



Birmingham Commonwealth Games Bill [HL] **HL Bill 1 of 2019–20**

On 3 February 2020, the second reading of the [Birmingham Commonwealth Games Bill \[HL\]](#) is scheduled to take place in the House of Lords.

Summary

The [Birmingham Commonwealth Games](#) are set to take place between 27 July and 7 August 2022. Athletes from across 71 Commonwealth member nations and territories are expected to take part and the Government expects over a million people to attend the games and a further 1.5 billion people to watch on television. The games will be the biggest sporting event ever held in the West Midlands and [£778 million](#) has been allocated to support delivery.

The Government has [described](#) the Birmingham Commonwealth Games Bill [HL] as comprising a “number of operational measures” required to support the delivery of the games. These would be temporary. It has drawn parallels with the legislation required to deliver the London Olympic and Paralympic Games in 2012 and the Glasgow Commonwealth Games in 2014. The bill would permit the provision of financial assistance to the organising committee; require the organising committee to report on its work; regulate association with the games; create offences in respect of ticket touting, advertising and trading; and permit the Government to direct the preparation of a transport plan.

A [first version](#) of the bill was introduced in the 2017–19 session. It received cross-party support and was amended before being carried over and then lost at the end of the 2017 parliament. Government amendments on report included a new clause on reporting; clarifying the bodies that could be charged with preparing a games transport plan; and applying the affirmative resolution procedure to a delegated power in respect of compensation claims. The [current version](#) is substantially the same as that [passed by the House](#) in the short session preceding the December 2019 general election.

The original version of the bill was [welcomed](#) by individuals including John Crabtree, chair of the Birmingham 2022 organising committee; Ian Ward, Labour leader of Birmingham City Council; Andy Street, Conservative mayor of the West Midlands; and David Grevemberg, chief executive of the Commonwealth Games Federation. The Greater Birmingham Chambers of Commerce have also been [supportive](#) of the games generally. The *Birmingham Mail* has [suggested](#) that the road closure powers in the bill were “likely to be controversial”. However, the same article noted that the rationale behind the powers was to “ensure spectators, athletes and games officials are able to get to the games while ensuring Birmingham residents are still able to get around”.

Thomas Brown | 22 January 2020

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I. Background

The Commonwealth Games have been held every four years since 1930, except for a hiatus between 1938 and 1950.¹ UK nations have hosted the games on six occasions since then: England in 1934 and 2002; Wales in 1958; and Scotland in 1970, 1986 and 2014.² The most recent Commonwealth Games were held on the Gold Coast, Australia, in 2018.

The Commonwealth Games Federation (CGF) is responsible for the multi-sport event. In 2015, it awarded the 2022 games to the South African city of Durban. This would have been the first time the games had taken place in Africa. However, the CGF formally withdrew its offer in March 2017. This followed a review that concluded Durban had not met several obligations and commitments in its original bid.³

The following month, Australia, Canada, Malaysia and the UK were reported to have expressed an interest in hosting the 2022 games.⁴ The UK Government invited interested cities to submit proposals.⁵ Birmingham and Liverpool came forward. In September 2017, after analysing each city's proposal, the Department for Digital, Culture, Media and Sport (DCMS) backed Birmingham to lead an England bid.⁶ The cities of Victoria in Canada and Kuala Lumpur in Malaysia, both of which had held the games previously, were reported to have considered a bid. However, neither came forward before the deadline. Instead, Australia, Canada and Malaysia have expressed interest in hosting the games in 2026 or 2030.⁷

In December 2017, the CGF named Birmingham as the host city for the 2022 games.⁸ The games are scheduled to take place between 27 July and 7 August 2022 and this will mark the third time that the games have been held in England. Athletes from across 71 Commonwealth member nations and territories are expected to take part.⁹ The Government expects over a million people to attend the games and a further 1.5 billion people are expected to watch the games on television globally.¹⁰

¹ The games have been known previously as the British Empire Games, the British Empire and Commonwealth Games and the British Commonwealth Games (Commonwealth Games Federation, '[Our Games](#)', accessed 13 January 2020).

² The second British Empire Games were held in London in 1934. UK cities have hosted the games on five other occasions: Cardiff in 1958; Edinburgh in 1970 and 1986; Manchester in 2002; and Glasgow in 2014 (Commonwealth Games Federation, '[Our Games](#)', accessed 13 January 2020).

