

# **GLASGOW COMMONWEALTH GAMES BILL**

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## **SUPPLEMENTARY DELEGATED POWERS MEMORANDUM**

### **Purpose**

1. This supplementary Memorandum has been prepared by the Scottish Government in accordance with Rule 9.7.10 of the Parliament's Standing Orders to assist consideration by the Subordinate Legislation Committee in accordance with Rule 9.7.9. It explains changes or modifications to the powers to make subordinate legislation under the Glasgow Commonwealth Games Bill made as a consequence of amendments at Stage 2. This supplementary Memorandum should be read in conjunction with the original Delegated Powers Memorandum lodged in relation to the Bill as introduced.

2. Outlined below are descriptions of the relevant powers which have been amended or modified and explanations of why the additions, removals, amendments or alterations have been made and are considered appropriate. The procedure applicable to three powers to make regulations has also been altered from negative resolution procedure to affirmative resolution procedure where the power is exercised for the first time. This is in response to comments made by the Subordinate Legislation Committee in their Stage 1 consideration of the Bill. Careful consideration has been given to the degree of parliamentary scrutiny that is felt to be required, balancing the need for the appropriate level of scrutiny with the need to avoid using up parliamentary time unnecessarily and maintain the necessary level of flexibility.

### **Section 1(2) – Games Location**

**Power conferred on:** Scottish Ministers  
**Power exercisable by:** Order made by Statutory Instrument  
**Parliamentary Procedure:** Negative resolution procedure

3. This section as introduced defined the term “Games event” as being an event held as part of the Games. Paragraph (b) of that section conferred power upon Scottish Ministers to include other events within this definition.

4. The concept of “Games event” has been replaced throughout the Bill by the concept of “Games location”. This is to allow live sites (dedicated public areas linked electronically to certain competition sites where the local community and visitors can watch events as live) and the Games village to be included within the scope of the Bill. These locations could not be properly described as “events”.

5. Section 1(2) now defines “Games location” as being a place in which an event is held as part of the Games. Paragraph (b) of that section confers power upon Scottish Ministers to specify by order any other place which is used in connection with Games, even if use occurs before or after the Games, as a “Games location.”

6. Ministers can only use this power to designate places used in connection with the Games. This amendment is designed to address concerns about the width of the previous power where a Games event did not require any connection with the Games to be specified by order. Orders made under this section will continue to be subject to negative resolution procedure since they will be uncontroversial and administrative in nature.

## **Section 2 – Ban on outdoor trading in the vicinity of Games locations**

**Power conferred on:** Scottish Ministers  
**Power exercisable by:** Regulations made by Statutory Instrument  
**Parliamentary Procedure:** Affirmative resolution procedure for first exercise of the power and subsequently by negative resolution procedure

7. The trading regulations provided for in section 2 remain substantially unaltered. The only amendment introduced as a result of Stage 2 is in relation to change of procedure.

8. Section 43(3) as introduced provided that any Ministerial power to make regulations under the Bill was exercisable by statutory instrument and subject to annulment in pursuance of a resolution of the Scottish Parliament. It is now amended to be subject to section 43(4) which provides that the first statutory instrument made in relation to the trading regulations, the advertising regulations or regulations under section 19 will be subject to affirmative procedure. Any subsequent exercise of the powers will be subject to negative procedure.

9. This amendment is intended to address concerns that negative procedure was not the appropriate level of control for the exercise of these powers yet maintains the negative procedure for subsequent exercise to reflect the necessary level of flexibility required to react quickly to unforeseen events. The amendment does not alter the procedure that should be applied to the exercise of other powers to make subordinate legislation under the Bill.

## **Section 10 – Ban on advertising in the vicinity of Games locations**

**Power conferred on:** Scottish Ministers  
**Power exercisable by:** Regulations made by Statutory Instrument  
**Parliamentary Procedure:** Affirmative resolution procedure for first exercise of the power and subsequently by negative resolution procedure

10. As noted above, the advertising regulations provided for in section 10 remain substantially unaltered. The only amendment introduced as a result of Stage 2 is in relation to change of procedure to affirmative resolution procedure for the first exercise of the power and negative resolution procedure for subsequent exercises of the power.

