

GLASGOW COMMONWEALTH GAMES BILL

[AS AMENDED AT STAGE 2]

REVISED EXPLANATORY NOTES

INTRODUCTION

1. As required under Rule 9.7.8a of the Parliament's Standing Orders, these revised Explanatory Notes are published to accompany the Glasgow Commonwealth Games Bill as amended at Stage 2. The Bill was introduced in the Scottish Parliament on 9 November 2007.
2. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.
3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

SUMMARY

4. The Bill gives effect to the commitments made by the Scottish Government as part of Glasgow's bid to host the 2014 Commonwealth Games. It provides the Scottish Ministers, Councils and the Organising Committee with the powers necessary to ensure the delivery of the Games. It also provides the legislative framework needed to enable the Scottish Government to fulfil the requirements which the Commonwealth Games Federation place on host cities.
5. The main measures of the Bill will:
 - Create new criminal offences prohibiting unauthorised advertising and outdoor trading within the vicinity of Games locations, with penalties on summary conviction of a fine not exceeding £20,000 or an unlimited fine on conviction on indictment;
 - Create a new criminal offence to prohibit the unauthorised sale of Games tickets in public, in excess of face value or with a view to making a profit, with penalties on summary conviction of a fine not exceeding level 5 on the standard scale (currently £5,000);
 - Provide for the designation of enforcement officers empowered to enforce the Games advertising, street trading and ticket touting offences, and make it a criminal offence to obstruct them in their duties, with penalties on summary conviction of a fine not exceeding level 5 on the standard scale;

- Provide councils with the power to make Games traffic regulation orders;
- Provide the Scottish Ministers with the power to direct councils to make, vary or revoke any instrument which regulates road use in relation to the Transport Plan for the Games;
- Provide councils with the power to issue a Compulsory Purchase Order for land within their area which they believe is required for Games purposes;
- Provide the Scottish Ministers with powers to pay grants and provide other forms of assistance to the Organising Committee of the Games and set conditions on such assistance; and
- Provide the Scottish Ministers with the power to repeal the Act from the statute book once the Games have ended.

BACKGROUND

6. The Commonwealth Games is one of the largest multi-sport events in the world and has been held every four years since 1930, with a short intermission between 1938 and 1950. It involves elite athletes from around the Commonwealth drawn from the 71 different nations and territories who are members of the Commonwealth Games Federation.

7. The Commonwealth Games is the only multi-sport event in which Scotland competes in its own right and responsibility for organising our participation rests with the Commonwealth Games Council for Scotland.

8. On 16 August 2005, Glasgow launched its bid to host the 2014 Commonwealth Games. The bid had three main partners, the Scottish Government, Glasgow City Council and the Commonwealth Games Council for Scotland, who together established a Bid Team to take forward the bid on their behalf.

9. On 9 May 2007 the Commonwealth Games Council for Scotland submitted proposals to the Commonwealth Games Federation for a Glasgow Games. This was referred to as the Candidate City File and contained detailed information on a number of areas including sports, venues, security, finance and transport.

10. On 9 November 2007, Glasgow was elected as the Host City for the 2014 Commonwealth Games at the Commonwealth Games Federation General Assembly in Colombo, Sri Lanka. Immediately after the announcement the Scottish Government, Glasgow City Council, the Commonwealth Games Council for Scotland and the Organising Committee signed the Host City Contract as required by the Commonwealth Games Federation. This contract sets out the obligations of the parties to that contract, which include fulfilling all commitments made in the bidding process, and Commonwealth Games Federation requirements relating to the Games. The majority of these requirements are set out in the Commonwealth Games Federation Technical Manuals.

11. The Host City Contract requires the Scottish Government to introduce legislation necessary to prohibit ambush marketing, eliminate street vending and control advertising space

during the period of the Games, no later than 30 June 2010. The Technical Manuals - which form part of the Host City Contract - also contain measures which require a legislative response, for example, that “appropriate regulations should be put in place to prevent ticket scalping”. The Scottish Government has also provided guarantees to the Commonwealth Games Federation that all the commitments given in the Candidate City File will be met. Some of these commitments will require new powers for the Scottish Ministers and councils to ensure they can be delivered as described by 2014. For example, new council powers are needed to allow the creation of a functional Games Route Network.

