



Birmingham Commonwealth Games Act 2020

2020 CHAPTER 10

PART 3

TOUTING, ADVERTISING AND TRADING OFFENCES

Supplementary and general

21 Offences by directors, partners, etc

- (1) Where an offence under this Part has been committed by a body corporate and it is proved that the offence—
 - (a) has been committed with the consent or connivance of a person falling within subsection (2), or
 - (b) is attributable to any neglect on the part of such a person,that person (as well as the body corporate) is guilty of that offence and is liable to be proceeded against and punished accordingly.
- (2) The persons are—
 - (a) a director, manager, secretary or other similar officer of the body;
 - (b) any person who was purporting to act in such a capacity.
- (3) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member, in connection with that management, as if the member were a director of the body corporate.
- (4) Where an offence under this Part has been committed by a Scottish partnership and it is proved that the offence—
 - (a) has been committed with the consent or connivance of a partner in the partnership or a person purporting to act as such a partner, or
 - (b) is attributable to any neglect on the part of such a person,

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that person (as well as the partnership) is guilty of that offence and is liable to be proceeded against and punished accordingly.

- (5) Where a body corporate or Scottish partnership commits an offence under section 10 by virtue of section 11(1) or (2) (ticket touting outside the United Kingdom), subsections (1) to (4) apply only in respect of a person who is a United Kingdom person.

“United Kingdom person” has the meaning given by section 11(6).

22 Existing restrictions to be unaffected

Nothing in this Part—

- (a) authorises a person to do anything that is prohibited (whether in a particular place or generally) by or under any other enactment or rule of law, or
- (b) affects a requirement of any other enactment or rule of law that a person hold a licence before engaging in a particular activity (whether in a particular place or generally).

23 Guidance and information

- (1) The Organising Committee must publish guidance about the operation of the advertising and trading provisions.
- (2) In subsection (1) “the advertising and trading provisions” means—
- (a) sections 13 to 19,
 - (b) the remaining provisions of this Part, so far as relating to those sections, and
 - (c) any regulations made under any provision referred to in paragraph (a) or (b).
- (3) The Organising Committee may revise guidance published in accordance with subsection (1).
- (4) Every local authority must—
- (a) provide a copy of any guidance published in accordance with subsection (1) to each relevant trader in the authority’s area who the authority consider may be affected by section 16 (the trading offence), and
 - (b) provide each such relevant trader with whatever information the authority consider appropriate for the purpose of assisting the relevant trader to mitigate the effect of that section.
- (5) In subsection (4) “relevant trader”, in relation to a local authority, means—
- (a) a person who holds a trading licence granted by the authority, or
 - (b) a person—
 - (i) who has applied to the authority for such a licence, and
 - (ii) whose application has not been determined or withdrawn.

24 Interpretation of Part 3

- (1) In this Part—

“advertising” means anything done wholly or partly for the purpose of promoting a product, service or business to the public or a section of the public;

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“advertising licence” means a licence permitting the carrying out of advertising;

“business” includes trade or profession;

“enactment” includes an Act of the Scottish Parliament;

“Games event” has the meaning given by section 1(3);

“Games location” means a place in England which—

- (a) is, or is to be, used for a Games event, or
- (b) is otherwise used, or to be used, in connection with the Games (whether before, during or after the Games);

“Games location advertising” is to be read in accordance with section 13(2);

“Games location trading” has the meaning given by section 16(2);

“item” includes—

- (a) any substance;
- (b) any animal or plant;

“licence” includes any kind of consent, certificate, permission or authority (by whatever name) granted by a landowner, local authority or other person in accordance with any enactment, Charter or other document;

“local authority” means—

- (a) a county council,
- (b) a district council,
- (c) a London borough council, or
- (d) the Common Council of the City of London;

“motor vehicle” has the same meaning as in the Road Traffic Act 1988 (see section 185(1) of that Act);

“relevant public place” has the meaning given by section 16(8);

“trading” has the meaning given by section 16(2);

“trading licence” means a licence permitting the carrying out of trading.

(2) In determining for the purposes of section 16 whether a person is carrying out Games location trading—

- (a) it is not necessary for both of the following conditions to be met—
 - (i) that the making of an offer, or the exposure of an item for sale, occurs in a specified Games location or (as the case may be) a relevant public place;
 - (ii) that any person to whom the offer is made or item exposed is in a specified Games location or (as the case may be) a relevant public place when the offer is made or item exposed;
- (b) a person is to be treated as doing something for gain or reward whether it is done for the person’s own gain or reward or for that of another person.