³ Commonwealth Games Federation, '[Statement on 2022 Commonwealth Games](#)', 13 March 2017. See also: BBC Sport, '[Commonwealth Games: Durban, South Africa Will Not Host Games in 2022](#)', 13 March 2017.

⁴ Commonwealth Games Federation, '[Update on 2022 Commonwealth Games](#)', 28 April 2017.

⁵ [Explanatory Notes](#), p 3.

⁶ BBC Sport, '[Commonwealth Games 2022: Birmingham Beats Liverpool to Lead England Bid](#)', 7 September 2017.

⁷ BBC Sport, '[Commonwealth Games: Birmingham Announced as Host of 2022 Event](#)', 21 December 2017.

⁸ Commonwealth Games Federation, '[Commonwealth Games Federation Selects Birmingham as Host City Partner of the 2022 Commonwealth Games](#)', 21 December 2017.

⁹ Commonwealth Games Federation, '[Birmingham 2022](#)', accessed 13 January 2020; and '[The Commonwealth Games Federation](#)', accessed 13 January 2020.

¹⁰ Department for Digital, Culture, Media and Sport, '[Government Introduces Commonwealth Games Bill for Birmingham 2022](#)', 6 June 2019; and [Explanatory Notes](#), p 3.

2. Previous Version of the Bill

A first version of the bill was introduced in the House of Lords on 5 June 2019.¹¹ During the second reading debate on 25 June 2019, the bill was welcomed in principle across the House.¹² However, concerns were raised about a number of issues including the funding arrangements that would apply to the games, the games' legacy and the appropriate level of delegated powers in the bill as drafted. During the second reading debate, Lord Ashton of Hyde, then Parliamentary Under Secretary of State at the Department for Digital, Culture, Media and Sport, announced details of the £778 million funding package that would apply to the games and commented that the delegated powers in the bill had been drawn as "narrow[ly] as possible". He concluded his remarks by reiterating that the bill was an "essential" operational milestone required as part of preparations for the games.¹³

The bill was considered in committee on 9 July 2019.¹⁴ Several amendments were tabled relating to concerns raised at second reading, but the bill was reported without amendment. However, government amendments were agreed at report stage on 24 July 2019.¹⁵ These concerned:

- A new clause requiring the organising committee to produce annual reports for the Government on its work to deliver the games. These would be laid before Parliament.¹⁶
- Specifying that only a local authority or combined authority may be charged with preparing a games transport plan.¹⁷
- Applying the affirmative resolution procedure to a delegated power relating to compensation claims in certain circumstances following enforcement action taken under provisions in part 3 of the bill.¹⁸

The House agreed a carry-over motion on 9 September 2019 and third reading took place on 23 October 2019.¹⁹ However, the bill then fell at the dissolution of the 2017 parliament.

Following the December 2019 general election, the Government announced that it would reintroduce the bill.²⁰ The current version was introduced by Baroness Barran, Parliamentary Under Secretary of State at the Department for Digital, Culture, Media and Sport, on 7 January 2020.²¹

¹¹ [HL Hansard, 5 June 2019, col 96.](#)

¹² [HL Hansard, 25 June 2019, cols 1012–41.](#)

¹³ *ibid*, col 1041.

¹⁴ [HL Hansard, 9 July 2019, cols 1720–76.](#)

¹⁵ [HL Hansard, 24 July 2019, cols 761–92.](#)

¹⁶ *ibid*, cols 786–7.

¹⁷ *ibid*, cols 787–8.

¹⁸ *ibid*, cols 790–2. For information on concerns raised over the appropriateness of delegated powers in the bill as drafted, see: House of Lords Delegated Powers and Regulatory Reform Committee, [Birmingham Commonwealth Games Bill \[HL\]: Non-Domestic Rating \(Public Lavatories\) Bill \[HL\]; and Parliamentary Buildings \(Restoration and Renewal\) Bill](#), 1 July 2019, HL Paper 391 of session 2017–19; and [Birmingham Commonwealth Games Bill \[HL\]: Government Response](#), 19 July 2019, HL Paper 414 of session 2017–19. See also: House of Lords Constitution Committee, [Birmingham Commonwealth Games Bill \[HL\]](#), 8 July 2019, HL Paper 399 of session 2017–19. Other delegated powers in the current bill as drafted would be subject to the negative resolution procedure.