12. As part of the process towards meeting these requirements, the Scottish Government published the “Draft Glasgow Commonwealth Games Bill: Consultation Document” on 28 June 2007. This set out draft legislative plans addressing these issues. This draft Bill was developed with particular regard to the London Olympic Games & Paralympic Games Act 2006 which was brought forward in response to International Olympic Committee requirements very similar to those of the Commonwealth Games Federation. For example, it also requires controls to be placed on advertising, street trading and ticket touting. Offences in relation to these activities now exist in relation to the 2012 London Olympic Games and Paralympic Games. These measures were extended to Scotland during the previous parliamentary session through a Legislative Consent motion.

THE BILL – AN OVERVIEW

13. The Bill contains 51 sections set out under the following headings:

- Introductory
- Street Trading etc.
- Advertising
- Ticket Touting
- Enforcement
- Trial and punishment
- Transport
- Funding etc.
- Compulsory acquisition of land
- Subordinate legislation: procedure
- Final provisions

COMMENTARY ON SECTIONS

INTRODUCTORY

Section 1: The Glasgow Commonwealth Games

14. This introductory section sets out the interpretation of three principal terms in the Bill:

“the Games” refers to the 2014 Glasgow Commonwealth Games,

“Games location” is a place in which an event, which could be a sporting or cultural event, is held as part of the Games or any other place used in connection with the Games which is specified by order as being a Games location. For example, such an order could be used to designate the Games Village as a Games location.

the “Organising Committee” is a company limited by guarantee established by the Scottish Government, Glasgow City Council and the Commonwealth Games Council for Scotland to deliver the Games. It was incorporated on 11 June 2007.

STREET TRADING ETC.

Section 2: Ban on outdoor trading in the vicinity of Games locations

15. This section makes it an offence to trade within the vicinity of a Games location at particular times (the “trading offence”). Indoor trading (i.e. trading in a building) is not covered by the offence. Scottish Ministers are given a power to make further provision about trading around Games locations which can be used to set out further exceptions to the offence. The offence does not apply to any trading by the Organising Committee or the Commonwealth Games Federation although the trading regulations may require either or both to comply with prescribed conditions.

16. The Commonwealth Games Federation may find it necessary to adjust the requirements which are placed on host cities, or the proposed sporting programme or venues may alter during the period leading up to the Games. For this reason, the detail of these restrictions will be brought forward in subordinate legislation in order to make a proper assessment of what is required and where closer to 2014. The regulations are likely to apply restrictions for different periods and in different ways for different Games locations. This would enable the characteristics of different venues and different events to be taken into account and ensure that any restrictions are proportionate in their compliance with the Host City Contract. For example, Strathclyde Park is currently proposed to be used only for the one day Triathlon where as the SECC Arena is currently proposed to be used for 11 days of Netball. The extent and the duration of restrictions will therefore reflect the nature and use of the venue.

Section 3: Trading activities, places and prohibited times

17. This section allows the trading regulations to define what activities will be treated as trading. It also allows those regulations to define what is meant by “vicinity of a Games location” for this purpose and to set the times during which the trading prohibition will apply.

Section 4: Authorised trading

18. This section allows the trading regulations to determine circumstances in which the Organising Committee may authorise persons to trade in a way which would otherwise constitute a trading offence. Such authorisation will be subject to any conditions imposed by the trading regulations and by the Organising Committee under section 5.

19. Subsection (2) provides that the regulations may require the authorisation to be granted only if a trading licence already exists for a particular place, or if the person applying for authorisation already holds a trading licence. Regulations may also provide for the authorisation to be treated as if it were a trading licence which would eliminate the need for the authorised trader, for example, to obtain a street trading licence under another enactment once authorised under the Bill. Regulations may also set out the procedure for application for authorisation, set a limit on the level of fees that may be charged and provide for a right of appeal against a refusal by the Organising Committee to grant authorisation.

Section 5: Trading authorisation: conditions

20. This section provides that an authorisation to trade under section 4 will be subject to any conditions imposed by the trading regulations and may be subject also to conditions imposed by the Organising Committee. Trading in breach of these conditions will constitute unauthorised trading and will be an offence.

