

Major Events Management Bill

Government Bill

As reported from the Commerce Committee

Commentary

Recommendation

The Commerce Committee has examined the Major Events Management Bill and recommends that it be passed with the amendments shown.

Introduction

This bill aims to prevent unauthorised commercial exploitation of events that are declared under its provisions to be major events.

Subject to a number of exceptions and defences, the bill prohibits “ambush marketing” by association with a major event. Such marketing involves an unauthorised representation that there is an association between a major event and any good, service, or brand when in fact there is not.

It also provides for measures to prevent ambush marketing by intrusion: this means advertising that intrudes on a major event and the attention of the associated audience. For example, an ambush marketer might arrange aerial advertising over the venue immediately before or during a major event.

We have also considered Supplementary Order Paper No 106 in the name of the Hon Trevor Mallard, which was referred to us by the House on 5 April 2007. It proposes the addition of a new subpart 5 to Part 2 of the bill, to cover pitch invasion.

This commentary focuses on the main amendments we recommend to the bill. It does not cover minor or technical amendments.

Use of examples

We were concerned that some submitters and the media were apparently unclear about the effect of the protections provided in the bill. We have recommended the insertion of examples throughout the bill to clarify its intended effect. We have also recommended the addition of a provision (clause 4A) stating that these examples do not limit the provisions of the bill.

Protection of expressions of personal opinion

We recommend clarifying that the definition of “advertise” in clause 4 excludes communications of personal opinion made by a natural person for no commercial gain. In our opinion, the definition as drafted is too broad.

No representation of association with major event

In the bill as introduced, clause 9 prohibits any person from making any representation likely to suggest to a reasonable person an association between a major event and goods or services, or a brand of goods or services, or a person who provides goods or services.

We consider the original wording of clause 9 is inadequate because it could be taken to imply that only the person who physically made such a representation would be responsible for a breach of clause 9. In our opinion, the person who paid for, commissioned, or authorised the representation, and the person who received consideration for the placement or the location of the representation, should be considered equally responsible for such a breach. We therefore recommend inserting clause 9(2) to clarify that people in these two categories may also be responsible for a breach of clause 9.

We believe that this would improve the consistency between clause 9 and clause 20.

Exceptions to clauses 9 and 10

We recommend some changes to clause 11, which sets out the exceptions to the general prohibition on unauthorised representation of association with a major event.

Exception for personal opinion

We recommend inserting new clause 11(1)(c), which provides an exception for representations for personal opinion made by a natural

person for no commercial gain, to reflect more accurately the intention of the bill.

Exception for representations irrelevant to major event

We recommend that clause 11(1)(d)(i) and (iii) be deleted, as we consider that there are no circumstances in which an association with a major event could possibly arise where representations that meet the descriptions in clause 11(1)(d)(i) and (iii) were made. We therefore believe that these two clauses are unnecessary.

Exception for reporting of news, criticism, or review in the media

In the bill as introduced clause 11(1)(d)(v) provides exceptions to clauses 9 and 10 for the reporting of news, criticism, and reviews.

We recommend that the exception in clause 11(1)(d)(v) be expanded to cover the reporting of “information”. In our opinion, this change would clarify that the exception would apply to publications that might not be news, criticism, or review but included information, such as major event schedules and information about participants.

We recommend that the words “by a person who ordinarily engages in the business of such reporting” be deleted from clause 11(1)(d)(v), because the exception should apply equally to a newly-employed reporter with no previous reporting experience.

We also recommend inserting clause 11(2) to provide that clause 11(1)(d)(v) does not authorise a person to make a representation likely to suggest to a reasonable person an association between news, criticism, or a review about a major event and goods or services, or a brand of goods or services, or a person who provides goods or services.

This would make it clear that advertising associated with news reporting would not be exempt if it were likely to create any association with the major event.

Exceptions for certain emblems

We recommend extending the exception under clause 11(1)(d)(vi) to cover emblems as well as words. In the bill as introduced this clause provides an exception for some types of words, such as place names. However, since some registered trademarks are emblems rather than or as well as words, we consider it would be appropriate to include provision for their exception.