¹⁹ [HL Hansard, 9 September 2019, col 1295](#); and [HL Hansard, 23 October 2019, cols 612–13.](#)

²⁰ Prime Minister's Office, [Queen's Speech December 2019: Background Briefing Notes](#), 19 December 2019, pp 139–40.

²¹ [HL Hansard, 7 January 2020, col 37.](#)

3. Bill Provisions

The Government has stated that the bill provides for a “number of operational measures required to support the delivery of the 2022 Commonwealth Games”.²² These have been described as “essential” and “temporary”. The measures have precedence in legislation brought forward for similar multi-sport events—such as the London Olympic and Paralympic Games in 2012 and the Glasgow Commonwealth Games in 2014.²³ The provisions fall into four main areas.

3.1 Organising Committee: Funding and Reporting

Clause 1 would enable the Government to provide financial assistance to Birmingham Organising Committee for the 2022 Commonwealth Games Ltd (known as the organising committee).²⁴ This is a private company limited by guarantee, established and wholly owned by DCMS to deliver the games.²⁵ The conditions that are attached to any funding are set out in the management agreement between DCMS and the organising committee.²⁶ This document is updated annually.

The Government has said that the bill will have financial implications under the power in clause 1. On 25 June 2019, it confirmed that public investment in the games would be £778 million.²⁷ Liability would be split, with 75% of funding coming from central government (£594 million) and 25% from Birmingham City Council and key partners (£184 million). Until such time as the Act is passed, the organising committee will continue to be funded under section 70 of the Charities Act 2006.

Clause 2 would place a requirement on the organising committee to report on its functions during specified reporting periods, including the progress made towards delivering the games.²⁸ Reports must also include details of what the organising committee has done to:

- ensure its delivery of the games promotes the values of the CGF;
- ensure games events are accessible to disabled people;
- promote sustainability in its delivery of the games; and
- maximise the benefits to be derived from the games.

²² [Explanatory Notes](#), p 3.

²³ Department for Digital, Culture, Media and Sport, ‘[Government Introduces Commonwealth Games Bill for Birmingham 2022](#)’, 6 June 2019; and Prime Minister’s Office, [Queen’s Speech December 2019: Background Briefing Notes](#), 19 December 2019, p 139. Cited examples of earlier legislation include the London Olympic Games and Paralympic Games Act 2006, the London Olympic Games and Paralympic Games (Amendment) Act 2011 and the Glasgow Commonwealth Games Act 2008 ([Explanatory Notes](#), p 3).

²⁴ [Explanatory Notes](#), p 5.

²⁵ The organising committee published its first report and financial statements on 9 September 2019 (Department for Digital, Culture, Media and Sport, [Birmingham Organising Committee for the 2022 Commonwealth Games Limited: Report and Financial Statements for the Sixteen-month Period ended 31 March 2019](#), 9 September 2019, HC 2610 of session 2017–19).

²⁶ Department for Digital, Culture, Media and Sport, [Birmingham Organising Committee for the 2022 Commonwealth Games Ltd: Management Agreement 2019/2020](#), 13 March 2019.

²⁷ Department for Digital, Culture, Media and Sport, ‘[£778m Investment in Birmingham and the West Midlands to Deliver 2022 Commonwealth Games](#)’, 25 June 2019; and [Explanatory Notes](#), p 20. See also: House of Commons, ‘[Written Statement: Commonwealth Games](#)’, 25 June 2019, HCWS1658; and House of Lords, ‘[Written Question: Commonwealth Games 2022: Finance](#)’, 22 July 2019, HL17083.

²⁸ [Explanatory Notes](#), p 5.

