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STATUTORY INSTRUMENTS

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**2021 No. 1198**

**The Birmingham Commonwealth Games  
(Advertising and Trading) Regulations 2021**

**PART 3**

**Exceptions to the advertising offence**

**Exceptions for charities**

7.—(1) Section 13(1) of the Act (advertising offence) does not apply to Games location advertising<sup>(1)</sup> carried out by a charity wholly or partly for the purpose of—

- (a) promoting that charity; or
- (b) promoting a service listed in paragraph (3).

(2) The exception in paragraph (1) does not apply to anything done by a charity partly for the purpose of—

- (a) promoting a product; or
- (b) promoting a business, other than a charity.

(3) The services listed in this paragraph are—

- (a) the prevention or relief of poverty;
- (b) the advancement of health or the saving of lives;
- (c) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
- (d) the relief of those in need because of youth, age, ill-health, disability, financial hardship or other disadvantage;
- (e) the promotion of the efficiency of the police, fire and rescue services or ambulance services.

(4) In this regulation—

“charity” has the meaning given to it in section 1 of the Charities Act 2011<sup>(2)</sup>, but does not include relevant higher education providers;

“relevant higher education provider” means an institution which is registered in the register of English higher education providers maintained by the Office for Students<sup>(3)</sup> under section 3 of the Higher Education and Research Act 2017 (register of English higher education providers)<sup>(4)</sup>, but does not include an institution within the further education sector as defined

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(1) “Games location advertising” is defined in section 13(2) of the Act.

(2) 2011 c. 25.

(3) The Office for Students is a body corporate established by section 1 of the Higher Education and Research Act 2017 (c. 29).

(4) 2017 c. 29.

by section 91(3) of the Further and Higher Education Act 1992 (interpretation of Education Acts)(5).

### **Exceptions modelled on the Town and Country Planning Regulations**

**8.—(1)** Section 13(1) of the Act does not apply to Games location advertising consisting of the display of an advertisement within—

- (a) a class specified in column (1) of Schedule 1 to the Town and Country Planning Regulations(6) (subject to paragraph (2)), provided that the display (or as the case may be) the advertisement complies with the conditions referred to in regulation 1(3) of those Regulations(7); or
- (b) a class specified in Part 1 of Schedule 3 to the Town and Country Planning Regulations listed in paragraph (3), subject to—
  - (i) paragraph (4),
  - (ii) the conditions set out in Schedule 2 to the Town and Country Planning Regulations, and
  - (iii) in the case of any class other than Class 12, the conditions and limitations specified in Part 1 of Schedule 3 to the Town and Country Planning Regulations in relation to that class.

(2) The exception in paragraph (1)(a) (classes specified in column (1) of Schedule 1 to the Town and Country Planning Regulations) does not apply to the display of any of the following advertisements—

- (a) an advertisement within Class A (advertisements displayed on enclosed land) where the advertisement is displayed—
  - (i) on enclosed land(8), or part of enclosed land, where that enclosed land, or that part of the enclosed land, is a railway station or bus station, including its forecourt (whether enclosed or not),
  - (ii) on or in a sports stadium, or
  - (iii) on enclosed land where a sporting event forming part of the Games(9) is taking place, is to take place, or has taken place on or in that enclosed land;
- (b) an advertisement within Class C (advertisements incorporated in the fabric of buildings) that was not in existence on the date on which these Regulations came into force;
- (c) an advertisement within Class I (advertisements displayed inside buildings), other than an exempt business advertisement, where the advertisement is displayed—
  - (i) in a building, or in part of a building, where that building (or that part of the building) is, or forms part of, a railway station or bus station,
  - (ii) in a sports stadium, or
  - (iii) in part of a building where a sporting event forming part of the Games is taking place, is to take place, or has taken place in that part of the building.

(3) The classes referred to in paragraph (1)(b) (classes specified in Part 1 of Schedule 3 to the Town and Country Planning Regulations) are—

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(5) 1992 c. 13; section 91(3) was amended by the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), Schedule 8, paragraph 13.

(6) Class E in Schedule 1 to the Town and Country Planning Regulations was amended by S.I. 2018/1310; Class H in Schedule 1 was amended by S.I. 2012/2372, 2021/617.

(7) Regulation 1(3) of the Town and Country Planning Regulations was amended by S.I. 2021/617.

(8) “Enclosed land” is defined in column (2) of Schedule 1 to the Town and Country Planning Regulations.

(9) The “Games” are defined in section 1(3) of the Act.

