paralympics association right.
- (2) The provisions of this Act shall apply in relation to the Paralympics association right as they apply to the Olympics association right; and for that purpose—
 - (a) a reference to the Olympic Games shall be treated as a reference to the Paralympic Games,
 - (b) a reference to the Olympic motto shall be treated as a reference to the Paralympic motto,
 - (c) a reference to the Olympic movement shall be treated as a reference to the Paralympic movement,
 - (d) a reference to the Olympic symbol shall be treated as a reference to the Paralympic symbol, and
 - (e) a reference to the commencement of this Act is a reference to the commencement of this section.”

7 In section 18(1) (interpretation) after the definition of “Olympic symbol” insert—

““the Paralympic Games” means the events known by that name and organised by the International Paralympic Committee;

“Paralympic motto” means the motto of the International Paralympic Committee — “Spirit in Motion”;

“Paralympic symbol” means the symbol of the International Paralympic Committee which the Secretary of State shall set out in an order made by statutory instrument (which shall be laid before Parliament after being made).”

8 For section 18(2) (protected words) substitute—

- “(2) For the purposes of this Act—
- (a) each of the following is a protected word in relation to the Olympics association right—
 - (i) Olympiad,
 - (ii) Olympiads,
 - (iii) Olympian,
 - (iv) Olympians,
 - (v) Olympic, and
 - (vi) Olympics, and
 - (b) each of the following is a protected word in relation to the Paralympics association right—

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- (i) Paralympiad,
- (ii) Paralympiads,
- (iii) Paralympian,
- (iv) Paralympians,
- (v) Paralympic, and
- (vi) Paralympics.”

9 At the end of section 18 add—

“(5) The Secretary of State may by order amend this section to reflect a change of motto or symbol of the International Olympic Committee or the International Paralympic Committee.

(6) An order under subsection (5)—

- (a) may include incidental, consequential or transitional provision (which may include provision similar to section 4(11) to (14) above),
- (b) shall be made by statutory instrument, and
- (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Infringement

10 In section 7(3)(a) (orders in relation to infringing goods: “infringing material”) for “, or for advertising goods or services,” substitute “, for advertising goods or services or by being displayed,”.

Penalties

11 (1) In respect of an offence under section 8 (infringement marketing of goods) committed during the period specified in sub-paragraph (2), the reference in section 8(5)(a) (maximum fine on summary conviction) to the statutory maximum shall be taken as a reference to £20,000.

(2) The period referred to in sub-paragraph (1)—

- (a) begins at the end of the period of two months beginning with the date on which this Act receives Royal Assent, and
- (b) ends with 31st December 2012.

Enforcement

12 (1) After section 8 add—

“8A Enforcement by trading standards authority

(1) A local weights and measures authority may enforce within their area the provisions of section 8.

(2) The following provisions of the Trade Descriptions Act 1968 apply in relation to the enforcement of that section as in relation to the enforcement of that Act—

- (a) section 27 (power to make test purchases),

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- (b) section 28 (power to enter premises and inspect and seize goods and documents),
 - (c) section 29 (obstruction of authorised officers), and
 - (d) section 33 (compensation for loss, &c of goods seized).
- (3) Subsection (1) above does not apply in relation to the enforcement of section 8 in Northern Ireland; but—
- (a) the Department of Enterprise, Trade and Investment may enforce that section in Northern Ireland, and
 - (b) for that purpose the provisions of the Trade Descriptions Act 1968 specified in subsection (2) apply as if for the references to a local weights and measures authority and any officer of such an authority there were substituted references to that Department and any of its officers.
- (4) Nothing in this section shall be construed as authorising a local weights and measures authority to bring proceedings in Scotland for an offence.”
- (2) The London Organising Committee may—
- (a) make arrangements with a local weights and measures authority for the exercise of the authority's power under section 8 of the Olympic Symbol etc. (Protection) Act 1995 (as inserted by sub-paragraph (1));
 - (b) may make payments to a local weights and measures authority in respect of expenses incurred in the exercise of that power.

