



London Olympic Games and Paralympic Games (Amendment) Act 2011

2011 CHAPTER 22

Advertising and trading

1 Removal of infringing articles

- (1) In section 21 of the London Olympic Games and Paralympic Games Act 2006 (offence of contravening advertising regulations), omit subsection (4).
- (2) In section 22 of that Act (contravention of advertising regulations: power of entry), in subsection (5)—
 - (a) after paragraph (b) insert “or”, and
 - (b) omit paragraph (d) and the preceding “or”.
- (3) In subsection (6) of that section—
 - (a) for “an enforcement officer” substitute “a constable”,
 - (b) for “a constable”, in each place it appears, substitute “an enforcement officer”, and
 - (c) for the words from “treated” to the end substitute “dealt with in accordance with sections 31A to 31E.”
- (4) In subsection (10) of that section—
 - (a) in the definition of “enforcement officer”, for “that subsection” substitute “this section”, and
 - (b) in paragraph (b) of the definition of “infringing article”, after “thing” insert “, or an animal,”.
- (5) In section 28 of that Act (contravention of trading regulations: power of entry), in subsection (2)—
 - (a) after paragraph (b) insert “or”, and
 - (b) omit paragraph (d) and the preceding “or”.
- (6) Omit subsection (3) of that section.

- (7) In subsection (4) of that section—
- (a) for “an enforcement officer” substitute “a constable”,
 - (b) for “a constable”, in each place it appears, substitute “an enforcement officer”, and
 - (c) for the words from “treated” to the end substitute “dealt with in accordance with sections 31A to 31E.”
- (8) In subsection (8) of that section—
- (a) in the definition of “enforcement officer”, for “that subsection” substitute “this section”, and
 - (b) in each of paragraphs (a) and (b) of the definition of “infringing article”, after “article” insert “or animal”.
- (9) After section 31 of that Act insert—

“Removal of infringing articles

31A Cases involving criminal proceedings

- (1) This section applies where—
 - (a) an infringing article is removed under section 22 or 28, and
 - (b) its retention is justified by the matter specified in section 22(5)(c) or (as the case may be) 28(2)(c).
- (2) In the case of a perishable article, the Olympic Delivery Authority must, so far as is reasonably practicable, store the article pending its return or disposal in accordance with this group of sections.
- (3) In the case of an animal, the Authority must take care of the animal pending its return or disposal in accordance with this group of sections.
- (4) If proceedings on the offence under section 21 or 27 are not instituted before the end of the relevant period, the infringing article shall be returned to the owner of the article at the end of that period unless—
 - (a) the Authority, having undertaken such enquiries as it thinks appropriate, fails to establish who or where the owner is,
 - (b) the owner disclaims the article or refuses to accept it, or
 - (c) in the case of a perishable article, the article has ceased to be usable for trade.
- (5) If proceedings on the offence under section 21 or 27 are instituted before the end of the relevant period but are discontinued, the infringing article shall be returned to the owner on the discontinuance of the proceedings unless subsection (4)(a), (b) or (c) applies.
- (6) If proceedings on the offence under section 21 or 27 are instituted before the end of the relevant period, and subsection (5) does not apply, the infringing article shall be returned to the owner at the conclusion of the proceedings unless—
 - (a) subsection (4)(a), (b) or (c) applies,
 - (b) the court orders the infringing article to be forfeited under section 143 of the Powers of Criminal Courts (Sentencing) Act 2000, or

- (c) where (without making an order under that section) the court awards costs to the Authority against the owner, the period of 28 days beginning with the day on which the award was made expires without the costs having been paid.
- (7) If subsection (4)(a) applies, the Authority may apply to a magistrates' court for a disposal order under section 31D.
- (8) If subsection (4)(b) or (6)(c) applies, the Authority must proceed in accordance with section 31E.
- (9) If subsection (4)(c) applies, the Authority may dispose of the article as it thinks appropriate.
- (10) For the purposes of this section, "the relevant period" is—
 - (a) in the case of an infringing article removed under section 22, the period of 56 days beginning with the day after the day on which it is removed, and
 - (b) in the case of an infringing article removed under section 28, the period of 28 days beginning with the day after the day on which it is removed.
- (11) In this section, "this group of sections" means this section and sections 31B to 31E.

31B Cases not involving criminal proceedings: articles other than vehicles

- (1) This section applies where—
 - (a) an infringing article which is not a vehicle is removed under section 22 or 28, and
 - (b) retention of the article is not justified by the matter specified in section 22(5)(c) or (as the case may be) 28(2)(c).
- (2) In the case of a perishable article, the Olympic Delivery Authority must, so far as is reasonably practicable, store the article pending its return or disposal in accordance with this group of sections.
- (3) In the case of an animal, the Authority must take care of the animal pending its return or disposal in accordance with this group of sections.
- (4) The article shall be returned to the owner when retention is no longer justified by a matter specified in section 22(5)(a) or (b) or (as the case may be) 28(2)(a) or (b) unless—
 - (a) the Authority, having undertaken such enquiries as it thinks appropriate, fails to establish who or where the owner of the article is,
 - (b) the owner disclaims the article or refuses to accept it, or
 - (c) in the case of a perishable article, the article has ceased to be usable for trade.
- (5) If subsection (4)(a) applies, the Authority may apply to a magistrates' court for a disposal order under section 31D.
- (6) If subsection (4)(b) applies, the Authority must proceed in accordance with section 31E.

