

# **GLASGOW COMMONWEALTH GAMES BILL**

---

## **EXPLANATORY NOTES**

### **(AND OTHER ACCOMPANYING DOCUMENTS)**

#### **CONTENTS**

1. As required under Rule 9.3 of the Parliament's Standing Orders, the following documents are published to accompany the Glasgow Commonwealth Games Bill introduced in the Scottish Parliament on 9 November 2007:

- Explanatory Notes;
- a Financial Memorandum;
- a Scottish Government Statement on legislative competence; and
- the Presiding Officer's Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 4-PM.

## **EXPLANATORY NOTES**

### **INTRODUCTION**

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 venues, 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 event” is an event held as part of “the Games” which could be sporting or cultural or any other event held relating to the games which is specified by order as being a Games Event, and

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 events**

15. This section makes it an offence to trade within the vicinity of a Games event 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 events 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 events. 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 whereas 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 event” 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 events. 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 events (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 events**

25. This section makes it an offence to advertise in the vicinity of a Games event at particular times (the “advertising offence”). The Scottish Ministers are given a power to make further provision about advertising around Games events 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 events (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 event” 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 event 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 events. 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 events (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 a Games event.

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 a 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 21: Enforcement of Games offences**

44. This section provides that Games offences are to be enforced in accordance with the Bill and with regulations made by the Scottish Ministers.

#### **Section 22: Enforcement officers**

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

46. 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 enforcement 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**

47. 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 reasonable to enforce Games offences.

48. 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.

49. 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.

50. 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**

51. 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).

52. 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.

53. 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)).

54. 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**

55. Subsection (1) enables an enforcement officer to enter and search a place if 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.

56. 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.

57. 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**

58. 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 power) 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.

59. 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.

60. 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**

61. 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.

62. 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.

63. 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.

64. 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**

65. This section allows an enforcement officer to require any person to provide such information as the officer considers appropriate for the purposes of enforcing 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**

66. 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**

67. 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**

68. 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.

69. Subsection (2) requires the enforcement regulations made by the Scottish Ministers to include provision about: claiming compensation, determining the compensation due and for determining which court, tribunal or other body would determine any disputed compensation.

70. 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**

71. 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 the officer with information requested under section 28.

### **Section 33: Police powers**

72. This section makes it clear that nothing in the Bill affects the powers of the police in relation to Games offences (including their powers relating to investigation, prevention or detection of such offences and to the apprehension or prosecution of offenders).

## **TRIAL AND PUNISHMENT**

### **Section 34: Mode of trial**

73. 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**

74. 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.

75. 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.

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

### **Section 36: Offences by bodies corporate etc.**

77. 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.

78. 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.

79. 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**

80. 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 event is to take place and any other person the Organising Committee considers appropriate before making such a plan.

### **Section 38: Games traffic regulation orders**

81. 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.

82. 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.

83. 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.

### **Section 39: Urgent traffic regulation measures**

84. 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.

85. 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**

86. 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).

87. 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**

88. 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**

89. 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**

90. 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).

91. 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.

92. In accordance with subsection (3), 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.

#### **Section 44: Consultation**

93. This section requires the Scottish Ministers, before making the 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**

94. 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**

95. 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 trading and advertising regulations and to give public notice no later than 6 months before the Games begin of the detailed provisions of the trading and advertising regulations.

### **FINAL PROVISIONS**

#### **Section 47: Ancillary provision**

96. 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**

97. 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**

98. 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)

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

#### **Section 50: Repeal**

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

#### **Section 51: Short title**

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

#### **Schedule: Index**

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

---

## **FINANCIAL MEMORANDUM**

### **INTRODUCTION**

103. The key financial impact of the Bill is the new power in section 41 that will allow the Scottish Ministers to provide assistance to the Organising Committee of the Games. This assistance could take a number of forms, including the payment of grants. It will be this power that the Scottish Ministers will use to deliver their financial contribution to the cost of the Games.

### **COSTS ON THE SCOTTISH ADMINISTRATION**

104. The key financial consequence of the Bill will be the cost of delivering the Games. The Candidate City File, submitted to the Commonwealth Games Federation on 9 May, was endorsed by the previous administration and included a detailed breakdown of the estimated Games

budget and a number of guarantees required to deliver the Games and satisfy the requirements of the Commonwealth Games Federation. This included guarantees that the Scottish Ministers will:

- meet any potential economic shortfall of the Organising Committee arising from the preparations for and the hosting of the 2014 Commonwealth Games;
- take all the necessary measures in order that the Host City fulfils its obligations completely; and
- that the legislation necessary to reduce and sanction ambush marketing, eliminate street vending, control advertising space and air space during the period of the Commonwealth Games will be passed no later than 30 June 2010.