Section 6: Trading permitted without authorisation

21. This section allows the trading regulations to determine circumstances in which trading which would otherwise constitute a trading offence would be permitted without the need for authorisation from the Organising Committee. This could be by reference to the person who is trading, the nature or purpose of the trading or the application of any profits. For example, the regulations could exempt certain news vendors, milk deliveries or charitable sales from being required to seek authorisation reflecting the fact that certain trading activities do not require a street trading licence under other enactments.

Section 7: Existing trading licences

22. This section makes it clear that holding a trading licence granted before or after this section comes into force is not a defence against a trading offence under the Bill. A person who holds or is awarded an ordinary street trading licence will, therefore, be required to obtain authorisation from the Organising Committee in order to trade in the vicinity of a Games event at a prohibited time without committing an offence under the Bill.

Section 8: Alternative arrangements where existing trading banned during Games

23. This section places a duty on councils to work with existing licensed street traders and market operators to try to identify alternative trading arrangements during the times when the trading offence applies.

Section 9: Guidance and information about trading

24. This section allows the Organising Committee to issue guidance about trading within the vicinity of Games locations. It also allows for the trading regulations to require prescribed persons to inform others of the likely effect of the ban on trading in the vicinity of Games locations (section 2) and of the trading regulations. Those regulations may also require a person who grants a trading licence to inform the licensee of the effect of section 7.

ADVERTISING

Section 10: Ban on advertising in the vicinity of Games locations

25. This section makes it an offence to advertise in the vicinity of a Games location at particular times (the “advertising offence”). The Scottish Ministers are given a power to make further provision about advertising around Games locations which can be used to set out further exceptions to the offence. The offence does not apply to advertising by the Organising Committee or the Commonwealth Games Federation although the advertising regulations may require either or both to comply with prescribed conditions.

26. As with the ban on street trading within the vicinity of Games locations (section 2), much of the detail of the restrictions has been left to secondary legislation in order to enable a full assessment of what is required closer to 2014. This could involve changes in the requirements of the Commonwealth Games Federation or proposed venues which may affect the detail of the regulations.

Section 11: Advertising activities, places and prohibited times

27. This section provides a definition of activities that will be treated as advertising. It must be a communication to the public or a section of the public for the purpose of promoting an item, service, trade, business or other concern. An illustrative (but not exhaustive) list of activities which will be treated as advertising if done for that purpose is set out in subsection (2).

28. Subsection (4) allows the advertising regulations to define what is meant by “vicinity of a Games location” for this purpose and to set the times during which the advertising prohibition will apply.

Section 12: Authorised advertising

29. This section allows the advertising regulations to determine circumstances in which the Organising Committee may authorise persons to advertise in a way which would otherwise constitute an advertising offence. Such authorisation will be subject to any conditions imposed by the advertising regulations or by the Organising Committee under section 13.

30. Subsection (2) states that the regulations may provide that authorisation is to be granted only if an advertising licence already exists for a particular place, or if the person applying for authorisation already holds an advertising licence. Regulations may also provide for an authorisation to be treated as if it were an advertising licence. This could allow an advertiser to apply to the Organising Committee for authorisation without having to also apply to the council for an advertising licence. Regulations under this subsection may also set out the procedure for application for authorisation, set a limit on the level of fees that may be charged and provide for a right of appeal against a refusal by the Organising Committee to grant authorisation.

Section 13: Advertising authorisation: conditions

31. This section provides that an authorisation to advertise under section 12 will be subject to any conditions imposed by the advertising regulations and may be subject also to conditions

imposed by the Organising Committee. Trading in breach of these conditions will constitute unauthorised advertising and will be an offence.

Section 14: Advertising permitted without authorisation

32. This section allows the advertising regulations to determine circumstances in which advertising which would otherwise constitute an advertising offence would be permitted without the need for authorisation from the Organising Committee. This could be by reference to the person who is advertising, the nature or purpose of the advertising or the circumstances of its display.

Section 15: Existing advertising licences

33. This section makes it clear that holding an advertising licence granted before or after this section comes into force is not a defence against an advertising offence under the Bill. A person who holds or is awarded an ordinary advertising licence will, therefore, be required to obtain authorisation from the Organising Committee in order to advertise in the vicinity of a Games location without committing an offence under the Bill.

