



London Olympic Games and Paralympic Games (Amendment) Bill

Bill 165 of 2010-12

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This briefing on the *London Olympic Games and Paralympic Games (Amendment) Bill* has been prepared for the second reading debate on the Bill in the House of Commons.

The Bill makes a small number of technical amendments to the advertising and trading, ticket touting, and traffic management provisions of the *London Olympic Games and Paralympic Games Act 2006*. These amendments cover the seizure of articles which contravene advertising and trading regulations; the parliamentary procedure and notice periods required when new advertising and trading regulations are introduced; the penalty for unauthorised sale of Olympic tickets; and traffic regulation and enforcement during the Games. Summary

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Summary

The *London Olympic Games and Paralympic Games (Amendment) Bill* was introduced in the House of Commons on 16 March 2011 as Bill 165 of 2010-12. It is scheduled to have its second reading on 28 April 2011. The Bill amends the [London Olympic and Paralympic Games Act 2006](#) (the 2006 Act) which makes provision in a number of areas for the purposes of the London 2012 Olympic and Paralympic Games. It also set up the [Olympic Delivery Authority](#) (ODA), a public body responsible for developing and building the infrastructure for the Games.

The 2006 Act provides for separate regulations on advertising and trading in the vicinity of the 2012 Games. The purpose is to meet commitments given by the Government to the International Olympic Committee in London's bid to host the 2012 Games. However, two potential problems have surfaced: (1) the Act states that articles seized in connection with contraventions of advertising and trading regulations ('infringing articles') must only be dealt with by the police, and (2) it is not possible to amend the advertising and trading regulations at short notice.

The Bill makes a number of technical changes to remove these problems. Clause 1 provides for 'infringing articles' to be held and dealt with by ODA appointed officials (rather than the police) in accordance with detailed rules inserted into the 2006 Act by the Bill. This would enable the police to channel limited resources elsewhere.

Clause 2 alters the types of parliamentary procedure required under the 2006 Act for advertising and trading regulations (other than the first set of those regulations). Specifically, it provides for advertising and trading regulations to be subject to the 'negative resolution procedure', rather than affirmative procedure. This would bring the 2006 Act into line with the *Glasgow Commonwealth Games Act 2008*. Clause 2 would also remove from the ODA the specific duty to aim to give two years' and then six months' notice of advertising and street trading regulations (other than for the first regulations).

The 2006 Act created a criminal offence of touting tickets for the 2012 Games. Clause 3 of the present Bill increases the maximum penalty for the unauthorised sale of Games tickets from £5,000 to £20,000. This increase is seen as necessary to deter organised crime from seeking to trade in tickets for Olympic events.

Clauses 4—8 of the Bill amend the provisions of the 2006 Act that relate to traffic orders, traffic regulation and enforcement to make it easier for traffic authorities to manage and direct traffic during the Games and to enforce traffic penalties.

1 Introduction

The *London Olympic Games and Paralympic Games (Amendment) Bill* was introduced in the House of Commons on 16 March 2011 as Bill 165 of 2010-12. It is scheduled to have its second reading on 28 April 2011. Information on the Bill and its progress is available from the [London Olympic Games and Paralympic Games \(Amendment\) Bill](#) page of the Parliament website.

The Bill amends the *London Olympic and Paralympic Games Act 2006* (the 2006 Act), which makes provision in a number of areas for the purposes of the London 2012 Olympic and Paralympic Games. In particular, the 2006 Act set up the [Olympic Delivery Authority](#) (ODA), a public body responsible for developing and building the infrastructure for the Games.¹ The Act also enables Ministers to make regulations about advertising and trading in the vicinity of Olympic venues (“advertising and trading regulations”), about ticket touting in connection with Olympic events, and in relation to transport needs, including the management of traffic. Detailed information about the provisions in the 2006 Act, and the background to them, can be found in [Library Research Paper 05/55](#), *The London Olympics Bill*.

According to the Department for Culture, Media and Sport (DCMS), in the course of preparing for the Games, a number of issues have emerged where the existing powers provided through the 2006 Act are “insufficient or do not achieve the intended effect”.² The Bill therefore makes a small number of technical amendments to the advertising and trading, ticket touting and traffic management provisions. A DCMS press release states that the Bill’s main provisions would:

- require the Olympic Delivery Authority (ODA) to hold goods seized during the Games for breaches of the advertising and trading regulations
- change the procedures for making advertising and trading regulations to allow amendments to be made quickly if required (eg an emergency change of venue)
- increase the maximum penalty for illegal selling of Games tickets from £5,000 to £20,000
- enable the ODA and traffic authorities to make temporary traffic regulation orders at short notice, and traffic authorities to make temporary notices for immediate changes to traffic, specifically for Games traffic management purposes
- enable traffic authorities to make special event traffic orders involving road closures and other types of traffic restrictions for Games events
- provide local traffic authorities with powers to enforce moving traffic contraventions on the Olympic Route Network and other affected roads; and
- enable the ODA to set the penalty charge levels for moving traffic contraventions of Games-related traffic orders, subject to the Secretary of State’s approval.³

¹ The [London Organising Committee for the Olympic Games](#) (LOCOG), a company limited by guarantee, is responsible for staging and delivering the Games. Most of the funding for LOCOG is from the private sector.

