Draft Regulations laid before Parliament under sections 20(2) and 26(2) of the London Olympic Games and Paralympic Games Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2011 No.

OLYMPIC GAMES AND PARALYMPIC GAMES, ENGLAND

The London Olympic Games and Paralympic Games (Advertising and Trading) (England) Regulations 2011

Made - - - - ***

Coming into force in accordance with regulation 1(2)

These Regulations are made in exercise of the powers conferred by sections 19, 20(1), 22(8), 25, 26(1) and 28(6) of the London Olympic Games and Paralympic Games Act 2006(**1**).

The Secretary of State has consulted in accordance with sections 20(3) and 26(3) and has had regard to the matters referred to in sections 19(2) and 25(2) of that Act.

A draft of these Regulations has been approved by both Houses of Parliament in accordance with sections 20(2) and 26(2) of that Act.

Accordingly, the Secretary of State makes the following Regulations:

PART 1

Introductory

Citation, commencement and duration

1.—(1) These Regulations may be cited as the London Olympic Games and Paralympic Games (Advertising and Trading) (England) Regulations 2011.

(2) They come into force on the day after the day on which they are made.

(3) They cease to have effect at the end of 11th September 2012.

(**1**) 2006 c. 12. Sections 19, 20, 25 and 26 were amended by paragraph 6 of the Schedule to S.I. 2007/2129 and paragraph 8 of the Schedule to S.I. 2010/1551.

Application

2.—(1) These Regulations apply only to—

(a) places in, and

(b) things done in or in respect of,

England including the territorial sea adjacent to England(**2**).

(2) The following provisions bind the Crown—

(a) regulations 5 to 11, and

(b) regulations 3 (including Schedules 1 and 2), 4, 16, and 17 to the extent that they relate to advertising activity.

(3) But nothing in these Regulations makes the Crown liable for an offence.

General interpretation

3. In these Regulations—

"the Act" means the London Olympic Games and Paralympic Games Act 2006,

"article" includes a living thing,

"building" means a permanent building but excludes a telephone kiosk,

"event zone" has the meaning given in Schedule 1,

"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,

"newspaper or periodical" does not include a newspaper or periodical intended specifically to advertise one or more of the following in an event zone during the relevant event period or periods—

(a) a good or service,

(b) a person who provides a good or service,

"railway station" includes all of the following types of station—

(a) a London Underground station,

(b) a Greater Manchester Metrolink station,

(c) a Tyne and Wear Metro station,

"receptacle" means anything which is used (whether or not constructed or adapted for such use) as a container for or for the display of any article, including—

(a) any vehicle, trailer or barrow, or

(b) any basket, bag, box, vessel, stall, stand, easel, board, or tray,

"relevant event period" means, in relation to an event zone, a period of time indicated in column (2) of the table in Schedule 2 that is adjacent to the event zone in column (1) of that table,

"telephone kiosk" has the same meaning as in Schedule 3 to the Town and Country Planning Regulations(**3**), and

"the Town and Country Planning Regulations" means the Town and Country Planning (Control of Advertisements) (England) Regulations 2007(**4**).

(**2**) Under section 1(5) of the Territorial Sea Act 1987 (1987 c. 49), the reference to the territorial sea adjacent to England in regulation 2(1) is to be construed in accordance with section 1 of that Act.
(**3**) See paragraph 1(1) of Part 2 of that Schedule.
(**4**) S.I. 2007/783, amended by S.I. 2007/1739.

Effect on other legislation &c.

4.—(1) Nothing in these Regulations—

(a) authorises a person to do anything that is prohibited (whether in a particular place or generally) by or under any enactment or rule of law, or

(b) affects a requirement of any enactment or rule of law that a person hold a licence before engaging in particular activity (whether in a particular place or generally).

PART 2

Advertising Activity

Interpretation of this Part

5.—(1) In this Part—

"advertisement" means any word, letter, image, mark, sound, light, model, sign, placard, board, notice, screen, awning, blind, flag, device, costume or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purpose of, promotion, advertisement, announcement or direction,

"advertiser" means a person who engages in advertising activity,

"advertising activity" means—

(a) displaying an advertisement, or

(b) distributing or providing promotional material,

"advertising attire" means—

(a) a costume that is an advertisement, or

(b) clothing on which an advertisement is displayed,

"ambush marketing campaign" means a campaign (whether consisting of one act or a series of acts) intended specifically to advertise one or more of the following in an event zone during the relevant event period or periods—

(a) a good or service,

(b) a person who provides a good or service,

"displaying an advertisement" includes (without prejudice to the generality of that expression) —

(a) projecting, emitting, screening or exhibiting an advertisement,

(b) carrying or holding an advertisement or an apparatus by which an advertisement is displayed,