Section 16: Guidance and information about advertising

34. This section allows the Organising Committee to issue guidance about advertising within the vicinity of Games locations. It also allows for the advertising regulations to require prescribed persons to inform others of the likely effect of the ban on advertising in the vicinity of Games locations (section 10) and of the advertising regulations. Those regulations may also require a person who grants an advertising licence to inform the licensee of the effect of section 15.

TICKET TOUTING

Section 17: Ban on ticket touting

35. This section makes it an offence to tout Games tickets (the “touting offence”). A Games ticket is defined in section 48 as any ticket, card, electronic device or other thing which entitles an individual to attend an event held as part of the Games or any other event connected with the Games specified by order made by Ministers.

36. Subsection (2) sets out what is meant by touting a Games ticket. A person touts a Games ticket if that person does any of the acts mentioned in subsection (3) in a public place or, even if not in a public place, does the act in connection with the selling of a Games ticket for more than its face value or with a view to making a profit. Note that it is the person disposing of the ticket who must be aiming to make a profit from it, even if the act which constitutes the offence is carried out by someone else. (For example, an advertiser may commit an offence by advertising the sale of tickets by a person where that person is making a profit from the ticket sales, whether or not the advertiser makes a profit from selling advertising space to the ticket seller is irrelevant. Subsection (7) makes this clear.)

37. Subsection (3) lists various activities relating to selling or trading tickets or otherwise dealing in ticket sales. These include selling or offering to sell a Games ticket, exposing a Games ticket for sale or advertising such a ticket, making a ticket available for sale by another person or giving away a ticket where that is conditional upon the payment of booking fee or other charge or the acquisition of some other goods or services. These are all acts that may constitute a touting offence under subsection (2).

38. Subsection (4) gives the Organising Committee and the Commonwealth Games Federation the power to sell or deal with tickets in ways which would otherwise be considered touting, and gives the Organising Committee the power to authorise other persons to sell or deal with tickets in ways which would otherwise be considered touting.

39. The Bill cannot make touting activity an offence in other jurisdictions but subsection (5) ensures that persons who engage in touting in places outwith Scotland (perhaps by using computer systems located in another country to effect internet sales) will commit an offence under Scots law.

40. Subsection (6) makes it clear that a booking fee or other charge is counted as part of the amount paid for a Games ticket for the purposes of determining whether or not a touting offence has been committed (i.e. in determining whether a sale is for an amount above face value). Similarly, the value of anything acquired along with the ticket will count towards the amount paid for the ticket (for example, if a small item is sold at an inflated price and the buyer gets a free ticket with the item then that sale and the price paid could be treated as sale of a games ticket for that price). Finally, if a ticket is exchanged rather than sold for money the value of the thing exchanged may be counted as the price paid for the ticket.

Section 18: Exception for certain advertisers etc.

41. This section provides an exception for advertisers from committing a touting offence if the sale of the ticket would be for above the face value of the ticket or with a view to making a profit but the advertiser does not, and could not reasonably be expected to know that fact. If, for example, a newspaper advert for Games tickets displayed a sale price that was obviously in vast excess of the normal face value of tickets to comparable sporting events, the publication that carried that advert could not argue that it could not reasonably have known that the sales were for above face value. In which case the advertising publication would be committing a touting offence.

Section 19: Use of internet etc.

42. This section allows the Scottish Ministers to make regulations to determine circumstances in which use of the internet or other electronic media may or may not constitute a touting offence.

Section 20: Authorised ticket sales

43. This section allows authorisations given for the purpose of section 17(4)(b) to be subject to conditions imposed by the Organising Committee and states that such authorisation must be

given in writing. Subsection (4) gives power to the Scottish Ministers to make regulations limiting the amount of any fee charged by the Organising Committee in relation to authorisations.

ENFORCEMENT

Section 22: Enforcement officers

44. This section provides a definition of “enforcement officers” who are individuals designated as such by the Organising Committee.

45. Subsection (2) restricts the power of designation so that only inspectors of weights and measures (commonly known as trading standards officers) or other individuals who meet criteria specified in regulations may be designated. Designation of an inspector of weights and measures may only be made with the consent of the council which appointed the person to be an inspector of weights and measures.