Street trading with persons in clean zones

We recommend inserting clause 16(1A) to prohibit a person outside a clean zone from engaging in street trading with a person in a clean zone during a clean period, unless they have written authorisation from the major event's organiser. We consider that this amendment is necessary to address the situation where a trader might reach agreement with a private land owner allowing the trader to stand on their property while supplying goods to people in the clean zone.

Supplementary Order Paper No 106

Supplementary Order Paper No 106 proposes the insertion of a new clause 25A into the bill making it an offence punishable by a term of imprisonment not exceeding three months or a fine not exceeding \$5,000 to go onto the playing surface at a major event, or to propel any object onto the playing surface.

It also proposes consequential amendments to clause 3, the bill's purpose clause.

We recommend the inclusion of the amendments proposed in the supplementary order paper.

Powers of enforcement officers

We recommend inserting clause 65(1A) to limit the scope of the power provided in clause 65(1) for a person named in a search warrant to search a place, vehicle, or thing. Under this new clause, that power must not be exercised by an enforcement officer unless the enforcement officer is accompanied by a member of the police when exercising the power. We believe that clause 65(1) as drafted could give enforcement officers, who might be civilians, too much power.

As a result of our recommendation to insert clause 65(1A), we recommend consequential amendments to clauses 67(c), and (d), and 68(b).

Right to appear in proceedings for persons with interest in unauthorised representation or advertisement

We recommend inserting new clause 51A to provide that every person who has an interest in the goods, material, or object subject to an order for erasure under clause 51 is entitled to appear in proceedings for such an order and to appeal against it. This new clause is

consistent with clause 57, which provides for similar rights for a person with an interest in the goods, material, or object subject to an order under clause 54.

Other issues considered

We believe that several issues discussed during the hearing of evidence and consideration are noteworthy, although they did not result in any recommendations for amendment to the bill.

Definition of “association”

The definition of “association” in clause 4 is fundamental to specifying the scope of the restrictions on ambush marketing by association in clause 9. Concern was raised that this definition would not be broad enough to provide adequate protection for sponsors’ rights.

We recommend no change to the definition of “association” in clause 4. We believe that it strikes the correct balance between the purpose of preventing unauthorised commercial exploitation at the expense of a major event’s organiser or sponsor, and the purpose of obtaining maximum benefit from the major events for New Zealanders; it does not impinge too much on New Zealanders’ everyday lives. If the definition of “association” were broader, it might reduce the benefits for New Zealanders. Furthermore, we consider that the definition of “association” in clause 4 reflects the aim of the bill. The bill does not aim to prevent people from taking commercial advantage of the presence of a major event; rather, it aims to prevent people from seeking to profit from a major event through representations or conduct that creates an unauthorised association between the event and a particular good, service, or brand.

Declaration of major event

Some submitters were concerned about the strict criteria for declaring an event to be a major event (clause 6). They argued that the bill should apply not only to internationally significant events, but also other important events that are unlikely to meet the criteria, such as the Big Day Out and the Bledisloe Cup.

As the protections provided for in this bill would restrict freedom of speech and business activity, we believe that the threshold for declaring an event to be a major event should be high. We do not recommend any change to the definition of major event.

Declaration of clean zones, clean transport routes, and clean periods

Clause 15 relates to the declaration of clean zones, clean transport routes, and clean periods. This clause sets out the factors that the Economic Development Minister must consider before making such a declaration, and the limits on clean zones, transport routes, and periods. Although some concerns were raised about the restrictions in clause 15, we consider them reasonable. These restrictions are subject to safeguards ensuring that ordinary New Zealanders and existing businesses will not breach the bill by carrying on their ordinary activities in the clean areas, so long as they do so honestly and do not create an unauthorised association between the major event and any brand, good, or service they are providing.

Prohibition on ticket-scalping and Internet auction sites

Clause 25 provides that a person who knowingly sells or trades a ticket to a major event activity for more than the original price is liable on summary conviction to a fine not exceeding \$5,000. Some submitters were concerned about the implications of this clause for online auction sites such as Trade Me.