(c) providing for—

(i) an advertisement to be displayed on an animal, or

(ii) an apparatus by which an advertisement is displayed to be carried or held by an animal,

(d) doing one or more of the following as part of an ambush marketing campaign—

(i) carrying or holding personal property on which an advertisement is displayed,

(ii) wearing advertising attire,

(iii) displaying an advertisement on an individual's body,

"not-for-profit body" means a body which, by virtue of its constitution or any enactment—

(a) is required (after payment of outgoings) to apply the whole of its income, and any capital which it expends, for charitable or public purposes, and

(b) is prohibited from directly or indirectly distributing amongst its members any part of its assets (other than for charitable or public purposes),

"promotional material" means a document or article distributed or provided wholly or partly for the purpose of promotion, advertisement, announcement or direction.

(2) In this Part, a reference to a person who engages in advertising activity is to be treated as including a person to whom regulation 6(2) applies.

(3) Advertising activity that consists of the display of an advertisement on a personal communication device is not to be treated as advertising activity for the purposes of this Part unless the advertiser intends the advertisement to be displayed, by means of the device, to the public at large (rather than only to the individual using the device).

(4) In paragraph (3), "personal communication device" means a mobile telephone or other personal interactive communication device.

Control of advertising activity

6.—(1) A person must not engage in advertising activity in an event zone during the relevant event period or periods.

(2) A person is to be treated as contravening paragraph (1) if that person arranges (at any time and in any place) for advertising activity to take place in an event zone during the relevant event period or periods.

(3) A person is also to be treated as contravening paragraph (1) if advertising activity in an event zone during the relevant event period or periods—

(a) relates to a good, service, business or other concern in which the person has an interest or for which the person is responsible, or

(b) takes place on land, premises or other property that the person owns or occupies or of which the person has responsibility for the management.

(4) Without prejudice to the generality of paragraph (3)—

(a) a person is to be treated as having an interest in or responsibility for a business or other concern if that person is an officer of the business or concern,

(b) a person is to be treated as having an interest in or responsibility for a good or service if that person is an officer of a business or other concern that has an interest in or is responsible for the good or service, and

(c) a person is to be treated as having responsibility for the management of land, premises or other property if that person is an officer of a business or other concern that owns, occupies or has responsibility for the management of the land, premises or other property.

(5) In paragraph (4), "an officer" means a director, manager, secretary or other similar officer.

(6) This regulation applies in relation to advertising activity whether or not it consists of the result or continuation of activity carried out before these Regulations came into force.

Exception for demonstrations, &c

7.—(1) Regulation 6 does not apply to advertising activity intended to—

(a) demonstrate support for or opposition to the views or actions of any person or body of persons,

(b) publicise a belief, cause or campaign, or

(c) mark or commemorate an event.

(2) But this exception does not apply to advertising activity that promotes or advertises—

(a) a good or service, or

(b) a person or body (excluding a not-for-profit body) that provides a good or service.

Exception for individuals wearing advertising attire, displaying advertisements on their bodies, or carrying personal property

8.—(1) Regulation 6 does not apply to an individual who engages in advertising activity only by doing one or more of the following, unless the individual knows or has reasonable cause to believe that he or she is participating in an ambush marketing campaign—

(a) wearing advertising attire,

(b) displaying an advertisement on the individual's body,

(c) carrying or holding personal property on which an advertisement is displayed.

(2) The fact that this exception applies to an individual does not affect the application of regulation 6 to any other person (whether in respect of the same advertising activity or otherwise).

Exceptions modelled on the Town and Country Planning Regulations

9.—(1) Regulation 6 does not apply to advertising activity that consists of—

(a) the display of an advertisement within a Class specified in column (1) of Schedule 1 to the Town and Country Planning Regulations so long as the display or (as the case may be) the advertisement complies with the conditions referred to in regulation 1(3) of those Regulations, or

(b) the display of an advertisement within a Class specified in Part 1 of Schedule 3 to the Town and Country Planning Regulations subject to the conditions and limitations referred to in regulation 6(1)(a) and (b) of those Regulations.

(2) But this exception 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 enclosed land on which the advertisement is displayed is—

(i) a railway station (and its yards) or bus station (together with its forecourt, whether enclosed or not), or

(ii) enclosed land (including a sports stadium or other building) on or in which a London Olympic Event(**5**) is taking place or to take place,

(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 building in which the advertisement is displayed —

(i) is or forms part of a railway station or bus station, or

(ii) is a sports stadium or other building in which a London Olympic Event is taking place or to take place,

(d) an advertisement within Class 1B (advertisements displayed by local planning authorities) that—

(**5**) "London Olympic Event" is defined in section 1(3)(b) of the Act.