



GUIDANCE
on
THE GLASGOW COMMONWEALTH GAMES ACT 2008 (GAMES ASSOCIATION RIGHT)
ORDER 2009

SI 2009 No. 1969

Introduction

A condition of the award of the 2014 Commonwealth Games (“the Games”) to Glasgow by the Commonwealth Games Federation (“CGF”) was a requirement for legislation to be put in place to protect against ambush marketing and prevent unauthorised associations with the Games. The legislative support is not intended to restrict legitimate businesses but to provide sponsors for the Games with the necessary guarantees that sufficient controls are in place against ambush marketing.

As a result of this obligation to the CGF, from 20th January 2010, the Glasgow Commonwealth Games Act 2008 (Games Association Right) Order 2009 (the “Order”) comes into force. This Order makes provisions that are necessary and expedient in consequence of the Glasgow Commonwealth Games Act 2008. This paper provides guidance to the general public on the effect of the Order.

The Association Right

The Order grants the Organising Committee of the Games Glasgow 2014 Limited (“OC”) a special and exclusive legal right known as the Glasgow Commonwealth Games Association Right. The Association Right applies to the use of certain representations made in the course of business, intended to suggest to the public that an association exists between the Games and any goods or services. Broadly, examples would be uses of certain images or words in advertising or on the goods or packaging themselves.

The Order enables the OC to grant its sponsors and stakeholders permission to use the Association Right in relation to the Games. The Order does not dictate how or to whom authorisation may be granted but it is envisaged that consent will normally be granted only to official sponsors and suppliers to the Games.

The Order gives the OC the right, unless a defence applies, to prevent people or organisations from creating associations with the Games without authorisation. As explained further below, the OC can take legal action in cases where the Association Right is infringed. The association right will not, however, be infringed by any organisation or person acting with written authorisation granted by the OC.

It is not possible to outline every event in which an association could be deemed to have been created; this will very much depend on the particular circumstances and the overall impression given whilst advertising and/ or selling goods etc. The OC will react to potential infringements on a case-by-case basis. However, the following is aimed to provide guidance on the occasions where it may be considered by the OC that an organisation has attempted to create an association between themselves and the Games:-

Although not conclusive, the following list of expressions may be likely to be considered to be an association with the Games and therefore are more likely to fall foul of the Order:-

- any expressions which use any two of the words in list A below; or
- any expressions which contain any word in list A, together with one of more of the words in list B below.

A

- Games
- Two Thousand and fourteen
- 2014
- XXth

B

- Glasgow
- Medals
- Sponsors
- Gold
- Silver
- Bronze

For example, the following would likely be regarded as trying to create an association with the Games (and hence prohibited under the Order):-

- “Supporters of the 2014 Games”; or
- “Going for gold in 2014”; or
- “Glasgow Games”.

Infringement remedies

The Order also provides guidance on how the Association Right will be enforced. Civil claims may be brought by the OC in the event of infringement of the Association Rights. Remedies include:

- Interdict;
- Count, reckoning and payment;
- Damages;
- Delivery up and destruction of infringing goods, material or articles.

Additionally, the Order protects the public against groundless threats of infringement by the OC, by giving a right to apply to the court if they consider they are being unreasonably threatened with proceedings.

Duration

The prohibition on unauthorised associations with the Games (and, therefore, the duration of the OC's right to take legal action under the Order) will remain in force from 20th January 2010 until 6 months after the closing ceremony in 2014.

Full text of the Order is available to view at:

http://www.opsi.gov.uk/si/si2009/uksi_20091969_en_1

For further guidance on associations with the Games, please contact the Organising Committee on 030 3333 2014 or brandprotection@glasgow2014.com. This document and any other guidance which may be given on the Order is intended only to give an indication of the OC's interpretation of the Order and is without prejudice to any rights the OC may have in a particular case. The Games Association Right is ultimately subject to interpretation by the courts and the information provided in this document cannot be treated as a strict statement of law. We recommend that, if you are in any doubt about the effect of the Order or if you are proposing to do something which you think may be an infringement of the Association Right, that you seek independent legal advice.