We believe that the owner of an online auction site would be liable as a party to a breach of clause 25 only if the owner knew that the tickets were being sold on its site for more than the original price and took no action to prevent their sale. In other words, if the owner of an online auction site took steps such as requiring that all major event tickets traded on the site be sold at the original price, and removing any listings that breached clause 25 as soon as possible after the online auction site became aware of the breach, we believe the owner would not be in breach of clause 25.

Appendix

Committee process

The Major Events Management Bill was referred to the committee on 20 February 2007. The closing date for submissions was 5 April 2007. We received and considered 21 submissions from interested groups and individuals. We heard 14 submissions.

Supplementary Order Paper 106 was referred to us on 4 April 2007. The closing date for submissions was 11 May 2007. We received, heard, and considered three submissions from interested groups and individuals.

We received advice from the Ministry of Economic Development.

Committee membership

Gerry Brownlee (Chairperson)

Charles Chauvel (until 21 February 2007)

Gordon Copeland (Deputy Chairperson)

Dave Hereora (from 21 February 2007)

Shane Jones

Hon Luamanuvao Winnie Laban

Simon Power

Maryan Street

Lindsay Tisch

Dr Richard Worth

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

New (unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act,)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Hon Trevor Mallard

Major Events Management Bill

Government Bill

Contents

	Page
1 Title	4
2 Commencement	4
Part 1	
Preliminary provisions	
3 Purposes	4
4 Interpretation	5
4A Status of examples	8
5 Act binds the Crown	8
Part 2	
Declaration of major event and protections for major events	
Subpart 1—Declaration of major event	
6 Declaration of major event	8
Subpart 2—Ambush marketing by association protections	
7 Declaration of major event emblems and words	9
8 Declaration of protection period for major event	10
9 No representation of association with major event	10
10 Presumption if major event emblems or words are used	11
11 Exceptions to sections 9 and 10	11
12 Offences and penalty for breach of section 9	14
13 Defences to breach of section 9	14
14 Registering authority must not register in certain cases	14
Subpart 3—Ambush marketing by intrusion protections	
15 Declaration of clean zones, clean transport routes, and clean periods	15
16 No street trading in clean zone without authorisation	17
17 No advertising in clean zone without authorisation	18
18 No advertising that is clearly visible from clean zone	19
19 No advertising in clean transport route without authorisation	20
20 Persons who advertise	21
21 Exceptions to sections 17 to 19	21
22 Offences and penalties for breach of any of sections 16 to 19	23

Major Events Management

23	Defences to breaches of sections 17 to 19	23
	Subpart 4—Ticket-scalping protections	
24	Ticket-scalping protections	24
25	Offence and penalty for breach of section 24	24
	Subpart 5—Pitch invasion	
25A	Offence to invade pitch at major sporting event	24
Part 3		
Permanently protected emblems and words		
26	Unauthorised use of emblems and words relating to Olympic Games and Commonwealth Games	25
27	Authorisation by New Zealand Olympic Committee Incorporated	26
28	Exceptions to section 26	26
29	Penalty for offence against section 26	27
30	Defence to offence against section 26	27
31	Injunction for breach of section 26	28
32	Registering authority must not register in certain cases	28
Part 4		
Enforcement		
	Subpart 1—Matters of general application	
33	Act does not affect other rights	29
34	Interrelationship of civil and criminal remedies under this Act	29
	Subpart 2—Border protection measures	
35	Application of Trade Marks Act 2002 to major event emblems and major event words	30
	Subpart 3—Enforcement officers	
36	Chief executive may appoint enforcement officers	31
37	Authority to act as enforcement officer	31
38	Functions of enforcement officer	31
39	Enforcement officer's entry to premises restricted	32
40	Power of enforcement officer to seize or cover things	32
41	Notice of thing seized or covered under section 40	33
42	Uncovering of things covered under section 40	34
43	Return of things seized under section 40	34
44	Enforcement officers may issue formal warnings	34
45	No liability if powers are exercised in good faith	35
46	Functions and powers of police	35
	Subpart 4—Civil proceedings	
	<i>General matters concerning civil proceedings</i>	
47	Who may apply for relief	35