- (7) If subsection (4)(c) applies, the Authority may dispose of the article as it thinks appropriate.
- (8) In this section—
“this group of sections” has the meaning given in section 31A, and
“vehicle” has the same meaning as in the Vehicle Excise and Registration Act 1994 (see section 1 of that Act).

31C Cases not involving criminal proceedings: vehicles

- (1) This section applies where—
- (a) a vehicle is removed under section 22 or 28, and
 - (b) retention of the vehicle is not justified by the matter specified in section 22(5)(c) or (as the case may be) 28(2)(c).
- (2) If the Olympic Delivery Authority receives a written application for the return of the vehicle and is satisfied that the applicant is the owner, the vehicle shall be returned to the applicant when retention is no longer justified by a matter specified in section 22(5)(a) or (b) or (as the case may be) 28(2)(a) or (b), unless the applicant disclaims the vehicle or refuses to accept it.
- (3) Subsection (2) does not apply if the vehicle has been removed under section 22 or 28 on a previous occasion; where that is the case, if the Authority is satisfied as to who the owner is, the vehicle shall be returned to the owner as soon as is reasonably practicable after the end of the London Olympics period, unless the owner disclaims the vehicle or refuses to accept it.
- (4) If neither subsection (2) nor subsection (3) applies, the Authority must request from the Secretary of State the particulars relating to the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994.
- (5) Once those particulars have been received, the vehicle shall—
- (a) if it has been removed under section 22 or 28 on a previous occasion, be returned to the owner as soon as is reasonably practicable after the end of the London Olympics period, or
 - (b) in any other case, be returned to the owner when retention is no longer justified by a matter specified in section 22(5)(a) or (b) or (as the case may be) 28(2)(a) or (b),
- unless the owner disclaims the vehicle or refuses to accept it.
- (6) If the owner disclaims or refuses to accept the vehicle in the circumstances mentioned in subsection (2), (3) or (5), the Authority must proceed in accordance with section 31E.
- (7) In this section, “vehicle” has the same meaning as in the Vehicle Excise and Registration Act 1994 (see section 1 of that Act).

31D Disposal orders

- (1) A magistrates’ court may, on an application under section 31A(7) or 31B(5), make an order (a “disposal order”) authorising the Olympic Delivery Authority—

- (a) to dispose of the article or animal as the Authority thinks appropriate, and
 - (b) to apply any proceeds of the disposal towards the Authority's costs of exercising functions by virtue of section 19 or 25.
- (2) The court may make a disposal order only if it is satisfied that the Authority has made reasonable efforts to establish who and where the owner of the article or animal is.
- (3) If a person who claims to be the owner of the article or animal, or otherwise to have an interest in it, applies to the court to be heard in the proceedings, the court—
 - (a) must give the applicant an opportunity to make representations as to why a disposal order should not be made,
 - (b) may not make a disposal order pending the making of the representations, and
 - (c) having heard the representations, may (instead of making a disposal order) make an order requiring the article or animal to be returned to the owner.
- (4) In considering whether to make a disposal order, the court must have regard in particular to—
 - (a) the value of the article or animal, and
 - (b) the likely financial or other effects of making the order.
- (5) The court may make a disposal order even if the value of the article or animal exceeds the maximum fine which could be imposed on conviction of the offence under section 21 or (as the case may be) 27.

31E Sale or other disposal

- (1) This section has effect for the purposes of sections 31A(8), 31B(6) and 31C(6).
- (2) If the Olympic Delivery Authority thinks that there is a realistic prospect of selling the article or animal in question—
 - (a) it must take reasonable steps to sell it at the best price that can reasonably be obtained, but
 - (b) if (having complied with paragraph (a)) it fails to sell it, it may dispose of it as it thinks appropriate.
- (3) If the Authority does not think that there is a realistic prospect of selling the article or animal, it may dispose of it as it thinks appropriate.
- (4) In a case within section 31A(4)(b) or 31B(4)(b), or in the circumstances mentioned in section 31C(2), (3) or (5), the proceeds of a sale under this section must be applied towards the Authority's costs of exercising functions by virtue of section 19 or 25.
- (5) In a case within section 31A(6)(c), the proceeds of a sale under this section must—
 - (a) be applied in paying the amount of the costs referred to in section 31A(6)(c) that are unpaid, and