² DCMS, [Letter from Hugh Robertson \(Minister for Sport and the Olympics\) to Members of Parliament on the London Olympic Games and Paralympic Games \(Amendment\) Bill](#), 16 March 2011

³ DCMS news release, [London Olympic Games and Paralympic Games \(Amendment\) Bill introduced into Parliament](#), 17 March 2011

The DCMS has published [individual impact assessments](#) for the advertising and trading and traffic management policy areas.⁴ An assessment has not been produced for the ticket touting provisions as these do not impose a cost or saving to legitimate businesses.

This research paper deals with each subject in the order in which the relevant provisions occur in the Bill.

Territorial extent

The provisions of the Bill relating to advertising and trading (clauses 1 and 2) extend to England, Wales and Scotland.

Clause 3 of the Bill (which increases the maximum fine for the illegal sale of tickets) extends to the whole of the UK.

The provisions of the Bill relating to traffic (clauses 4 to 8) extend to England and Wales but, as these concern traffic in London, they apply “only to places in England and things done in or in respect of England.”⁵

2 Advertising and trading

2.1 Background

The requirement to make separate regulations

The 2006 Act provides for separate regulations on advertising and trading in the vicinity of the Games.⁶ Specifically, the Act stipulates that new regulations should determine the location, nature and definition of advertising and street trading in the vicinity of Olympic and Paralympic events.

According to the DCMS, new regulations are necessary because existing advertising and street trading laws were not framed with the Games in mind and, consequently, do not entirely achieve the aims underlying the 2006 Act. For instance, although current legislation gives local authorities the ability to require the removal of illegal advertisements on private property, the removal process is too slow to deal effectively with advertisements installed during or immediately prior to the Games.⁷

The purpose is to meet commitments given by the Government to the International Olympic Committee (IOC) in London’s bid to host the Games, specifically:

- a. To ensure that the 2012 Games are not over commercialised (so that the focus remains on sport) and that all Olympic and Paralympic events have a celebratory ‘look and feel’ consistent with the sporting and competitive ideals of the Olympic and Paralympic movements.
- b. To prevent ‘ambush marketing’ in the areas around 2012 Games events, during the Games. ‘Ambush marketing’ is taken to mean activities undertaken by people who

⁴ DCMS, [Impact Assessment for the London Olympic Games and Paralympic Games \(Amendment\) Bill](#), prepared January 2011

⁵ Clause 9(7) and 9(9)

⁶ The regulations are to be made by statutory instrument for England, Northern Ireland, Scotland, and Wales, by the Secretary of State (regulations for England and Northern Ireland), Scottish Ministers, and Welsh Ministers. It is not intended that any regulations will be made for Northern Ireland, as no 2012 Games events are scheduled to take place there.

⁷ The display of advertising is currently controlled in England by the *Town and Country Planning (Control of Advertisements) (England) Regulations 2007*, in Wales by the *Town and Country Planning (Control of Advertisements) Regulations 1992* and in Scotland by the *Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984*

are not sponsors of an event that suggest that they or their products are associated with it or which seek to exploit the interest in the event by exposing their brands to people watching it.

- c. To ensure people can easily access 2012 Games venues and are not impeded in this regard by advertising or trading activities.⁸

According to the Bill's Impact Assessment, it is difficult to assess just how problematic ambush marketing will be to the Games:

The UK has not hosted an Olympic Games since 1948, so it is difficult to calculate the extent of the unauthorised advertising and street trading that might occur during the London 2012 Games. There is an indication however from previous host cities that the number of prosecutions for these offences is minimal. The approach has been to have the requisite laws in place to deter parties from ambush. We are aware that non-sponsors make sustained and creative attempts to benefit commercially from the Games. The regulations and their implementation must be designed to counter such attempts.⁹

First set of advertising and trading regulations

A [draft version](#) of the first set of advertising and trading regulations for England, Wales and Scotland is currently the subject of a public consultation.¹⁰

As drafted, the regulations apply only to small, individually drawn areas around each Games venue, during short periods tailored for each venue by reference to the times when Games events are to take place. For example, there are 26 event zones, and for the majority of events the regulations will apply the day before an event starts and the days covering it; the longest period that the Regulations will apply to any one place is 35 days (for the Olympic Park Zone).¹¹ The Regulations will cease to have effect on 11 September 2012.