Major Events Management

48	Time for bringing civil proceedings	36
49	Unjustified civil proceedings	36
	<i>Injunctions, damages, and account of profits</i>	
50	Court may grant injunction, damages, and account of profits	37
	<i>Order for erasure</i>	
51	Order for erasure	37
51A	Rights of persons with interest in unauthorised representation or advertisement	38
	<i>Direction for corrective advertising</i>	
52	Order to disclose information or publish advertisement	38
	<i>Orders for delivery up</i>	
53	Order for delivery up of goods, material, or object	39
54	Order for forfeiture, destruction, or retention of goods, material, or object	40
55	Matters to be considered by Court	40
56	Directions for service	40
57	Rights of persons with interest in goods, material, or object	41
58	When order under section 54 takes effect	41
59	Additional Court order if more than 1 person interested in goods, material, or object	41
60	Position where no order made under section 54	41
	Subpart 5—Criminal offences	
61	When criminal proceedings may be commenced	41
62	Application of Sentencing Act 2002	42
63	Liability of officers of body corporate	42
	Subpart 6—Search warrants	
64	Issue of warrant	42
65	Powers conferred by warrant	43
66	Form and content of search warrant	44
67	Warrant must be produced	44
68	Other duties of person who executes warrant	45
69	When alternative to list of seized things may be provided	45
70	Matters that must be stated in list of documents	45
71	Duty to assist	46
72	Power to inspect and take copies of documents, etc, obtained under warrant	46
73	Disposal of things seized	46
74	Uncovering or disposal of things covered	47
75	Court order to be suspended on conviction	47

Part 5		
Miscellaneous		
76	Emblems and words protected under other Acts	48
77	Power to amend Schedule	48
78	Application of Regulations (Disallowance) Act 1989 and Acts and Regulations Publication Act 1989	48
79	Regulations	48
80	Repeal	49
Schedule		50
Olympic Games and Commonwealth Games emblems and words		

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Major Events Management Act **2006**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

5

Part 1
Preliminary provisions

3 Purposes

(1) The purposes of this Act are to provide—

- (a) certain protections for events that are declared to be major events under this Act in order to—
- (i) obtain maximum benefits from the major event for New Zealanders; and
 - (ii) prevent unauthorised commercial exploitation at the expense of either a major event organiser or a major event sponsor; and

10

15

New (unanimous)

- | |
|--|
| <p>(iii) ensure the smooth running of the major event; and</p> |
|--|

- (b) for the protection, and control over the use, of certain emblems and words relating to Olympic Games and Commonwealth Games.
- (2) To those ends, this Act—
- (a) establishes a procedure for appropriate events to be declared to be major events for the purposes of this Act; and 5
- (b) prohibits representations that suggest persons, brands, goods, or services have an association with a major event when they do not; and 10
- (c) prohibits advertising from intruding on a major event activity and the attention of the associated audience; and

New (unanimous)

- | | |
|--|----|
| (ca) prohibits activities that might compromise the smooth running of a major event, such as ticket scalping and pitch invasion; and | 15 |
|--|----|
- (d) prohibits the use of certain emblems and words relating to Olympic Games and Commonwealth Games without appropriate authorisation.

4 Interpretation 20

In this Act, unless the context otherwise requires,—

advertise means any form of communication (including selling or giving away any goods or services, but excluding communications of personal opinion made by a natural person for no commercial gain) made to the public or a section of the public in relation to any— 25

- (a) goods or services; or
- (b) brand of goods or services; or
- (c) person who provides goods or services

aircraft includes any airship, balloon (including kite balloon), blimp, glider (including hang glider), kite, and parachute 30

association means a relationship of connection, whether direct or implied, such as an approval, authorisation, sponsorship, or commercial arrangement and includes offering, giving away, or selling a ticket to a major event activity in connection with the promotion of goods or services 35

