
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision which is expedient in consequence of the Glasgow Commonwealth Games Act 2008 (“the 2008 Act”).

The 2008 Act makes provision in relation to the Commonwealth Games that are to be held predominantly in Glasgow in 2014 (“the Glasgow Commonwealth Games”).

Article 2 provides for interpretation. Orders specified in the Order may be made by the High Court in England, Wales and Northern Ireland and the Court of Session in Scotland. Orders made under articles 16 and 17 may also be made in the sheriff court in Scotland or the county court in Northern Ireland.

Article 3 adapts certain expressions relating to court proceedings to Scotland.

Article 4 creates a specific event association right in relation to the Glasgow Commonwealth Games. It defines the Glasgow Commonwealth Games association right as the use of any representation in a way which suggests an association between the Games and goods or services, or a person providing goods or services. The concept of association is defined as where a commercial, contractual, corporate or financial link is suggested between a person, product or service and the Games. It does not include where a statement accords with honest commercial practices and does not make a commercial use of the representation in an irrelevant context.

Article 5 makes general provision about infringement. A person will infringe the association right if representations are made in the course of business in a manner likely to suggest an association with the Glasgow Commonwealth Games. It also provides what is to be treated as a use of a representation for the purposes of the Order.

Article 6 makes provision for authorised use of the Glasgow Commonwealth Games association right. Where the Organising Committee has granted an authorisation, use of a representation does not amount to an infringement.

Article 7 provides that the Organising Committee is under a duty to maintain a public register of those persons who have been granted the right to associate with the Glasgow Commonwealth Games.

Articles 8 to 13 provide a number of exceptions to infringement of the association right. Article 8 provides for an exception in relation to uses of registered trademarks or designs.

Article 9 creates an exception for use of certain types of information, including indications that describe (amongst other things) the purpose, quality or origin of a product or service.

Article 10 provides for an exception where a representation has been in continuous use prior to the Order coming into force where that usage is for the purpose of an undertaking.

Article 11 provides that the association right is not infringed by use of a representation where that use takes place under a pre-existing right or where the pre-existing rights may otherwise prevent usage.

Article 12 enables publication and broadcasting without infringement in certain cases.

Article 13 provides an exemption from infringement where goods were put on the market in a European Economic Area with authorisation from the Organising Committee and where further dealings in the goods are not opposed by the Committee.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Articles 14 to 17 make provision for the remedies available for infringement of the association right. Article 14 provides that an action for infringement of a Commonwealth Games association right may be brought by the Organising Committee.

Article 15 provides that, on application by the Organising Committee, the court may order the erasure of the offending representation from any infringing goods, material or articles. In cases where it is not reasonably practicable to remove the representation, the court may order destruction of the infringing goods, material and articles in question.

Article 16 provides that the Organising Committee may apply to the court for an order for delivery of any infringing good, material or articles to the Committee or such other person as the court directs.

Article 17 provides that the Organising Committee may apply to the court for an order that infringing goods, material or articles which have been delivered up in pursuance of an order under article 16 may be destroyed or forfeited. The provision also provides for the notification of any persons who might have an interest in any such goods, material or articles.

Article 18 provides for a remedy against groundless threats of infringement proceedings.

Article 19 makes provision for the Order ceasing to have effect six months after the date of the Glasgow Commonwealth Games closing ceremony.