- (a) Class 1 (functional advertisements of government departments and their agencies, local authorities, public transport undertakers, statutory undertakers and Transport for London);
  - (b) Class 2 (miscellaneous advertisements relating to the premises on which they are displayed);
  - (c) Class 3 (miscellaneous temporary advertisements);
  - (d) Class 4 (illuminated advertisements on business premises);
  - (e) Class 5 (other advertisements on business premises)(**10**);
  - (f) Class 6 (advertisements on forecourts of business premises);
  - (g) Class 7 (flag advertisements)(**11**);
  - (h) Class 10 (advertisements for neighbourhood watch and similar schemes)(**12**);
  - (i) Class 11 (directional advertisements);
  - (j) Class 12 (advertisements inside buildings)(**13**);
  - (k) Class 17 (advertisements on charging points for electric vehicles)(**14**).
- (4) The exception in paragraph (1)(b) does not apply to the display of any of the following advertisements—
- (a) an advertisement within Class 3D (advertisements announcing local events and activities) that promotes—
    - (i) a product or service, or
    - (ii) a business, other than a charity;
  - (b) an advertisement within Class 3F (advertisements relating to travelling circuses, fairs or similar travelling entertainments);
  - (c) an advertisement within Class 7B (flags on residential development sites) that does not relate to the development or to a person carrying out the development or an aspect of the development;
  - (d) an advertisement within Class 12 (advertisements displayed inside buildings), other than an exempt business advertisement, where the advertisement is displayed—
    - (i) in a building, or in part of a building, where that building (or that part of the building) is, or forms part of, a railway station or bus station,
    - (ii) in a sports stadium, or
    - (iii) in part of a building where a sporting event forming part of the Games is taking place, or is to take place, or has taken place in that part of the building.
- (5) In this regulation—
- “business premises” and “forecourt” have the same meanings as in Schedule 3 to the Town and Country Planning Regulations(**15**);
- “exempt business advertisement” means an advertisement (whether illuminated or not) displayed on business premises within a building (or a forecourt associated with such premises) that refers only to—
- (i) the business carried on,

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(10) Class 5 in Schedule 3 to the Town and Country Planning Regulations was amended by regulation 2 of [S.I. 2007/1739](#).

(11) Class 7 in Schedule 3 to the Town and Country Planning Regulations was amended by regulation 2 of [S.I. 2012/2372](#) and regulations 2, 5 and 6 of [S.I. 2021/617](#).

(12) Class 10 in Schedule 3 to the Town and Country Planning Regulations was amended by regulation 23 of [S.I. 2011/3058](#).

(13) Class 12 in Schedule 3 to the Town and Country Planning Regulations was amended by regulation 2 of [S.I. 2011/2057](#).

(14) Class 17 of Schedule 3 to the Town and Country Planning Regulations was inserted by regulation 2 of [S.I. 2011/2057](#).

(15) See paragraph 1(1) of Part 2 of that Schedule.

- (ii) the goods or services provided, or
  - (iii) the name or qualifications of the person carrying on the business or providing the goods or services,
- on those premises;
- “the Town and Country Planning Regulations” means the Town and Country Planning (Control of Advertisements) (England) Regulations 2007(16).

### **Exceptions for newspapers and periodicals**

**9.—(1)** Section 13(1) of the Act does not apply to Games location advertising that consists of selling, distributing or providing a current newspaper or periodical.

(2) The exception in paragraph (1) does not apply to the selling, distribution or provision of a current newspaper or periodical—

- (a) in the street if the selling, distribution or provision is done in a manner that causes undue interference or inconvenience to persons using the street;
- (b) if the version of the newspaper or periodical sold, distributed or provided has been created for the purpose of sale, distribution or provision only to, or principally to, members of the public who are in, or in the vicinity of, a specified Games location; or
- (c) which is accompanied by any item if the whole or principal purpose of including that item is to promote a product, service or business specifically to members of the public who are in, or in the vicinity of, a specified Games location.

(3) For the purposes of this regulation, a person is to be treated as being in, or in the vicinity of, a specified Games location when that person is—

- (a) in or on a railway station where any part of that station is on, above or under the ground in the non-shaded area that is bounded by a dotted green line on a relevant map;
- (b) on an event road;
- (c) in any other place within the non-shaded area that is bounded by a dotted green line on a relevant map;
- (d) on any pavement that is outside the non-shaded area that is bounded by a dotted green line on a relevant map but is on any side of any part of a road that is within the non-shaded area that is bounded by a dotted green line on a relevant map; or
- (e) on any land or water that is outside the non-shaded area that is bounded by a dotted green line on a relevant map but is within two metres of any side of any part of a road that is within the non-shaded area that is bounded by a dotted green line on a relevant map where there is no pavement, or where any pavement extends less than two metres from the side of the road.

### **Exceptions for hand-held devices**

**10.—(1)** Section 13(1) of the Act does not apply to Games location advertising that consists of advertising on a hand-held device unless the advertising is done wholly for the purpose of, or with the principal intention of, promoting a product, service or business specifically to members of the public who are in, or in the vicinity of, a specified Games location.

(2) For the purposes of this regulation, a reference to a person being in, or in the vicinity of, a specified Games location is to be read in accordance with regulation 9(3).

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(16) S.I. 2007/783; relevant amending instruments are S.I. 2007/1739, 2011/2057, 2011/3058, 2012/2372, 2018/1310, 2019/907, 2020/632, 2021/617.

## **Exceptions for providers of information society services**

- 11.** Schedule 4 contains exceptions relevant to providers of information society services.