- (b) in so far as the proceeds exceed that amount, be given to the owner of the article or animal.
- (6) If, in a case within section 31A(6)(c), the Authority sells or otherwise disposes of the article or animal having failed to comply with subsection (2)(a), the failure—
 - (a) is actionable against the Authority by any person suffering loss in consequence of the sale or other disposal, but
 - (b) in the case of a sale, does not affect the validity of the sale.
- (7) If the Authority, having undertaken such enquiries as it thinks appropriate, fails to establish for the purposes of subsection (5)(b) where the owner is, it may apply to a magistrates' court for an order under subsection (8).
- (8) A magistrates' court may, on an application under subsection (7), make an order authorising the Authority to apply the excess of the proceeds of sale towards its costs of exercising functions by virtue of section 19 or 25.
- (9) The court may make an order under subsection (8) only if it is satisfied that the Authority has made reasonable efforts to establish where the owner is.
- (10) In considering whether to make an order under subsection (8), the court must have regard in particular to—
 - (a) the amount of the excess of the proceeds of sale, and
 - (b) the likely financial or other effects of making the order.”
- (10) In section 37 of that Act (Scotland), omit—
 - (a) subsection (6), and
 - (b) subsection (11).
- (11) At the end of that section insert—
 - “(12) In section 22, subsection (6) has effect as if there were substituted for it—
 - “(6) An article that is held by a constable (having been removed by or delivered to the constable) shall be returned when retention is no longer justified by a matter specified in subsection (5)(a) to (c), unless—
 - (a) in the case of a perishable article, the article has ceased to be usable for trade, or
 - (b) the court orders the article to be forfeited under Part 2 of the Proceeds of Crime (Scotland) Act 1995.
 - (6A) Subject to subsection (6), the article shall be treated as if acquired by the constable in the course of the investigation of an offence.
 - (6B) An article that is held by an enforcement officer (having been removed by or delivered to the officer) shall be dealt with in accordance with sections 31A to 31E.”
- (13) In section 28, subsection (4) has effect as if there were substituted for it—
 - “(4) An article that is held by a constable (having been removed by or delivered to the constable) shall be returned when retention is no longer justified by a matter specified in subsection (2)(a) to (c), unless—

- (a) in the case of a perishable article, the article has ceased to be usable for trade, or
 - (b) the court orders the article to be forfeited under Part 2 of the Proceeds of Crime (Scotland) Act 1995.
- (4A) Subject to subsection (4), the article shall be treated as if acquired by the constable in the course of the investigation of an offence.
- (4B) An article that is held by an enforcement officer (having been removed by or delivered to the officer) shall be dealt with in accordance with sections 31A to 31E.”
- (14) In sections 31A, 31B and 31D, the references to a magistrates’ court are to be read as if they were references to the sheriff.
- (15) Section 31A has effect as if—
 - (a) in subsection (4), “before the end of the relevant period” and “at the end of that period” were omitted,
 - (b) in subsections (5) and (6), “before the end of the relevant period” were omitted,
 - (c) in subsection (6), in paragraph (b), for “section 143 of the Powers of Criminal Courts (Sentencing) Act 2000” there were substituted “Part 2 of the Proceeds of Crime (Scotland) Act 1995”,
 - (d) in that subsection, paragraph (c) were omitted,
 - (e) in subsection (8), “or (6)(c)” were omitted, and
 - (f) subsection (10) were omitted.
- (16) Section 31E has effect as if subsections (5) to (10) were omitted.”
- (12) In section 38 of that Act (Northern Ireland), omit paragraph (g).

2 Regulations: Parliamentary procedure and public notice

- (1) In section 20 of the London Olympic Games and Paralympic Games Act 2006 (supplementary provision about advertising regulations), after subsection (2) insert—
 - “(2A) But if, in relation to regulations under section 19 other than the first regulations, the Secretary of State considers that by reason of urgency it is necessary that they be made without being approved in draft—
 - (a) subsection (2)(b) does not apply to the regulations, and
 - (b) the regulations are instead subject to annulment in pursuance of a resolution of either House of Parliament.”
- (2) In section 23 of that Act (role of Olympic Delivery Authority in relation to advertising regulations), in subsection (2), after “subsection (1)” insert “in relation to the first regulations made or expected to be made under that section,”.
- (3) In section 26 of that Act (supplementary provision about trading regulations), after subsection (2) insert—
 - “(2A) But if, in relation to regulations under section 25 other than the first regulations, the Secretary of State considers that by reason of urgency it is necessary that they be made without being approved in draft—
 - (a) subsection (2)(b) does not apply to the regulations, and

Status: This is the original version (as it was originally enacted).

- (b) the regulations are instead subject to annulment in pursuance of a resolution of either House of Parliament.”
- (4) In section 29 of that Act (role of Olympic Delivery Authority in relation to trading regulations), in subsection (2), after “subsection (1)” insert “in relation to the first regulations made or expected to be made under that section,”.
- (5) In section 37 of that Act (Scotland), in subsection (8)(b), after “references”, in the first place it appears, insert “(other than in sections 20 and 26)”.
- (6) After subsection (9) of that section insert—
 - “(9A) Sections 20 and 26 are to have effect as if, in each case, for subsections (2) and (2A) there were substituted—
 - “(2) Regulations under that section are subject to the affirmative procedure.
 - (2A) But if, in relation to regulations under that section other than the first regulations, the Scottish Ministers consider that by reason of urgency it is necessary that they be made without being approved in draft—
 - (a) subsection (2) does not apply to the regulations, and
 - (b) the regulations are instead subject to the negative procedure.””””