



Department for Culture, Media and Sport

Memorandum to the Culture, Media and Sport Select Committee

Post Legislative Assessment of the London Olympic Games and Paralympic Games (Amendment) Act 2011

Presented to Parliament by the Secretary of State for Culture,
Media and Sport by Command of Her Majesty
December 2012

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Introduction

1. This memorandum provides a preliminary assessment of the London Olympic Games and Paralympic Games (Amendment) Act 2011 and has been prepared by the Department for Culture, Media and Sport for submission to the Culture, Media and Sport Select Committee. It has been published as part of the process set out in the document *Post Legislative Scrutiny – The Government's Approach* (Cm 7320).

Summary of the Objectives of the London Olympic Games and Paralympic Games (Amendment) Act 2011

2. The London Olympic Games and Paralympic Games (Amendment) Act 2011 ("2011 Act") received Royal Assent on 14 December 2011 and the 2011 Act came into force on 14 February 2012. The 2011 Act ensured that the provisions made in the London Olympic Games and Paralympic Games Act 2006 ("2006 Act") were sufficient for the effective staging of the London 2012 Games.

3. The main measures of the 2011 Act were that it:

- amended existing powers in the 2006 Act for the management of traffic to ensure that temporary traffic orders could be made for Games purposes alone; traffic authorities could implement temporary controls quickly by notice where necessary or expedient in connection with the 2012 Games; traffic orders and notices made for Games purposes could be enforced under civil procedures; and temporary "special event" traffic orders could be used to facilitate the holding of Games events by imposing traffic restrictions up to and including road closures.
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- increased the maximum fine (from £5,000 to £20,000) for the offence under the 2006 Act of selling 2012 Games tickets in a public place or in the course of a business, other than with the consent of the London Organising Committee of the Olympic Games and Paralympic Games Limited (LOCOG); and
- amended provisions relating to regulations about advertising and trading in the vicinity of 2012 Games events. It provided for articles seized in connection with contraventions of the regulations to be held and dealt with by the Olympic Delivery Authority (rather than the police) in accordance with detailed rules inserted into the 2006 Act by the 2011 Act. It also altered the types of Parliamentary procedure and public notice required under the 2006 Act for the regulations (other than the first set of those regulations).

Implementation

4. The 2011 Act came into force automatically two months after it received Royal Assent.

Secondary Legislation

5. There has been no secondary legislation made directly under the 2011 Act. Secondary legislation as described below (traffic regulation orders and special event traffic orders) was made under the powers in the 2006 Act as amended by the 2011 Act.

Legal Issues

6. No legal issues have arisen publicly, either in the court or elsewhere.

Other Reviews

7. The Department is not aware of any other assessments or reviews of the 2011 Act.

Preliminary Assessment of the 2011 Act

8. A number of issues emerged in relation to traffic management, ticket touting and advertising and trading after the 2006 Act came into force. The 2011 Act sought to remedy these issues. It did not introduce any significant new policies but made a number of technical amendments designed to ensure that the intentions behind the 2006 Act were given full effect.

9. DCMS has consulted with the relevant organisations and the overall message from the Olympic Delivery Authority (ODA) transport team, ODA Advertising and Trading enforcement team, Department for Transport (DfT) London 2012 team, Home Office and Metropolitan Police (Operation Podium Team) is that the powers in the 2011 Act were absolutely necessary and very well used.

Traffic Management

10. The 2011 Act included a number of provisions designed to support an effective traffic management regime for the Games. It enabled a civil enforcement regime to operate for the Games by providing local traffic authorities with powers to enforce moving traffic contraventions on the Olympic Route Network/Paralympic Route Network (ORN/PRN) and other affected roads, particularly in the vicinity of the Games venues. These civil enforcement powers were used by Transport for London (TfL) and other local traffic authorities for the enforcement of Games lanes and other measures such as banned turns. The threat of civil enforcement by TfL and other local traffic authorities was therefore a credible deterrent and an important part of the public messaging in advance of and during the Games to promote compliance by drivers. The lack of a credible deterrent would have put at risk delivery of the host city obligations on ORN/PRN journey times for athletes and other members of the Games Family, as well as other important objectives to keep London and the rest of the UK moving.

11. In a submission to the Greater London Assembly following the Games, TfL reported a high level of compliance by drivers: *“Following a high-profile three month communications campaign in advance of the Games, compliance with ORN/PRN restrictions among regular road users was very high, at around 97 per cent”* (source: London 2012 Games Transport – Performance, Funding and Legacy, TfL September 2012). TfL figures relating to the ORN/PRN in London indicate the majority of non-compliance with the restrictions was addressed by issuing drivers with Warning Notices (30,400 in total). However, 6,900 Penalty Charge Notices were issued in total.

12. Without the powers in the 2011 Act local traffic authorities would have been unable to enforce moving contraventions. Instead it would have been necessary to rely on the police’s normal criminal enforcement powers. Given the police’s limited resources and other priorities there would only have been minimal enforcement of traffic measures, putting at risk the important objectives described above.