The approach taken in respect of the draft advertising regulations is to prescribe a broad definition of 'advertising activity' and then to specify a number of exceptions. Any activity not excepted on the face of the regulations will be permitted only if specifically authorised by LOCOG. 'Advertising activity' includes:

- Displaying, projecting or exhibiting any kind of advertisement, whether it is of a commercial or non-commercial nature
- Carrying or holding an advertisement or something on which the advertisement is displayed
- Displaying an advertisement on an animal
- Wearing a costume that is an advertisement or clothing on which an advertisement is displayed as part of an ambush marketing campaign

⁸ Department for Culture, Media and Sport, [Delegated Powers Memorandum for the London Olympic Games and Paralympic Games \(Amendment\) Bill](#), March 2011

⁹ Ibid

¹⁰ [Draft Statutory Instruments: Olympic Games and Paralympic Games \(Advertising and Street Trading\) \(England\) Regulations 2011; Olympic Games and Paralympic Games, Wales 2011; Sports Grounds and Sporting Events Scotland 2011](#)

¹¹ The draft regulations were previously subject to pre-consultation with affected stakeholders. The ODA subsequently published a notice in June 2009 outlining the general nature of the proposed regulations.

- Distributing or providing a document or article for the purposes of promotion, advertisement, announcement or direction

An 'advertisement' is taken to have a meaning based on, but broader than, that in the *Town and Country Planning Act 1990* or under the *Town and Country Planning Act (Scotland) 1997*. That meaning would include any word, image (including logos and other forms of branding), sound, costume or representation, whether illuminated or not, which is in the nature of, and employed for the purposes of promotion, advertisement, announcement or direction. As currently drafted, the advertising regulations apply to all those who are directly or indirectly responsible for advertising activity, including those who actually undertake advertising activity or arrange for it.

In general terms, street traders are static traders and usually operate in a specific location with a stall (usually in street markets). The *Local Government (Miscellaneous Provisions) Act 1982* requires street traders to apply for a licence to trade in certain designated areas. The *London Local Authorities Act 1990* (as amended), adopted by all 32 boroughs, gives specific powers in respect of the licensing, enforcement, seizure, retention and forfeiture of goods. In Scotland, street trading is regulated under the *Civic Government (Scotland) Act 1982*.

In contrast, a pedlar is defined as an itinerant trader. He travels and trades on foot. Section 4 of the *Pedlar's Act 1871* requires pedlars to apply for a certificate from the police in order to trade anywhere in the country.

The 2006 Act requires the Secretary of State and Ministers in the devolved administrations to make specific regulations about trading in open public places in the vicinity of Olympic and Paralympic events. Those regulations will apply despite any licence or consents currently in existence under which a person is otherwise authorised to trade. This means that a person will need to be authorised under the Games regulations (as well as under the existing law) in order to trade in the areas where the regulations apply, during the periods when they apply.

Here again, the approach taken in the draft first regulations is to prescribe a broad definition of 'street trading' and then to specify a number of exceptions. Any forms of trading in open public places not excepted on the face of the regulations will be permitted only if authorised by, or on behalf of, the ODA. 'Street trading' includes:

- Selling an article or supplying a service
- Trading as a pedlar under a pedlar's certificate issued under the relevant legislation
- Conducting a regulated street collection or public charitable collection pursuant to other legislation
- Trading as an ice cream vendor
- Providing public entertainment for gain or reward (for example busking)

For these purposes 'selling' an article or 'supplying' a service includes offering to sell or supply or exposing an article for sale. Consequently a person will be treated as trading if they are offering goods for sale, even if they do not actually sell any goods.

2.2 Relevant existing provisions of the 2006 Act

Removal of infringed goods

Under the current provisions of the 2006 Act, ODA designated enforcement officers are responsible with the police for enforcing advertising and street trading regulations made under the Act. The statutory enforcement powers include the power to enter land or premises and remove (i.e. seize) infringing articles.

The 2006 Act provides that any article seized by an ODA officer for breach of the street trading and advertising regulations must be handed over to the custody of the police. The Act does not allow any discretion for the police to delegate this responsibility. This was to ensure that seized articles were dealt with in accordance with the *Police (Property) Act 1897* and the *Police (Property) Regulations 1997* (as amended). This legislation provides a procedure whereby the police may dispose of or return seized property and individuals may reclaim property. In effect, the police must treat seized articles (whether seized by them or an ODA officer) as if acquired by them in the course of the investigation of an offence.

Regulations: Parliamentary procedure and public notice

Under the 2006 Act, advertising and trading regulations are subject to the 'affirmative resolution procedure'; this means that they may not be made unless a draft has been laid before and approved by Parliament (or the Scottish Parliament or the National Assembly for Wales in the case of regulations for Scotland or Wales respectively). The Act also requires Ministers to consult, amongst others, persons who represent interests likely to be affected by the regulations before making advertising and trading regulations.

The ODA is required by the 2006 Act to make arrangements to have the effect of advertising and trading regulations made or expected to be made brought to the attention of persons likely to be affected or interested. Specifically, it must aim to give two years' notice of the general nature of the regulations and then six months' notice of their detailed provisions.