105. This budget was scrutinised by the Commonwealth Games Federation Evaluation Commission as part of its technical evaluation of the overall Games bid. Following recommendations made during this evaluation, the overall Games budget was increased by £9.5 million with the majority of this going towards contingency funds. The Commission also recommended that Broadcast Revenues (included in Commonwealth Games Federation Contribution) be stated inclusive of costs rather than net with a corresponding increase in International Broadcasting Centre and Host Broadcasting Organisation expenditure. Although gross revenue and expenditure increased by almost £20m, the net costs were not affected by this change. The final budget is attached in Annex A in the format required by the Commonwealth Games Federation. There are a number of headings which have no funds relating to them in order to allow the Commonwealth Games Federation to make a comparison with other bids. This budget consists of expenditure totalling £372.977 million and revenues of £75.140 million leaving a balance of £297.837 million to be met from public subsidy. The Scottish Government will provide 80% of the net cost while Glasgow City Council will fund the remainder. The Scottish Government is therefore currently estimating contributing £238 million to the cost of funding the Games. These figures are, however, based on April 2007 prices as required by the Commonwealth Games Federation and, therefore, the Games budget will have to be adjusted for inflation.

106. The Games budget was developed by the Bid Team using a 'bottom-up' process of going through all the items that will be required to deliver the Games. They did this with the support of Glasgow City Council and Scottish Government officials and with advice from Price Waterhouse Coopers. As mentioned above, this has been subject to the external scrutiny of the Commonwealth Games Federation Evaluation Commission and we believe this is the best estimate of costs. The risk of cost overruns within the Games budget are limited by the nature of Glasgow's bid. Over 70% of the facilities needed for the Games are already in place and under 20% of the Games budget of £372.977 million is designated as capital expenditure.

107. It will be the Organising Committee who will be responsible for delivering the Games. The Organising Committee has been established as a Company Limited by Guarantee under the joint ownership of the three bid partners (the Scottish Government, Glasgow City Council and the Commonwealth Games Council for Scotland). Alongside the company will be a Strategic Group chaired by the Scottish Ministers whose role will be to consider and approve the Organising Committee's annual business plan and ensure that the strategic objectives the Scottish Government wishes to realise from the Games are being delivered. As the Scottish Government will be providing the majority of the Organising Committee's funding, it will also

be in a position to set any terms and conditions on such funding needed to protect the public interest in this investment.

## **COSTS ON LOCAL AUTHORITIES**

108. Local authorities will play a key role in delivering the Glasgow Commonwealth Games and the Bill provides them with the powers and responsibilities required to fulfil this role. For example, local authority Trading Standards Officers may be required to take on an enforcement function in relation to the offences contained within the Bill. There should, however, be no financial impact on those local authorities as the costs of enforcement will be met from the Games workforce heading of the Organising Committee budget. New powers to make Games traffic regulation orders are only likely to be needed by Glasgow City Council. They will use this power to create the Games Lanes needed to develop a Games Route Network. Glasgow City Council have set aside £4.5 million to meet the capital expenditure required to create the Games Lanes. This is not being met from the Organising Committee budget as the Games Lanes will be converted to priority bus lanes once the Games are over. The Bill will also allow local authorities to issue Compulsory Purchase Orders for land suitable for and required for Games purposes. We are not, however, in a position to estimate what the financial consequences of any local authority exercising that power would be.

109. As mentioned above, Glasgow City Council is committed to using their own resources to fund 20% of the public subsidy required to deliver the Games. This is currently estimated at £60 million at April 2007 prices. This is not a consequential cost of the Bill.

## **COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES**

110. The Bill is designed to prohibit ambush marketing through controlling advertising and street trading during the period of the Games. This will, therefore, restrict commercial activity around Games events during this period. It is not the intention of the Scottish Government to restrict existing trade and we do not anticipate that businesses trading within the vicinity of Games events will have significant compliance costs. We are, however, under an obligation to protect the official sponsors of the Games from ambush marketing. Any organisation that wishes to associate itself with the Games by advertising or trading within the vicinity of a Games event will, therefore, have to apply to the Organising Committee for authorisation.

111. Such authorisation is likely to be achieved through becoming an official sponsor of the Games. The Candidate City File breaks sponsorship down into three levels. Tier one sponsorship is likely to cost an organisation in the region of £2 million, tier two £1 million and tier three £500,000. A breakdown of the product categories expected from each tier can be found in Annex B.

112. The successful bid is an economic opportunity for Scotland. The Games will allow Scotland to demonstrate to the world that Glasgow is a vibrant, cosmopolitan, dynamic city of the 21st century; that Scotland is a place in which people might want to live, study and do business; a place capable of hosting the world's second largest multi-sport event. The Games will help develop a new sense of confidence and pride in the community, encourage social involvement and will leave a legacy of a regenerated east end of Glasgow.

*These documents relate to the Glasgow Commonwealth Games Bill (SP Bill 4) as introduced in the Scottish Parliament on 9 November 2007*

113. The Scottish Government believes that these Games will leave Scotland and Glasgow a healthier, wealthier and more confident place, recognised internationally as a major event and tourist destination.