13. The 2011 Act enabled the ODA and traffic authorities to make temporary traffic regulation orders¹ at short notice, and allowed traffic authorities to make temporary notices for immediate changes to traffic, purely for Games traffic management purposes. These powers were valuable and worked well. In the few weeks before the Games they were used in particular by a number of local traffic authorities on behalf of LOCOG to implement temporary protective measures for local residents around the Games venues. The powers were also used by TfL and local traffic authorities for making last minute operational adjustments to traffic management measures during both Games. It meant that the traffic authorities were able to deal with specific issues essential to the Games’ success for both those who attended - spectators and Games

¹ Traffic regulation orders and notices are the standard legal mechanism to implement traffic management measures e.g. road closures, bus lanes, parking controls, and turning restrictions.

Family - and others who went about their normal business. Without the powers in the 2011 Act all the key delivery partners ODA, TfL, LOCOG and local traffic authorities would have struggled operationally to carry out what was required.

14. The 2011 Act also enabled traffic authorities to make and enforce special event traffic orders involving traffic restrictions for Games events. It expanded the power in 2006 Act to make such orders for road closures to include other types of restriction (e.g. no turns). These powers were used for all the road events. The 2011 Act strengthened local traffic authorities' ability to do things quickly and for a particular operational purpose. The ability to make orders for other types of traffic restrictions beyond just road closures provided traffic authorities with greater operational flexibility for Games related events. The power to enable civil enforcement of contraventions of those orders by local traffic authorities acted as a deterrent to ensure compliance.

15. ODA figures for traffic regulation orders making powers indicate that 530 short notice and special event orders for Games related activities were made using powers in the 2011 Act.

16. The 2011 Act also included an amendment to the provisions in the Goods Vehicles (Licensing of Operators) Act 1995 on the variation of the licences of heavy goods vehicle operators to introduce a temporary simplified procedure for late-notice applications for such variations. This was in support of TfL's initiatives to encourage changes in freight operations during the Games including more night-time deliveries, which could require relaxation of environmental licence conditions. This was always only intended as a contingency measure for circumstances where the operator could not have foreseen the need to apply using the normal procedures. It was only used for 18 applications by road haulage operators during the Games. This reflects the success of the extensive communication by TfL and the Vehicle and Operator Services Agency ahead of the Games to encourage timely applications from road haulage operators using the normal arrangements. Nevertheless the provisions did provide valuable flexibility for those who had a genuine short notice need.

Sale of tickets

17. The legislation provided a powerful signal of intent to deal seriously with the issue of unauthorised sales of Olympic tickets. The increased maximum penalty fine level of £20,000 was regarded as a strong deterrent against the threat of organised criminal ticket touting activity at the Games. The legislation formed part of the response to this threat and was regarded as an effective deterrent when used in conjunction with the other preventative and disruptive actions taken by the police against organised crime groups involved in ticket touting. Reference to the 2011 Act and the £20,000 penalty fine also formed a useful part of the Metropolitan Police's pre-Games communications with companies involved in the secondary ticket market.

18. The Metropolitan Police reported that there were about two hundred arrests nationally (figures to be published at a later date) for the unauthorised selling of tickets (i.e. offences under section 31 of the 2006 Act) during the Olympics and none during the Paralympics. This was for two high profile events over 17 days and 10 days, respectively, with a total of nearly 11 million tickets available and a huge level of demand from the public. By comparison, for a single high profile premier league game there could be (depending on the level of policing) circa 30 arrests of ticket touts. In addition, the Met reported that there was little day to day organised ticket touting activity at Olympic venues. There are around a thousand known “professionals” involved in ticket crime (ranging from touts to fraudsters) across the UK. Only a handful came to the Games and all were arrested. There were no counterfeit tickets recovered or reported at Games venues.

19. The legislation was unable to support the disruptive or enforcement activities against overseas based websites or ticket re-sellers. In the instances where unauthorised selling of tickets took place abroad the Metropolitan Police had to rely on the cooperation of overseas law enforcement authorities to deal with the organisations involved. The level of cooperation given by national authorities varied.

Advertising and Trading

20. The 2011 Act gave the responsibility for removing and dealing with articles that infringed advertising and trading regulations to the ODA (rather than the police) and it specified detailed rules about how the ODA had to deal with the goods removed by ODA designated enforcement officers. The legislation provided a number of key benefits. By enabling the ODA to carry out the function of dealing with removed articles it freed up police resource to concentrate on other Games related priorities. The transfer in responsibility also meant the ODA did not have to bear additional costs, which are normally levied by the police for using their resources to store removed goods. The 2011 Act simplified the process for dealing with removed goods and enabled the ODA to make use of existing storage arrangements at local authority sites. This proved helpful in streamlining the process for dealing with removed goods as the ODA’s enforcement officers were drawn from local authorities and were familiar in dealing with advertising and street trading offences and their own local storage arrangements. This allowed the ODA’s teams to be more efficient in their approach to the removal and storage of articles contravening the regulations across the different Games venues and event locations around the country.

21. The ODA reported that their enforcement teams dealt with 896 infringements of the regulations during the Olympic Games and Paralympic Games. The majority of infringements were by traders who stopped their activity when informed about the regulations. There were only 121 incidents where infringing articles were removed by enforcement officers and these all are now subject to sections 31B and 31D or 31E of the 2011 Act depending on type of article removed. Section 31A will not be used as

the ODA is not undertaking any criminal proceedings against any individual or company and section 31C will not be used as ODA didn't remove any vehicles.

Conclusion

22. Based on the feedback from the consultation our initial conclusion is that, overall the 2011 Act has been successful in ensuring that there were sufficient powers for the ODA and other partners to deliver the London 2012 Olympic Games and Paralympic Games.



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