Section 23: General enforcement power

46. This section sets out the general range of powers that this Bill confers on enforcement officers. Subsection (1) allows enforcement officers to take such steps as they consider appropriate for the purpose of preventing or ending the commission of a Games offence or in connection with proceedings, or anticipated proceedings, in respect of a Games offence.

47. Subsection (2) specifies steps that are included within this general power which include seizing, concealing or destroying anything which the officer believes to be an infringing article. This power is subject to restrictions set out in section 24.

48. Subsection (3) defines an “infringing article”. This could be an article used in connection with the commission of a Games offence or receptacle used as a container for such an article, for example a box containing goods being sold by an unauthorised street trader.

49. Subsection (4) enables an enforcement officer to be assisted by another person as may be reasonably required for the purpose of taking action in this section.

Section 24: Restrictions on general enforcement power

50. Subsection (1) sets restrictions on the power of enforcement officers to seize infringing articles. They can only do so for the purpose of ending the commission of a Games offence, preventing the future commission of such an offence, enabling the article to be used in proceedings for such an offence (as evidence) or to enable the article to be forfeited in accordance with Part 2 of the Proceeds of Crime (Scotland) Act 1995 (c 43) (which makes provision for property which has been used in crime to be forfeited).

51. Subsection (2) requires a seized article to be returned when retention of it is no longer justified for the purposes mentioned in subsection (1); however, this requirement does not apply to perishable articles which no longer have any commercial value.

52. By virtue of subsection (3) an advertisement may be concealed for the purpose of ending the commission of an advertising offence or for preventing the further commission of such an offence. Concealment must cease when no longer required for either of these purposes (subsection (4)).

53. Under subsection (5) an infringing article may be destroyed only if it is appropriate to do so to end or prevent the further commission of an advertising offence and seizure or concealment would not be a reasonable course of action in the circumstances. Destruction is, therefore, only available as a measure of last resort.

Section 25: Power to enter and search

54. Subsection (1) enables an enforcement officer to, without warrant, enter and search a place (and any vehicle, vessel, container or other thing at that place) where the officer reasonably believes that a Games offence has been or is being committed or which the officer reasonably believes has been or is being used in connection with the commission of a Games offence.

55. Subsection (2) allows an enforcement officer, when entering a place under subsection (1), to take with them any other person or equipment reasonably required for the purposes of assisting the officer. This could, for example, be a locksmith in order to gain access.

56. Subsection (3) requires an enforcement officer who enters a place using powers conferred by this section to take reasonable steps to leave the place at least as effectively secured against unauthorised entry as the officer found it.

Section 26: Use of reasonable force

57. Unless the owner or occupier of a place that an enforcement officer requires to enter consents to such entry some measure of force will generally be required in order to effect entry. Subsection (1) allows an enforcement officer to use, or authorise the use of, reasonable force when taking enforcement action under section 23 (general enforcement powers) or 25 (entry and search). Force may be used, however, only where the enforcement officer is accompanied by a police constable and if the use of force has been authorised by warrant issued by a sheriff or the police constable reasonably believes that there is a real risk that the delay caused by seeking such a warrant would defeat or prejudice the purpose of taking action. This power could for example be used to authorise a locksmith to use reasonable force to gain entry to a place. The enforcement officer cannot, however, use or authorise the use of reasonable force against an individual.

58. Subsection (3) provides that the sheriff may grant a warrant only if satisfied that the use of reasonable force is necessary for the purpose of taking enforcement action.

59. By virtue of subsection (4) a warrant expires when it is no longer required for the purpose for which it was granted or, if earlier, on the date specified by the sheriff.

Section 27: Further restrictions on entering houses

60. This section places further restrictions on the powers of enforcement officers when the place they wish to enter is a house or can only be entered through a house. Under subsection (1) they can only enter such a place if permitted to do so by someone residing there or if granted a warrant by a sheriff.

61. Subsection (2) provides that an enforcement officer may only enter a house at a reasonable time and if accompanied by a police constable. This applies even if the occupier gives permission for entry.