Commencement Information

I11 Sch. 3 para. 12 in force at 2.4.2007 by S.I. 2007/1064, art. 2(a)

13 After section 8A (inserted by paragraph 12 above) insert—

“8B Arrest

- (1) After paragraph 21 of Schedule 1A to the Police and Criminal Evidence Act 1984 (arrestable offences) add—

“Olympic Symbol etc. (Protection) Act 1995

21A An offence under section 8 of the Olympic Symbol etc. (Protection) Act 1995 (offences in relation to goods).”

- (2) A constable in Scotland may arrest without warrant a person who the constable reasonably believes is committing or has committed an offence under section 8 of the Olympic Symbol etc. (Protection) Act 1995.
- (3) Subsection (2) is without prejudice to any power of arrest which is otherwise exercisable by a constable in Scotland.”

Commencement Information

I12 Sch. 3 para. 13 in force at 2.4.2007 for specified purposes by S.I. 2007/1064, art. 2(b)

14 After section 12 (forfeiture) insert—

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“12A Detention by Revenue and Customs

- (1) The proprietor may give notice in writing to the Commissioners for Her Majesty's Revenue and Customs—
 - (a) stating that at a time and place specified in the notice, goods which are infringing goods, material or articles are expected to arrive in the United Kingdom—
 - (i) from outside the European Economic Area, or
 - (ii) from within the Area but not having been entered for free circulation,
 - (b) specifying the nature of the controlled representation by reference to which the goods are infringing goods, material or articles, and
 - (c) requesting the Commissioners to detain the goods.
- (2) The Commissioners may detain goods to which a notice under subsection (1) relates.
- (3) But the Commissioners may not detain goods—
 - (a) imported by a person for his private and domestic use, or
 - (b) to which section 89(3) of the Trade Marks Act 1994 applies (Council Regulation (EC) No. 1383/2003).
- (4) If the Commissioners detain goods to which a notice under subsection (1) applies they shall as soon as is reasonably practicable—
 - (a) give written notice of the detention and the grounds for it to the person in whose name the goods were presented or declared to customs, and
 - (b) give the proprietor notice that the goods have been detained, specifying in respect of the goods such information as is available to the Commissioners about—
 - (i) the nature of the goods,
 - (ii) their number,
 - (iii) the place where they were manufactured,
 - (iv) the place from which they were sent,
 - (v) the name and address of the person by whom they were sent,
 - (vi) the name and address of the person mentioned in paragraph (a),
 - (vii) the name and address of the person to whom they were to be delivered, and
 - (viii) the name and address of the person who holds them during detention.
- (5) The Commissioners may provide samples of detained goods to the proprietor on request, in which case he—
 - (a) may use the samples only for the purpose of determining whether they are infringing goods, material or articles,
 - (b) must return the samples to the Commissioners as soon as is reasonably practicable, and
 - (c) must inform the Commissioners as soon as is reasonably practicable whether the goods are infringing goods, material or articles.

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- (6) The Commissioners may permit the proprietor on request to inspect detained goods (in which case he must inform the Commissioners as soon as is reasonably practicable whether the goods are infringing goods, material or articles).
- (7) The Commissioners shall release goods detained in pursuance of a notice under subsection (1) if—
- (a) the Commissioners think that initiating process in proceedings under section 6 in respect of the goods has not been served during the period of 10 working days, in the case of non-perishable goods, or 3 working days, in the case of perishable goods, beginning with the date on which the notice under subsection (4)(b) was received,
 - (b) the Commissioners think that proceedings under section 6 in respect of the goods have been withdrawn, have lapsed or have terminated without an order being made in respect of the goods by virtue of section 7, or
 - (c) the Commissioners are informed by the proprietor that the goods are not infringing goods, material or articles.
- (8) The Commissioners may detain goods which they think, having regard to the nature of the goods and to information provided by the proprietor, may be infringing goods, material or articles; and if the Commissioners detain goods under this subsection—
- (a) they shall as soon as is reasonably practicable invite the proprietor to give the Commissioners a notice that the goods are infringing goods, material or articles,
 - (b) they shall, when giving an invitation under paragraph (a), give in respect of the goods such information as is available to them about—
 - (i) the nature of the goods,
 - (ii) their number,
 - (iii) the place where they were manufactured,
 - (iv) the place from which they were sent,
 - (v) the name and address of the person by whom they were sent,
 - (vi) the name and address of the person in whose name the goods were presented or declared to customs,
 - (vii) the name and address of the person to whom they were to be delivered, and
 - (viii) the name and address of the person who holds them during detention,
 - (c) they may provide samples of the goods to the proprietor on request in which case he —
 - (i) may use the samples only for the purpose of determining whether they are infringing goods, material or articles,
 - (ii) must return the samples to the Commissioners as soon as is reasonably practicable, and
 - (iii) must inform the Commissioners as soon as reasonably practicable whether the goods are infringing goods, material or articles,
 - (d) they may permit the proprietor on request to inspect the goods (in which case he must inform the Commissioners as soon as reasonably