The 2006 Act also requires the advertising and trading regulations to specify (or provide criteria for determining) the places in respect of which, and the periods of time during which, they apply.

As mentioned above, a draft version of the first set of advertising and trading regulations for England, Wales and Scotland is currently the subject of a public consultation.¹²

2.3 Problems with the existing provisions of the 2006 Act

In respect of the advertising and trading provisions of the 2006 Act, two potential problems have surfaced: (1) the handling of seized articles by the ODA and (2) the lack of flexibility to amend the advertising and trading regulations at short notice. Both are considered in detail below.

Removal of seized articles by the ODA

As outlined in section 2.2 above, the 2006 Act states that 'infringing articles' seized for breaches of street trading and advertising regulations must be dealt with by the police. The DCMS states that this is not only 'out of step' with existing practice, but would also 'tie up' valuable police resources which could be better directed to safety and security matters.

By way of reference, the DCMS points to the *London Local Authorities Act 1990* (as amended) which deals with seizures of articles where street trading offences are committed.

¹² The [draft regulations](#) were previously subject to pre-consultation with affected stakeholders. The ODA subsequently published a notice in June 2009 outlining the general nature of the proposed regulations.

The *London Local Authorities Act 2007* gives similar powers to local authorities in relation to advertising offences. Both Acts provide for the forfeiture, return or disposal of articles by the local authority and contain special provisions for dealing with perishable goods. The *London Local Authorities Act 1990* is enforced by all 32 London boroughs. Although the legislation allows for enforcement by the police or local authority enforcement officers (trading standards officers) in practice these offences are exclusively dealt with in all 32 London boroughs by the local authority and this includes the seizure retention forfeiture, and disposal of goods.

Some local authorities outside London have used the *London Local Authorities Act 1990* as a 'blueprint' when implementing their own legislation to deal with illegal street trading and the seizure of articles, for instance, the *City of Newcastle upon Tyne Act 2000*, the *Bournemouth Borough Council Act 2010*, and the *Manchester City Council Act 2010*.¹³

In addition, Westminster City Council has implemented the *Westminster Act 1999* to deal with the particular issues they face with street trading. Seizures and forfeitures are dealt with in the same way as under the *London Local Authorities Act 1990* (i.e. in practice offences are exclusively dealt with by local authority trading standards officers).

Almost all local authority regulatory and enforcement legislation allows for the seizure, retention and forfeiture of offending articles by a local authority enforcement officer (as well as the return of those goods if no offence is proven or prosecution pursued or where the goods themselves are compliant with relevant legislation).

Quite apart from being 'out of step' with existing law and practice, the DCMS also emphasises the fact that it is the police who have asked to be released from this statutory responsibility in order that they may concentrate limited resources on public safety and security matters during the Games:

[...] the requirement for the police to hold articles seized for breach of the street trading and advertising regulations places a burden on police resources at a time when they will be significantly stretched. During the 2012 Games police resources will be prioritised towards dealing with safety and security issues. This means that their capacity to deal with the administrative activities related to processing and storing seized articles will be limited. In recognition of this, the police have requested this change, with support from the ODA and the Department for Communities and Local Government.

This proposed new power therefore would additionally allow the ODA to perform the administrative and storage functions associated with their existing power to seize goods.¹⁴

Flexibility to amend the advertising and trading regulations

The 2006 Act prescribes lengthy publicity and scrutiny processes (see section 2.2 above). As a consequence, it does not, practically, give any scope to amend the advertising and trading regulations once they have been made. This means that the DCMS is unable to alter the regulations if a venue or road event changes at the last minute.

According to the DCMS, while it is not planned or envisaged that the Games programme will change after the principal regulations are made, it is possible that unforeseen circumstances may arise that necessitate a change. For example, a new venue might have to be found if an

¹³ Leeds, Nottingham, Reading and Canterbury councils are also pursuing similar legislation

¹⁴ [Impact Assessment](#) for Advertising and Trading Powers in the *London Olympic Games and Paralympic Games (Amendment) Bill*

existing venue becomes unusable due to an emergency situation (such as a fire or a burst water main). Similarly, an alteration to the Games' schedule might be necessary if competitors' or officials' arrivals at a venue are delayed by circumstances beyond their control (such as because of a problem with air traffic). Any such change would be as a last resort and would only be made if there were no other option.

If these circumstances arise late in the day, it is unlikely to be practicable to amend the regulations so that they apply in respect of the new venue or timetable, if it is necessary first to comply with the affirmative resolution procedure. Similarly, in respect of any late amending regulations that are made, the ODA would not be able to comply with its duty to aim to give notice of the regulations two years and then six months before they come into effect. To illustrate this point, the DCMS give the following example:

For example, if a Games venue had to be changed a few days before the event was scheduled to take place (or after the venue had begun to be used for the event) it may not be possible to secure Parliamentary resolutions approving draft amending regulations in time to enable the principal regulations to be applied in respect of the new venue. The possibility of this occurring is exacerbated by the timing of the 2012 Games, which will take place during the summer of 2012¹⁵ when Parliament is likely to be in recess. Even if amending regulations could be made in these circumstances, the ODA could not comply with its duty to give two years' and then six months' notice of the regulations.