62. Subsections (3) and (4) set out the conditions of which a sheriff must be satisfied before issuing a warrant to enter a house. It requires the enforcement officer to demonstrate to the sheriff that the officer has reasonable grounds for taking action under section 23 or 25 and that the officer has been refused entry, that such a refusal is reasonably expected (and, in certain circumstances, that the occupants have been notified), that the house is unoccupied, that the occupier is temporarily absent, that the case is one of urgency or that notifying the resident of the officer's intentions would defeat the object of the proposed action.

63. Subsection (5) provides that a warrant expires when it is no longer required for the purpose for which it was granted or, if earlier, on the day specified by the sheriff.

Section 28: Power to obtain information

64. This section allows an enforcement officer to require any person to provide such information as the officer considers appropriate in connection with a Games offence or conduct which the officer reasonably suspects constitutes a Games offence. This could be used to gain access to records or receipts. The exception to this requirement is that persons may refuse to provide information if they would be able to refuse to provide that information in or for the purpose of court proceedings. An individual would, for example, not be required to self-incriminate.

Section 29: Requirement to produce authority

65. This section provides that while an enforcement officer is taking enforcement action or exercising the power to obtain information under section 28 that officer must produce evidence of that officer's authority to act if requested to do so.

Section 30: Test purchases

66. This section allows an enforcement officer to make or authorise another person to make a test purchase to discover whether the Bill is being complied with without committing a Games offence.

Section 31: Compensation and recovery costs

67. This section allows a person whose property is damaged as a result of any action taken by enforcement officers exercising their powers under section 23 or 25 to obtain compensation from the Organising Committee, although this does not apply if that person has committed a Games offence. It also allows such a person to obtain compensation from the Organising Committee if a constable accompanying an enforcement officer damages their property as a result of anything done under section 23 or 25. However, if the damage is caused by a constable who is not accompanying an enforcement officer, it is the chief constable of the constable's police force who is liable to pay compensation.

68. Subsection (2) allows Ministers to make regulations making provision about: claiming compensation, determining the compensation due and for determining which court, tribunal or other body would determine any disputed compensation.

69. Subsection (3) allows the Organising Committee to recover the cost of enforcement from the person who committed the Games offence.

Section 32: Obstructing an enforcement officer

70. This section makes it an offence intentionally to prevent or obstruct an enforcement officer from doing anything which the officer may be authorised or entitled to do by virtue of the Bill, or without reasonable cause to fail to provide an enforcement officer or a constable with information requested under section 28.

Section 33: Police powers

71. This section allows a constable to do anything an enforcement officer may do under sections 23 to 30. For example, this would allow a constable to seize, conceal or destroy unauthorised advertising within the vicinity of Games locations.

72. Subsection (2) extends the restrictions imposed on enforcement officers by sections 24, 26, 27 and 29 to constables. The restrictions only apply to the extent that they do not conflict with a constable's powers under any other enactment or rule of law. It also makes it clear that a constable does not require to be accompanied by another constable when using reasonable force or when entering a house.

73. Subsection (3) allows a constable to arrest without warrant a person who the constable reasonably believes is committing or has committed a Games offence. Subsection (4) clarifies that this power of arrest does not affect a constable's existing powers of arrest.

Section 33A: Action under sections 23 to 30: procedure

74. This section allows Ministers to make regulations specifying further procedures which an enforcement officer or constable must follow when doing anything under sections 23 to 30.

TRIAL AND PUNISHMENT

Section 34: Mode of trial

75. This section provides that trading and advertising offences can be tried either summarily or on indictment and that ticket touting and obstruction offences are triable only summarily.

Section 35: Penalties

76. This section sets out the penalties associated with each of the Games offences. The level of penalties, apart from that associated with the offence of obstructing an enforcement officer, have been tied to those of similar offences in the London Olympic Games & Paralympic Games Act 2006.

77. Subsection (1) makes a person convicted of a trading offence or an advertising offence liable on conviction on indictment to an unlimited fine or on summary conviction to a fine not exceeding £20,000.

78. Subsection (2) makes a person convicted of a ticket touting or obstruction offence liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).

Section 36: Offences by bodies corporate etc.