- clean period** means a time period that has been declared by notice in the *Gazette* under **section 15(1)** to be a clean period in relation to a particular clean zone or clean transport route
- clean transport route** means an area that has been declared by notice in the *Gazette* under **section 15(1)** to be a clean transport route 5
- clean zone** means an area that has been declared by notice in the *Gazette* under **section 15(1)** to be a clean zone
- Commerce Minister** means the Minister responsible for the administration of the Trade Marks Act 2002 10
- Court** means the High Court
- Economic Development Minister** means the Minister responsible for the administration of the Ministry of Economic Development Act 2000
- emblem** means (a) an identifying device, seal, indicium, image, mark, trade mark, badge, symbol, design, logotype, or (other distinctive) sign (of identification); and includes any printed or other visual representation of the emblem— 15
- (a) on a flag, banner, sign, or other printed or written material; or 20
 - (b) made by way of a pictorial representation or other visual image; or
 - (c) made in any other manner
- major event** means an event that is declared by Order in Council under **section 6(1)** to be a major event 25
- major event activity** means an activity forming part of a major event that is authorised by the major event organiser of that major event
- major event emblem** means an emblem that has been declared by Order in Council under **section 7(1)** to be a major event emblem for a major event 30
- major event organiser** means the person identified by Order in Council under **section 6(1)** as the major event organiser of a major event
- major event sponsor** means a person who has the written authorisation of the major event organiser to make a representation suggesting an association between the major event and that person, or goods or services provided by that person 35

major event word means any word that has been declared by Order in Council under **section 7(1)** to be a major event word for a major event

proper name, in relation to any town or road or other place, means the name assigned or approved in respect of that place by the New Zealand Geographic Board or the Surveyor-General or a territorial authority under any Act 5

protection period means the period for which the protection under **section 9** applies in relation to a major event, as declared by Order in Council under **section 7(1)** 10

registering authority includes the following Commission and officers, and also includes any officer acting on behalf of the following Commission and officers:

- (a) the Charities Commission under the Charities Act 2005:
- (b) the Registrar of Incorporated Societies under the Incorporated Societies Act 1908: 15
- (c) the Registrar of Industrial and Provident Societies under the Industrial and Provident Societies Act 1908:
- (d) the Registrar of Friendly Societies and Credit Unions under the Friendly Societies and Credit Unions Act 1982: 20
- (e) the Commissioner of Trade Marks under the Trade Marks Act 2002:
- (f) the Registrar of Companies under the Companies Act 1993: 25
- (g) the Registrar of Incorporated Societies under Part 2 of the Charitable Trusts Act 1957:
- (h) the Registrar of Building Societies under the Building Societies Act 1965:
- (i) the Registrar of Unions under the Employment Relations Act 2000 30

New (unanimous)

<p>sign has the meaning set out in section 5(1) of the Trade Marks Act 2002</p>
--

Sports Minister means the Minister responsible for the administration of the Sport and Recreation New Zealand Act 2002 35

ticket to a major event activity means a ticket authorised by the major event organiser that permits entry to a major event activity.

New (unanimous)

4A Status of examples

- | | | |
|-----|---|---|
| (1) | An example used in this Act is only illustrative of the provisions to which it relates. It does not limit those provisions. | 5 |
| (2) | If an example and a provision to which it relates are inconsistent, the provision prevails. | |

5 Act binds the Crown

This Act binds the Crown. 10

Part 2

Declaration of major event and protections for major events

Subpart 1—Declaration of major event

6 Declaration of major event 15

- | | | |
|-----|--|----|
| (1) | The Governor-General may, by Order in Council made on the recommendation of the Economic Development Minister after consultation with the Commerce Minister and the Sports Minister, declare that an event is a major event. | |
| (2) | An Order in Council under subsection (1) must identify the major event and the major event organiser. | 20 |
| (3) | The Economic Development Minister may only make a recommendation if— | |
| | (a) an event organiser has applied for an event to be declared to be a major event under this Act; and | 25 |
| | (b) the event activities will take place, at least in part, in New Zealand; and | |
| | (c) the Minister is satisfied that the event organiser has the capacity and the intention to— | |
| | (i) successfully and professionally stage and manage the event; and | 30 |
| | (ii) use all practicable measures available under the existing law to prevent unauthorised commercial exploitation of the major event and to protect its | |

- intellectual property and other legal rights (including, for example, registering relevant trade marks).
- (4) Before making a recommendation, the Economic Development Minister must take into account whether the event will— 5
- (a) attract a large number of international participants or spectators and therefore generate significant tourism opportunities for New Zealand:
 - (b) significantly raise New Zealand’s international profile:
 - (c) require a high level of professional management and co-ordination: 10
 - (d) attract significant sponsorship and international media coverage:
 - (e) attract large numbers of New Zealanders as participants or spectators: 15
 - (f) offer substantial sporting, cultural, social, economic, or other benefits for New Zealand or New Zealanders.