**ANNEX A**

**GLASGOW COMMONWEALTH GAMES BUDGET BREAKDOWN (OC BUDGET)**

Real at 1 April 2007 prices

<b>A - Revenues</b>		<b>GBP (000)</b>	<b>%</b>	<b>B - Expenditure</b>		<b>GBP (000)</b>	<b>%</b>
1	CGF Contribution	31,400	8.4%	B1	Capital Investments		
				13	Sports Facilities	53,640	14.4%
					Commonwealth Games Village & other villages	18,030	4.8%
					MPC & IBC	0	0.0%
					Other	100	0.0%
						<b>71,770</b>	<b>19.2%</b>
2	Local Sponsorship	23,536	6.3%	B2	Operations		
3	Official Suppliers	0	0.0%	14	Sports Venues	30,822	8.3%
4	Ticket Sales	18,704	5.0%	14	Commonwealth Games Village & other villages	5,516	1.5%
5	Merchandising	1,500	0.4%	14	Other non competition venues	10,658	2.9%
				14	MPC	309	0.1%
				14	IBC/HBO	22,659	6.1%
				15	Games Workforce	40,833	11.0%
				16	Information Systems	20,600	5.5%
				16	Telecommunications & other technologies	7,985	2.1%
6	Lotteries	0	0.0%	16	Internet	1,805	0.5%
7	Donations	0	0.0%	17	Ceremonies and culture		
					Opening Ceremony	10,000	2.7%
					Closing Ceremony	4,500	1.2%
8	Disposal of Assets	0	0.0%		Medal Award ceremonies	800	0.2%
					cultural programme	3,570	1.0%
					Baton relay	3,700	1.0%
					Other programmes	9,400	2.5%
9	Subsidies			18	Medical Services	1,712	0.5%
	National Government	238,269	63.9%	19	Catering	7,575	2.0%
	Local Government	59,568	16.0%	20	Transport	13,580	3.6%
		<b>297,837</b>	<b>79.9%</b>	21	Security	26,169	7.0%
				22	Advertising & Promotion	10,919	2.9%
10	Other	0	0.0%	23	Administration	7,990	2.1%
				24	Pre-Commonwealth events & coordination	1,066	0.3%
				25	Other	59,039	15.8%
						<b>301,207</b>	<b>80.8%</b>
						<b>372,977</b>	<b>100.0%</b>
11	<b>Shortfall</b>	0		26	<b>Surplus</b>	0	
12	<b>Total</b>	<b>372,977</b>		27	<b>Total</b>	<b>372,977</b>	

**ANNEX B**

**Projected income from domestic sponsorship (April 2007 prices)**

<b>Level of Sponsorship</b>	<b>Product Category</b>	<b>Projected income by level of sponsorship</b>
First level (Highest level of National Sponsors)	<ol style="list-style-type: none"> <li>1. Insurance</li> <li>2. Banking</li> <li>3. Transportation</li> <li>4. IT/Communications</li> <li>5. Soft Drinks</li> <li>6. Media</li> </ol>	£12 million
Second Level	<ol style="list-style-type: none"> <li>1. Car Provider(s)</li> <li>2. Supermarket Chain</li> <li>3. Recruitment or other consultants</li> <li>4. Consumer goods eg Confectionery</li> <li>5. Utility Company</li> <li>6. Beer/Spirit Company</li> <li>7. Financial Services</li> <li>8. Retail eg Shopping Mall/Retail Store</li> </ol>	£8 million
Third Level	<ol style="list-style-type: none"> <li>1. AV Services</li> <li>2. Furniture and Fittings</li> <li>3. Temporary Structures</li> <li>4. Printing and Publishing</li> <li>5. Food and Beverages</li> <li>6. Hotels and Accommodation</li> <li>7. Transport</li> <li>8. Medical Supplies</li> </ol>	£3-4 million (Principally VIK)

---

**SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE**

114. On 9 November 2007, the Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon MSP) made the following statement:

“In my view, the provisions of the Glasgow Commonwealth Games Bill would be within the legislative competence of the Scottish Parliament.”

---

**PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE**

115. On 9 November 2007, the Presiding Officer (Alex Fergusson MSP) made the following statement:

*These documents relate to the Glasgow Commonwealth Games Bill (SP Bill 4) as introduced in the Scottish Parliament on 9 November 2007*

“In my view, the provisions of the Glasgow Commonwealth Games Bill would be within the legislative competence of the Scottish Parliament.”

*These documents relate to the Glasgow Commonwealth Games Bill (SP Bill 4) as introduced in the Scottish Parliament on 9 November 2007*

# **GLASGOW COMMONWEALTH GAMES BILL**

## **EXPLANATORY NOTES**

### **(AND OTHER ACCOMPANYING DOCUMENTS)**

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2007.

Applications for reproduction should be made in writing to: Information Policy, Office of the Queen's Printer for Scotland (OQPS), St Clements House, 2-16 Colegate, Norwich NR3 1BQ, or by e-mail to [licensing@oqps.gov.uk](mailto:licensing@oqps.gov.uk). OQPS administers the copyright on behalf of the Scottish Parliamentary Corporate Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by RR Donnelley.

ISBN 978-1-4061-3740-8



9 781406 137408