79. By virtue of subsection (1), where an offence is committed under the Bill by a body corporate, Scottish partnership or other unincorporated association, which is proved to have been committed with the consent or the connivance of a “relevant individual” or an individual acting as such, or because of any neglect by the “relevant individual”, the individual, as well as the body corporate, partnership or other unincorporated association, will be guilty of the offence and liable to punishment.

80. Subsection (2) defines a “relevant individual” in relation to a body corporate as a director, manager, secretary or other similar officer of the body, or a member (where the affairs of the body are managed by its members). In relation to a council, the “relevant individual” is an officer or member of the council. In relation to a Scottish partnership it is a partner and in relation to any other unincorporated association it is a person who is concerned with the management or control of that association.

81. Subsection (3) provides that any penalty imposed upon a body corporate, Scottish partnership or unincorporated association is to be recovered by civil diligence under section 221 of the Criminal Procedure (Scotland) Act 1995.

TRANSPORT

Section 37: Transport plan

82. This section clarifies that the Organising Committee is responsible for producing a Games Transport Plan. Subsection (2) requires the Organising Committee to consult the Scottish

Ministers, every council in whose area a Games location is situated, every chief constable of a police force maintained for an area in which a Games location is situated and any other person the Organising Committee considers appropriate before making such a plan.

Section 38: Games traffic regulation orders

83. This section allows a traffic authority for a road to make a temporary traffic regulation order for the purposes of implementing the Games transport plan, facilitating transport services in connection with the Games, facilitating travel by any person for a purpose connected to the Games or carrying out an experimental scheme of traffic control for a purpose connected to the Games. These are to be known as “Games traffic regulation orders”. Such orders will be used, for example, to deliver the Games Lanes described in the Candidate City File.

84. Subsection (2) provides that a Games traffic regulation order may be made irrespective of whether the traffic authority is satisfied as to any of the matters set out in section 14(1)(a) (road works), (b) (danger or damage) or (c) (litter clearing and cleaning) of the Road Traffic Regulation Act 1984.

85. Subsection (3) enables a Games traffic regulation order to suspend any statutory provision mentioned in section 14(7) of the 1984 Act without imposing any prohibition or restriction in relation to the road. This means, for example, that a traffic authority may suspend parking in designated parking spaces on a road without also having to close any part of that road to traffic.

86. Subsection (4) removes the decriminalisation of waiting, loading or unloading vehicles in special parking areas in contravention of a Games traffic regulation order. Waiting, loading or unloading vehicles in such circumstances will be a criminal offence.

Section 39: Urgent traffic regulation measures

87. This section allows a traffic authority for a road to restrict or prohibit temporarily the use of the road, or any part of it, by vehicles or pedestrians where they believe such restrictions should come into force without delay. Such restrictions or prohibitions may be imposed by notice. This could be used for example if emergency road works are required on a section of the Games Route Network and time is not available to make a Games traffic regulation order to create an alternative route.

88. Subsection (2) provides that the requirements and restrictions of the 1984 Act in relation to notices under section 14(2) of that Act apply also to notices under this section. These requirements and restrictions include such matters as having regard to the existence of alternative routes for traffic that will be affected by the notice and not making such a notice if the effect would be to prevent pedestrian access to premises on or adjacent to the road.

Section 40: Power to direct councils to regulate road use for Games purposes

89. This section allows the Scottish Ministers to direct a council to make, vary or revoke a traffic regulation instrument where they consider such action to be necessary for any purposes mentioned in section 38. A traffic regulation instrument is defined in subsection (6).

90. The Scottish Ministers may make such a direction only if they have been notified by the Organising Committee that it considers that the council should take such action and the council has failed to take that action within 7 days of being asked by the Scottish Ministers to do so (subsection (2)). The Scottish Ministers are, however, not bound by these conditions if they consider that action must be taken without delay in order to ensure that the Games Transport Plan is implemented properly (subsection (3)). If the council fails to comply with a direction, the Scottish Ministers may take action in place of the council and may recover from the council the costs of so acting (subsections (4) and (5)).

FUNDING ETC.