In the Government's view, this is far from ideal – it would be preferable to be able to amend the regulations so that they apply in respect of the new venue or schedule (and not in respect of a venue that was no longer to be used for the Games).¹⁶

It is apparent to the DCMS that there needs to be more flexibility in order to allow for 'last minute' amendments to be made.

As drafted, the first advertising and trading regulations (currently subject to public consultation) specify the places to which the regulations apply by referring to maps that illustrate regulated 'event zones' and detailed schedules of dates specifying when they apply to each event zone. According to the DCMS, the advantage of this approach is that it provides the greatest certainty and accessibility; it leaves no room for doubt as to when and where the regulations apply. However, the disadvantage is that if a Games venue or the scheduled time for an event changes, the regulations have to be amended if they are to apply in respect of the new venue or time (and not in respect of the old venue or time).

2.4 The Bill

Overview

The purpose of clauses 1 and 2 of the Bill is to remove the problems outlined in section 2.3 above.

Clause 1 provides for articles seized in connection with contraventions of advertising and trading regulations ('infringing articles') to be held and dealt with by the ODA (rather than the police) in accordance with detailed rules inserted into the 2006 Act by the Bill.

¹⁵ The opening ceremony of the Olympic Games is on 27 July 2012 and the closing ceremony of the Paralympic Games is on 9 September 2012

¹⁶ Department for Culture, Media and Sport, *Delegated Powers Memorandum for the London Olympic Games and Paralympic Games (Amendment) Bill*, 17 March 2011

Clause 2 of the Bill alters the types of parliamentary procedure and public notice required under the 2006 Act for advertising and trading regulations (other than the first set of those regulations).

Clause 1: removal of infringing articles

Clause 1 amends sections 22 (relating to advertising) and 28 (relating to street trading) of the 2006 Act. An infringing article may be seized to:

- end a contravention of the advertising and street trading regulations;
- prevent a future contravention;
- enable the infringing article to be used as evidence in criminal proceedings for the contravention; or
- enable it to be forfeited (pursuant to the courts' general forfeiture powers in criminal cases)

Importantly, subsections (2), (3), (6) and (7) amend sections 22 and 28 to provide for articles (including animals) seized by the police in enforcing advertising and trading regulations ('infringing articles') to be delivered to an ODA enforcement officer. This reverses the present provision in the 2006 Act.

In effect, all seized infringing articles (whether seized by a police constable or an ODA officer) are to be dealt with by the ODA in accordance with five new sections (sections 31A-31E) inserted in to the 2006 Act by clause 1(8). In essence, the rules require the ODA to return seized articles to their owner when their retention is no longer justified (either by the purpose for which they were seized or because the court has made a costs¹⁷ or forfeiture order¹⁸). The only exceptions are where:

- the owner cannot be located or ownership cannot be established,¹⁹
- where the owner disclaims or refuses to accept the article;²⁰ or
- in the case of a perishable article, where the article has ceased to be useable for trade

The rules also contain additional safeguards intended to limit the impact on owners' rights. The general intention is to return seized articles to their owner when their retention is no longer justified, unless return is impossible or impracticable.

According to the DCMS, the objective of clause 1 is to create a fair, transparent and practical set of rules with which the ODA must comply in dealing with seized articles. This will enable the police to channel limited resources elsewhere:

¹⁷ Where (without ordering the infringing article to be forfeited) the court, in criminal proceedings for contravention of the Regulations, awards costs to the ODA against the owner which are not paid within 28 days. In these circumstances, the ODA must sell or otherwise dispose of the article in accordance with new section 31E

¹⁸ In criminal proceedings for contravention of the Regulations, the court may order the infringing article to be forfeited in exercise of its general powers in criminal cases under section 143 of the *Powers of Criminal Courts (Sentencing Act) 2000* (or, in Scotland, section 21 of the *Proceeds of Crime (Scotland) Act 1995*)

¹⁹ In these circumstances, the ODA may apply to a Magistrates Court (or, in Scotland, a sheriff) for a disposal order under new section 31D

²⁰ In these circumstances, the ODA must sell or otherwise dispose of the article in accordance with new section 31E

This would mean that, during the 2012 Games, police time is not spent filing and dealing with the storage of seized property. This proposal has been requested by the police and supported by the ODA and the Department of Communities and Local Government (DCLG).²¹

In practice, the ODA intend to designate enforcement officers to enforce the regulations on its behalf. These officers will be largely drawn from local authority staff employed by the host authorities, who are familiar in dealing with street trading and advertising offences (i.e., trading standards officers, street trading enforcement officers, planning enforcement officers).

