

**EXPLANATORY MEMORANDUM TO  
THE PARALYMPICS ASSOCIATION RIGHT (PARALYMPIC SYMBOL) ORDER  
2006**

**2006 No. 1120**

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

This instrument sets out the symbol of the International Paralympic Committee for the purposes of the definition of “Paralympic symbol” in section 18(1) of the Olympic Symbol etc. (Protection) Act 1995 (“1995 Act”).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None

4. **Legislative Background**

- 4.1. The 1995 Act, as amended with effect from 30th March 2006 by the London Olympic Games and Paralympic Games Act 2006 (the “2006 Act”), created an intellectual property right known as the Paralympics association right. This right entitles its proprietors to use, and control the use by others of, the Paralympic symbol, Paralympic motto and six protected Paralympics-related words (“Paralympiad”, “Paralympian”, “Paralympic” and the plural forms of those words and their translations) and anything confusingly similar to the protected symbol, motto and words. The right is analogous to a corresponding right created by the 1995 Act (known as the Olympics association right), which relates to the Olympic symbol, Olympic motto and six Olympics-related words.

- 4.2. Section 18(1) of the 1995 Act defines terms used throughout the 1995 Act. One of those terms – “Paralympic symbol” – was added to the 1995 Act by the 2006 Act. This term is defined to mean:

“the symbol of the International Paralympic Committee which the Secretary of State shall set out in an order made by statutory instrument (which shall be laid before Parliament after being made).”

- 4.3. This instrument sets out the symbol of the International Paralympic Committee for the purposes of section 18(1) of the 1995 Act. It is the first instrument made under section 18(1) of the 1995 Act. It has been made after consultation with, and with the agreement of, the London Organising Committee of the Olympic Games Limited and the British Paralympic Association.

## **5. Extent**

This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

The Secretary of State has made the following statement regarding Human Rights:

As the instrument is not subject to either affirmative or negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### *Policy background to the 1995 Act*

- 7.1. As noted in paragraph 4 above, the 1995 Act (as amended by the 2006 Act) creates intellectual property rights known as the Olympics association right and Paralympics association right. These rights allow the proprietors of each to control the use of Olympic- and Paralympic-related symbols, mottos and words.
- 7.2. The Olympics and Paralympics association rights are one of a range of legal measures by which Olympic and Paralympic intellectual property is protected (the others include, for example, the London Olympics association right created in Schedule 4 to the 2006 Act, and protection of Olympic- and Paralympic-related marks under the Trade Marks Act 1994).
- 7.3. The main aim of these protections is to safeguard the sponsorship funding base of the British Olympic and Paralympic teams and, now that London has won the right to host them, the 2012 Olympic Games and Paralympic Games (“2012 Games”).
- 7.4. The Olympics and Paralympics association rights effectively allow the proprietors of each to control who may create an association between goods and services and the Olympic or Paralympic Games and movements by the use of the protected symbols etc. to market those goods and services. These rights assist in ensuring exclusivity around the use of the Olympic and Paralympic symbols etc. which, in turn, assists in the Olympic and Paralympic brands being viewed as worthwhile commercial investments by prospective sponsors and providers of official merchandise.
- 7.5. It is important that sponsors’ interests, and the funding that flows from them, are protected in this way because, without such funding, there would be a greater call on the public purse to support the British Olympic and Paralympic teams and the 2012 Games. Indeed, without commercial support it might be impossible to stage the 2012 Games at all, or send large British teams to the Olympic and Paralympic Games.
- 7.6. However, it is also important to note that the 1995 Act, and other measures that seek to protect Olympic and Paralympic intellectual property, recognise the need for a balance to be struck between securing sponsors’ rights and other values, such as freedom of expression. That is why the 1995 Act (and the other legislative schemes mentioned in paragraph 7.2 above) contains a

number of exemptions and defences that have the effect of limiting the activities which may be constrained by the Olympics and Paralympics association rights.

*Policy background to this instrument*

7.7. This instrument sets out the symbol of the International Paralympic Committee for the purposes of the definition of “Paralympic symbol” in section 18(1) of the 1995. The term “Paralympic symbol” is used throughout the 1995 Act. It represents one of the intellectual properties that are protected by the Paralympic association right.

**8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 This instrument will not impact on the public sector.

**9. Contact**

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