Section 41: Organising Committee: funding and other assistance

91. This section allows the Scottish Ministers to provide or arrange for the provision of assistance to the Organising Committee for the purposes of securing compliance with the Host City Contract or for any other purpose connected with the holding of the Games. The Scottish Ministers may impose conditions on such assistance. This assistance could take many forms, for example, financial assistance, goods or services, facilities or staff or acquiring land or other property. The Scottish Ministers will use this power to provide funding to the Organising Committee enabling it to deliver the Games (see Financial Memorandum for details of funding).

COMPULSORY ACQUISITION OF LAND

Section 42: Compulsory acquisition of land for Games purposes

92. This section modifies the Town and Country Planning (Scotland) Act 1997 (c.8) to allow councils to issue a compulsory purchase order for land which is suitable for and required in order to facilitate the holding of the 2014 Glasgow Commonwealth Games. The procedure for making such an order remains the same as for any compulsory purchase order under the 1997 Act.

SUBORDINATE LEGISLATION: PROCEDURE

Section 43: Orders and regulations

93. This sets out the procedure under which the Scottish Ministers can exercise powers which the Bill gives them to make subordinate legislation. All orders and regulations are to be made by statutory instrument (and will be published as such).

94. Subsection (2) provides that any power to make regulations or orders may be used to make different provision for different purposes and includes power to make any incidental, supplementary, consequential, transitory, transitional or saving provisions as the Scottish Ministers consider appropriate.

95. In accordance with subsection (3) and subject to subsection (4), statutory instruments under the Bill will be subject to the Scottish Parliament's negative resolution procedure, except for commencement orders and an order under section 50(2) setting a repeal day for the Act, which will not be subject to any parliamentary procedure.

96. Subsection (4) requires that no statutory instrument containing the first trading regulations, advertising regulations or regulations under section 19 (use of the internet) may be made unless a draft of the instrument has been laid before, and approved by a resolution of the Scottish Parliament.

Section 44: Consultation

97. This section requires the Scottish Ministers, before making the first trading and advertising regulations, to consult the councils for the areas in which it is proposed that the regulations will apply, the Organising Committee and any other persons who the Scottish Ministers consider appropriate.

Section 45: Factors for Ministers to consider

98. This section requires the Scottish Ministers, when making the trading and advertising regulations, to have regard to the Host City Contract, any requests or guidance from the Commonwealth Games Federation and, where relevant, the impact of the regulations on the effective operation of the Games.

Section 46: Notice

99. This section requires the Scottish Ministers to give public notice, no later than 2 years before the Games begin, of the general nature of the first trading and advertising regulations and to give public notice no later than 6 months before the Games begin of the detailed provisions of the first trading and advertising regulations.

FINAL PROVISIONS

Section 47: Ancillary provision

100. Under subsection (1), the Scottish Ministers have the power to make, by order, any incidental, supplementary, consequential, transitory, transitional or saving provision as they consider appropriate for the purpose of or in connection with any provision of the Bill or to give full effect to it, or any provision of it. By virtue of subsection (2), such an order may apply (with or without modifications) or disapply any enactment, including the Bill itself.

Section 48: Interpretation

101. This is the interpretation section. It provides definitions of many of the expressions used throughout the Act and makes other interpretative provision.

Section 49: Commencement

102. This section sets out when provisions of the Act will come into force. The following provisions will come into force on Royal Assent:

- section 43 (Orders and regulations)
- section 47 (Ancillary provisions)
- section 48 (Interpretation)
- section 49 (Commencement)
- section 50 (Repeal)
- section 51 (Short title)

103. Other provisions come into force on such day as Scottish Ministers may by order appoint.

Section 50: Repeal

104. This section allows Scottish Ministers by order to repeal this Act effective on any day after the Games have ended.

Section 51: Short title

105. This section provides for the short title which will be used for the purpose of citation of the Bill if it becomes an Act.

Index

106. This indicates where the definitions of terms used in the Bill can be found.

*This document relates to the Glasgow Commonwealth Games Bill as amended at Stage 2
(SP Bill 4A)*

GLASGOW COMMONWEALTH GAMES BILL

[AS AMENDED AT STAGE 2]

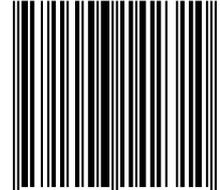
REVISED EXPLANATORY NOTES

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