The Bill's Impact Assessment states that the transfer of the function of handling seized articles from the police to the OAD will result in a £55,000 net saving to the public purse.²²

Clauses 1(9) to 1(11) simply make consequential amendments to sections 37 and 38 of the 2006 Act (which make provision for Scotland and Northern Ireland respectively).

Clause 2: Parliamentary procedure and public notice

Clause 2 removes the problems outlined in section 2.3 above by amending the parliamentary procedure and ODA notice provisions of the 2006 Act.

Parliamentary procedure

Clause 2 amends sections 20, 23, 26 and 29 of the 2006 Act. The amendments provide for advertising and trading regulations (other than the first such regulations) to be subject to the 'negative resolution procedure', that is, subject to annulment by resolution of each House of Parliament (or the Scottish Parliament or National assembly for Wales for regulations for Scotland or Wales). The first advertising and trading regulations remain subject to the affirmative resolution procedure, as under the 2006 Act.

These amendments bring the 2006 Act in to line with the *Glasgow Commonwealth Games Act 2008* (sections 43—44), under which only the first set of advertising and street trading regulations are subject to the affirmative resolution and special consultation procedures. Any subsequent versions of the regulations are subject only to the negative resolution procedure. According to the DCMS, this provides flexibility but continues to ensure parliamentary scrutiny.²³ As a further safeguard, the DCMS would commit to amending the first set of regulations only if there were exceptional circumstances.

Public notice

Clause 2 also removes from the ODA the specific duty to aim to give two years' and then six months' notice of the advertising and street trading regulations (other than for the first regulations). Nevertheless, the ODA will remain obliged, as under the 2006 Act, to aim to give two years' and then six months' notice in respect of the first regulations.

It is important to note that the general duty on the ODA to arrange for the effect of regulations to be brought to the attention of people likely to be affected or interested is maintained in respect of all advertising and trading regulations. Ministers will also remain subject to the duty to consult, amongst others, persons who represent interests likely to be affected by the regulations.

²¹ [Impact Assessment for Advertising and Trading Powers in the London Olympic Games and Paralympic Games \(Amendment\) Bill](#)

²² Ibid

²³ The Glasgow Commonwealth Games are to be held in 2014

According to the DCMS, it is intended that the first set of regulations (those which are currently out for public consultation) will be comprehensive and that amending regulations would only be made if unforeseen circumstances arose. However, as the Bill is unlikely to receive Royal Assent before the end of this year (and as clause 2 does not come into force until two months after Royal Assent) the time available for making any amending regulations under the new provisions would be limited (the opening ceremony of the Games being on 27 July 2012).

The DCMS considers the amendments contained in clause 2 to be reasonable and justified:

Specifically, under clause 2, any amending regulations would be subject to Parliamentary scrutiny – they could be annulled by a resolution of either House (or the Scottish Parliament or National Assembly for Wales for Scottish or Welsh regulations respectively). Further, before making any regulations Ministers will still be required to consult, amongst others, representatives of affected persons and the ODA will still be required to ensure that the effect of any regulations is brought to the notice of affected or interested persons.²⁴

According to the Bill's Impact Assessment, the most likely scenario where the advertising and trading regulations would need to be amended at short notice would be an amendment to the regulations to apply them to an altered Games road race route. This is assessed as having an impact in the range of between £0 and £15,400.²⁵ Such costs have to be balanced against the Government commitment to the IOC to prevent ambush marketing.

3 Ticket touting

In England, Wales and Northern Ireland the resale of tickets for profit (commonly known as "ticket touting") is not in itself an offence. However, the *Criminal Justice and Public Order Act 1994* does prohibit any unauthorised person from selling tickets for "designated" football matches.²⁶ Taking section 166 of the 1994 Act as its basis, the *London Olympic Games and Paralympic Games Act 2006* created an additional offence of unauthorised sale of Olympic tickets. The offence is committed where someone sells a Games ticket in a public place or in the course of a business without the consent of the London Organising Committee.²⁷

The maximum penalty as originally set was a fine not exceeding level 5 on the standard scale (£5,000).

3.1 The Bill

Clause 3 of the present Bill raises the maximum penalty to £20,000. The higher penalty will only apply to offences committed after the commencement of the provision. The clause makes no other changes to existing provisions for the sale of tickets.

No Impact Assessment was produced for the ticket touting provisions on the grounds that "these policy proposals do not impose a cost or saving to legitimate businesses."²⁸ In justification of the fourfold increase in maximum fine, the Explanatory Notes suggest that the new maximum is a "proportionate penalty for this offence, in light of the deterrence

²⁴ [Impact Assessment for Advertising and Trading Powers in the London Olympic Games and Paralympic Games \(Amendment\) Bill](#)

²⁵ Ibid

²⁶ See [Library Standard Note SN/HA/4715, Ticket touting](#)

²⁷ *London Olympic Games and Paralympic Games Act 2006* s31

²⁸ Impact Assessment, para 3

necessary to achieve the legitimate aim of crime prevention”.²⁹ In a Written Statement to the Commons on 10 March, the Home Secretary, Theresa May, gave further details:

I am today announcing the Government's intention to increase the maximum penalty for touting of Olympic and Paralympic tickets from £5,000 to £20,000. The change will ensure that there is a more substantial deterrent to serious and organised criminal groups, who may otherwise target Olympic tickets.