3.2 Association with the Games

Part 2 of the bill, comprising clauses 3 to 9, concerns authorised and unauthorised association with the games. The provisions in this part are designed to protect commercial rights.²⁹ They provide for the organising committee to be able to authorise businesses to associate with the games. They also permit the committee to act in a civil court against persons suggesting an unauthorised association between any goods or services and the games that does not fall under an exception. Such exceptions include:

- for businesses that have a name or provide goods or services that suggest an association with the games if that business has operated or offered the product or service continuously since before 21 December 2017 (when Birmingham was named the host city for the 2022 games), for example if a business name, good or service included the word ‘commonwealth’;
- for the use of certain factual information when providing goods or services, for example the location of a restaurant in relation to a games event venue;
- for reporting on the games, for example in a news broadcast; and
- for any incidental association in an artistic endeavour.³⁰

Clauses in this part would also allow courts to make orders in relation to goods or documents that suggest an unauthorised association with the games. For example, t-shirts that infringe a protected trade mark such as the games logo. They would also prescribe certain rights for persons with an interest in goods or documents that may be subject to such court orders.

Under clause 8, the organising committee would be under a duty to publish guidance in advance of the main provisions in this part coming into effect. This would be “to raise public awareness about the potential effect of the restrictions” and enable those likely to be affected to prepare.³¹

3.3 Ticket Touting, Advertising and Trading

Part 3 of the bill, comprising clauses 10 to 24, aims to prohibit:

- the unauthorised sale of games tickets;
- the promotion of non-sponsor products, services or businesses, including as part of advertising-related ‘ambushes’ of locations or coverage during the games; and
- trading at or near games locations at certain times, including providing entertainment for gain or reward or appealing for money or other property.³²

Clauses 10, 13 and 16 create criminal offences in respect of touting, advertising and trading,

²⁹ Department for Digital, Culture, Media and Sport, ‘[Government Introduces Commonwealth Games Bill for Birmingham 2022](#)’, 6 June 2019.

³⁰ [Explanatory Notes](#), pp 6–9.

³¹ *ibid*, p 9.

³² Department for Digital, Culture, Media and Sport, ‘[Government Introduces Commonwealth Games Bill for Birmingham 2022](#)’, 6 June 2019; and [Explanatory Notes](#), pp 9–17.

respectively. Other clauses in this part provide for persons summarily convicted of said offences to be fined. Other clauses provide for exceptions to be made for the provisions in this part.

Under clause 23, the organising committee would be under a duty to publish guidance about the advertising and trading provisions. Such guidance would be intended to provide an “accessible and user-friendly explanation of the impact” of the measures. These would include where and when restrictions would be in place and how advertising and trading could be authorised. The guidance would also provide information on enforcement action. Local authorities would have to share this guidance with licenced or otherwise authorised traders.³³

3.4 Transport

The clauses in part 4, namely clauses 25 to 29, would permit the Government to direct a local authority in England or combined authority to prepare a statutory ‘games transport plan’. This would be aimed at addressing transport matters relating to the games in and around Birmingham, and would be subject to consultation with a number of specified persons. The clauses would also allow traffic authorities and the Government to impose short term road and pavement closures at certain times, in line with the plan. Such powers could not be used more than 21 days before the opening ceremony of the games and more than five days after the closing ceremony.³⁴

3.5 Other Provisions

Clauses 30 to 34 concern a standard power to make transitional provision and savings; that regulations under the bill be subject to the negative resolution procedure, with the exception of regulations concerning compensation claims which would be subject to the affirmative resolution procedure; the extent to which provisions extend to England and Wales, Scotland and Northern Ireland; commencement and duration; and short title.³⁵

4. Further Information

- Prime Minister’s Office, [Queen’s Speech December 2019: Background Briefing Notes](#), 19 December 2019, pp 139–40
- Department for Digital, Culture, Media and Sport, [Birmingham Organising Committee for the 2022 Commonwealth Games Limited: Report and Financial Statements for the Sixteen-month Period ended 31 March 2019](#), 9 September 2019, HC 2610 of session 2017–19
- Birmingham 2020, ‘[Commonwealth Games Federation Coordination Commission: Progress Update](#)’, 6 December 2019; and ‘[A Year of Progress for Birmingham 2022](#)’, 20 December 2019
- Department for Digital, Culture, Media and Sport, [Memorandum to the Joint Committee on Human Rights on the Birmingham Commonwealth Games Bill](#), 8 January 2020

³³ [Explanatory Notes](#), p 17.

³⁴ *ibid*, pp 17–19.

³⁵ *ibid*, pp 19–20. See also: Department for Digital, Culture, Media and Sport, [Birmingham Commonwealth Games Bill: Memorandum from the Department for Digital, Culture, Media and Sport to the Delegated Powers and Regulatory Reform Committee](#), 8 January 2020.