### **Section 19 – Use of internet etc.**

**Power conferred on:** Scottish Ministers  
**Power exercisable by:** Regulations made by Statutory Instrument  
**Parliamentary Procedure:** Affirmative resolution procedure for first exercise of the power and subsequently by negative resolution procedure

11. As noted above, the regulations under section 19 remain substantially unaltered. The only amendment introduced as a result of Stage 2 is in relation to change of procedure to affirmative resolution procedure for the first exercise of the power and negative resolution procedure for subsequent exercises of the power.

### **Section 21(1) – Enforcement of Games offences**

12. Section 21 as introduced provided that Games offences would be enforced in accordance with the Bill and any enforcement regulations. Section 21(1) created a power to allow Ministers to supplement provisions relating to enforcement already contained within the Bill with additional provisions which may have been considered necessary or appropriate at a later date. Some concern was expressed by the Committees at Stage 1 that this power was too broadly framed.

13. Section 21 has been deleted and the power to make supplementary provision is now contained in new section 33A. This new power is limited to making procedural provision.

### **Section 22(2) – Enforcement Officers**

**Power conferred on:** Scottish Ministers  
**Power exercisable by:** Regulations made by Statutory Instrument  
**Parliamentary Procedure:** Negative resolution procedure

14. Section 22(2)(b) as introduced allowed Ministers to specify criteria via the enforcement regulations for who could be designated as an enforcement officer. The term ‘enforcement regulations’ is no longer used in the Bill as a consequence of deleting section 21. Therefore section 22(2)(b) has been amended to continue to allow Ministers to specify the criteria for who can be designated as an enforcement officer. This is a technical amendment to take into account the change in terminology in the Bill (deletion of the term ‘enforcement regulations’) and does not alter the nature of the exercise of the power.

### **Section 31 – Compensation and recovery of costs**

**Power conferred on:** Scottish Ministers  
**Power exercisable by:** Regulations made by Statutory Instrument  
**Parliamentary Procedure:** Negative resolution procedure

15. Section 31 makes provision relating to compensation for damage caused to property by an act done by an enforcement officer or a police constable in the exercise of their powers under sections 23 or 25. Section 31(2) allows Ministers to make regulations relating to claiming compensation, determining the compensation due and conferring jurisdiction for determining

disputed compensation. This is a technical amendment to take into account the change in terminology in the Bill (deletion of the term ‘enforcement regulations’) and does not alter the nature of the exercise of the power.

### **Section 33A – Action under sections 23 to 30: procedure**

**Power conferred on:** Scottish Ministers  
**Power exercisable by:** Regulations made by Statutory Instrument  
**Parliamentary Procedure:** Negative resolution procedure

16. The new section 33A contains the general power for Ministers to specify further procedure which an enforcement officer or constable must follow when doing anything under sections 23 to 30. Introducing this power after the sections relating to enforcement emphasises that it is a power to make further provision rather than to alter or contradict provision made by earlier procedure. The power is also now specifically limited to making procedural provision to address comments made by the Subordinate Legislation Committee. Accordingly it is considered that negative resolution procedure is an adequate degree of Parliamentary scrutiny in the circumstances.

### **Section 48 – Interpretation**

**Power conferred on:** Scottish Ministers  
**Power exercisable by:** Order made by Statutory Instrument  
**Parliamentary Procedure:** Negative resolution procedure

17. The definition of ‘Games ticket’ in section 48 as introduced was any ticket, card, electronic device or other thing which entitled an individual to attend a Games event. The concept of “Games event” has been replaced throughout the Bill by the concept of “Games location”. Accordingly section 48 is amended to define Games ticket 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 which is specified by order made by Ministers.

18. This amendment is required to reflect the change in terminology in the Bill. It is considered appropriate to make such orders subject to negative resolution procedure since they will be uncontroversial and administrative in nature.



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

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