No conduct that is currently legal will be criminalised. The London 2012 Organising Committee (LOCOG) will be operating an exchange system for those who wish to sell unwanted tickets legitimately; and it also will remain possible privately to sell-on unwanted tickets at face value to family members or friends.³⁰

In the course of preparing her Private Member's Bill on ticket touting,³¹ Sharon Hodgson spoke to officers in [Operation Podium](#), the Metropolitan Police team dedicated to tackling touts and Olympic-related fraud. On the basis of her correspondence with “a senior Operation Podium officer”, Ms Hodgson concluded:

The police do not believe that the sanction for individuals caught touting tickets for the Olympics—a level 5 fine, as I mentioned—is a sufficient deterrent. As I said, many people would regard it as just an occupational hazard, pay the fine and carry on straight away selling more tickets.³²

Some 6.6 million tickets for the London Games went on sale on 15 March 2011. In the UK and within the EU, people can apply for tickets between that date and 26 April 2011. The Organising Committee stresses that “any website or individual claiming to have tickets for sale should be checked against the list of official outlets on the London 2012 ticketing website – www.tickets.london2012.com”.³³

4 Traffic

4.1 Background

The Olympic Delivery Authority (ODA) is required to prepare and keep under review an Olympic Transport Plan (OTP). The OTP sets out the transport plans for the Games and details of how they are to be implemented. The 2006 Act requires the OTP to address a number of matters including, for example, the construction of transport facilities, transport arrangements to and from events, the Olympic Route Network (ORN), road closures and restrictions and guidance on implementation of the plan.

If a traffic, highway or street authority (other than the Secretary of State) fails to co-operate with the ODA as required under the 2006 Act, then the Secretary of State may direct the body to exercise its functions in a particular manner for the purposes of implementing the OTP or co-operating with the ODA in order to meet the transport needs of the Games. The ODA also has a degree of 'negative control' over the roads for the purposes of the Games by requiring the ODA to be notified of the exercise of any highway, traffic or street functions (exercisable by an authority other than the Secretary of State) that might reasonably be expected to affect transport needs connected to the Games. Other roads-related powers in the 2006 Act are:

²⁹ Explanatory Notes, p16

³⁰ [HC Deb 10 March 2011 c79WS](#)

³¹ *Sale of Tickets (Sporting and Cultural Events) Bill 2010-12*

³² [HC Deb 21 January 2011 c1166](#) (Second reading debate)

³³ London 2012 press release, [London 2012 Olympics Games tickets go on sale](#), 15 March 2011

- The Secretary of State may, by specifying relevant circumstances in an Order, set aside or vary the requirement to notify the ODA and seek its approval to the exercise of a highway, traffic or street function. For example, an Order might allow emergencies or urgent works to be dealt with without the delay of seeking ODA approval. Orders are subject to the negative resolution procedure.
- The Secretary of State is required to consult the ODA before exercising their powers of management of roads in the Royal Parks in a way that they think might affect transport needs connected to the Games.
- The requirement on Transport for London to consult on the variation of bus schedules during the Games period is relaxed.

The ODA is empowered to make Traffic Regulation Orders over roads that are part of the ORN. The ODA may only do so with the consent of the Secretary of State; further, the ODA may only make such an order for Olympic purposes. In practice, this will allow for the creation by the ODA of a unified system of traffic regulation across the ORN, including, for example, the use of Olympic lanes (which will facilitate the travel of athletes and other accredited persons between Olympic venues) and the imposition of parking and waiting restrictions. When making an Order, the ODA has to comply with the same procedural requirements as Transport for London. Traffic authorities are allowed to make Orders for Olympic purposes over any road as needed; local traffic authorities may only make Orders over roads which form part of the Olympic Route Network with the consent of the ODA. The Act sets aside for Olympic purposes certain restrictions that apply to Orders, for example that they may not prevent access for vehicles of any class for more than eight in any 24 hour period.

Infringements of Orders made by the ODA over the ORN for the purposes of the Olympics may be punishable with an increased fine (i.e. a maximum of £5,000; the standard fine is a maximum of £1,000). Further, it was envisaged that the [Traffic Management Act 2004](#) would allow for the application of the civil enforcement regime to all Olympic Orders. The ODA will set the level of penalty charge for a contravention of Orders made for the purposes of the Olympics; local authorities, and Transport for London, will remain the 'enforcement authority' for all other purposes. To ensure that the Olympic Orders are enforced appropriately, the Secretary of State has a power of direction over enforcement authorities for Olympic purposes, though directions may not be given to Transport for London without the consent of the Mayor of London. If an enforcement authority does not comply with a direction by the Secretary of State, the ODA may 'step in' to exercise the relevant enforcement powers with the consent of the Secretary of State and the enforcement authority will bear the costs of the ODA doing so.