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- practicable whether the goods are infringing goods, material or articles),
- (e) if no notice is given in accordance with paragraph (a) within the period of 3 working days beginning with the date on which the invitation under that paragraph is received, the Commissioners shall release the goods, and
 - (f) if a notice is given in accordance with paragraph (a), the Commissioners shall proceed as if it were a notice given under subsection (1) above (and as if the goods were detained in pursuance of that notice), but—
 - (i) subsections (4)(b), (5) and (6) shall not have effect, and
 - (ii) subsection (7) shall have effect as if the reference to the notice under subsection (4)(b) were a reference to information under paragraph (b) above.

12B Section 12A: supplementary

- (1) Section 90 of the Trade Marks Act 1994 (c. 26) (regulations as to form of notice, &c.) shall have effect in relation to a notice under subsection 12A(1) or (8)(a) above as in relation to a notice under section 89(1).
- (2) A person who is or was an officer or employee of the proprietor, or who acts or acted on the proprietor's behalf, commits an offence if he discloses information provided in accordance with section 12A(4)(b) or 12A(8)(b) other than—
 - (a) for the purpose of, or with a view to the institution of, proceedings under section 6,
 - (b) for the purpose of complying with an enactment,
 - (c) in pursuance of an order of a court,
 - (d) in a form which ensures that the identity of no person to whom the information relates is specified or can be deduced,
 - (e) with the consent of each person to whom the information relates, or
 - (f) with the consent of the Commissioners for Her Majesty's Revenue and Customs;and sections 19(3), (4), (7) and 55(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (defences and penalties) shall have effect in relation to this subsection.
- (3) Section 139(1), (2), (3), (4), (7) and (8) of the Customs and Excise Management Act 1979 (detention of goods: constables, &c.) shall apply in relation to goods liable to detention in accordance with section 12A above as in relation to things liable to forfeiture—
 - (a) with the substitution of a reference to this Act for a reference to the customs and excise Acts, and
 - (b) with any other necessary modifications.
- (4) Section 144 of that Act (protection of officers) shall apply in relation to the detention of goods in accordance with section 12A above—
 - (a) with the substitution of a reference to proceedings under section 6 above for the reference in section 144(1) to proceedings for condemnation, and

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(b) with any other necessary modifications.

(5) In section 12A “working day” means a day that is not a Saturday, a Sunday or a bank holiday (within the meaning of section 1 of the Banking and Financial Dealings Act 1971 (c. 80)).”

Commencement Information

I13 Sch. 3 para. 14 in force at 2.4.2007 by S.I. 2007/1064, art. 2(c)

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.

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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 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)
- (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.

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- (9) Before laying a draft order in accordance with sub-paragraph (7)(b) the Secretary of State shall consult—
- (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)—

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- (a) may make different provision for different purposes,
 - (b) may include transitional provision,
 - (c) shall be made by statutory instrument, and
 - (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

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- (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.

Status:

Point in time view as at 02/04/2007.

Changes to legislation:

There are currently no known outstanding effects for the London Olympic Games and Paralympic Games Act 2006.