The 2006 Act also amends, for Olympic purposes, the provisions relating to Special Events Orders, under which roads may be restricted or closed in connection with sporting events, social events and entertainments. For example, a Special Event Order may be made for Olympic purposes irrespective of whether the event in question is held on a road and the restrictions that limit Special Event Orders to one a year and for a limit of three days are removed in respect of the Olympics.

ODA Transport Plan

London 2012 published a draft of the *Olympic Transport Plan* for consultation on 30 October 2006.³⁴ In October 2007 the ODA published the first edition of the Full Transport Plan.³⁵ In a short summary of the strategy, it stated:

The transport strategy for the Olympic Games and Paralympic Games has evolved over the past three years in response to the requirements of the IOC, the different International (sports) Federations, LOCOG and the key objectives developed by it, the ODA and their forerunners. Each of the following strands of the transport strategy has been adopted in order to meet one or more of the ODA's key objectives...:

- to aim to achieve 100 per cent of ticketed spectator travel to competition venues by public transport, walking or cycling;
- to ensure that the athletes are the top priority;
- to keep London and the UK moving during the Games;
- to ensure that the Games are accessible from all parts of the UK;
- to leave a lasting, positive legacy; and
- to achieve maximum value for money.³⁶

In December 2009 the ODA published a second draft of the Transport Plan for consultation; the key objectives and the transport challenge remain unchanged.³⁷

One of the areas that has caused the most concern is the Olympic Route Network (ORN) and the proposed 'VIP' lanes for athletes and officials. This is explained in detail in [paragraphs 5.28-5.75](#) of the draft Second Transport Plan on the 'VIP' or 'Games lanes'.³⁸ Although the Games lanes are considered vital to enable the government to deliver athletes and officials promptly to the venues, some have expressed concerns about their knock-on impact for non-Olympic traffic in London. For example, the *London Evening Standard* reported in February 2009 that "plans to allow Olympic athletes and VIPs to be driven in express road lanes will bring chaos to London".³⁹ The ORN was designated by the *Olympic Route Network Designation Order 2009 (SI 2009/1573)*, which came into force in July 2009.⁴⁰

4.2 The Bill

Clauses 4—8 of the Bill amend the provisions of the 2006 Act that relate to traffic orders, traffic regulation and enforcement.⁴¹

³⁴ Summary available on the [London 2012 website](#)

³⁵ London 2012, *Full Transport Plan*, October 2007; executive summary available on the [London 2012 website](#); a separate [accessible transport strategy](#) was published in May 2008

³⁶ *Ibid*, para 4.3

³⁷ London 2012, *Transport Plan for the London 2012 Olympic and Paralympic Games, Second edition consultation draft*, December 2009; in two parts: [chapters 1-6 & 7-18](#)

³⁸ *Ibid*, paras 5.51-5.52

³⁹ "Olympic express routes 'will cause traffic chaos'", *London Evening Standard*, 11 February 2009

⁴⁰ This followed a [consultation](#) by the Department for Transport; maps of the ORN are available on the [DfT website](#)

⁴¹ A slightly more detailed explanation of the traffic provisions can be found in the [Explanatory Notes](#) to the Bill; see also: DCMS, *Delegated Powers Memorandum for the London Olympic Games and Paralympic Games (Amendment) Bill*, March 2011

As stated above, the 2006 Act provides for the making of traffic orders under the provisions of the *Road Traffic Regulation Act 1984*. This only permits temporary orders in specific circumstances (for road works etc). **Clause 4** provides that temporary orders may be made for Olympic purposes alone and allows traffic authorities to make emergency notices for the same purposes. **Clause 6** amends the provisions in the 2006 Act relating to road closures or restrictions for the purposes of 'special events' to enable special event orders for the Olympics to be made in a wider variety of circumstances. By making the circumstances in which these orders can be made more flexible, the government hopes that traffic authorities will be able to deal quickly with rapidly changing traffic scenarios and problems.⁴²

Clauses 7 and 8 provide for those uncommenced portions of the 2004 Act, which relate to the enforcement of moving traffic offences and bus lane contraventions, to be applied for the duration of the Games. The main use of these powers will be on the 'Games lanes' (see above). The impact assessment to the Bill states that there will be "significant monetised and non-monetised benefits" from proper enforcement of the Games lanes, though the intention is for high levels of compliance and relatively few penalty notices being issued.⁴³

⁴² DCMS, *Impact Assessment for the London Olympic Games and Paralympic Games (Amendment) Bill*, March 2011, para 11, for more information see Annex B

⁴³ *Ibid*, para 9