Subpart 2—Ambush marketing by association protections

- 7 Declaration of major event emblems and words** 20
- (1) The Governor-General may, by Order in Council made on the recommendation of the Economic Development Minister, declare any or all of the following:
- (a) an emblem to be a major event emblem:
 - (b) a word, words if combined with other words, or a combination of words to be a major event word or major event words. 25
- (2) The Economic Development Minister may only make a recommendation after consultation with—
- (a) the Commerce Minister; and 30
 - (b) the major event organiser; and
 - (c) persons the Minister considers are likely to be substantially affected by the recommendation.
- (3) Before making a recommendation, the Economic Development Minister must take into account the extent to which, in relation to the major event, emblems and words require protection in order to— 35
- (a) obtain maximum benefits for New Zealanders:

- (b) prevent unauthorised commercial exploitation at the expense of either a major event organiser or a major event sponsor.
- (4) A failure to comply with **subsection (2)(c)** does not affect the validity of an Order in Council made under **subsection (1)**. 5
- 8 Declaration of protection period for major event**
- (1) An Order in Council under **section 7(1)** must identify the relevant major event and declare the protection period for the major event.
- (2) The major event's protection period need not be limited to the period when major event activities are to occur, but cannot end later than 30 days after the completion or termination of all major event activities. 10
- 9 No representation of association with major event**
- (1) No person may, during a major event's protection period, make any representation in a way likely to suggest to a reasonable person that there is an association between the major event and— 15
- (a) goods or services; or
- (b) a brand of goods or services; or 20
- (c) a person who provides goods or services.

New (unanimous)

- (2) In **subsection (1)**, a person who makes a representation includes a person who—
- (a) pays for, commissions, or authorises the representation; or
- (b) receives consideration for the placement or the location of the representation. 25

Example

The Football World Cup finals are to be held in New Zealand in 2007. The Football World Cup finals are declared to be a major event under **section 6**. 30

Company A pays Company B to produce hats with writing on them that states "Company A—proud to bring you the 2007 Football World Cup".

Neither Company A nor Company B has the written authorisation of the major event organiser for Company A's representation of an association between itself and the Football World Cup. 35

Both Company A and Company B are in breach of **section 9**.

- 10 Presumption if major event emblems or words are used**
- (1) The Court may presume that a representation is in breach of **section 9** if it includes any of the following:
- (a) a major event emblem; or
 - (b) a major event word or major event words; or 5
 - (c) a representation that so closely resembles a major event emblem, a major event word, or major event words as to be likely to deceive or confuse a reasonable person.
- (2) **Subsection (1)** applies even if the representation is qualified by words like “unauthorised” or “unofficial”, or other words that are intended to defeat the purpose of **section 9**. 10
- 11 Exceptions to sections 9 and 10**
- (1) **Sections 9 and 10** do not apply if—
- (a) the association between the major event and the goods, services, brand of goods or services, or person who provides goods or services has the written authorisation of the major event organiser; or 15
 - (b) the representation has the written authorisation of the major event organiser; or
 - (c) the representation is (*expressly authorised by or under an Act or by the Governor-General by Order in Council*) of personal opinion made by a natural person for no commercial gain; or 20
 - (d) in accordance with honest practices in industrial or commercial matters, the representation— 25
- Struck out (unanimous)**
- (i) concerns the kind, quality, quantity, value, or geographical origin of goods or services, time of production of goods or of rendering of services, or other characteristics of goods or services; or
- (ii) is necessary to indicate the intended purpose of goods or services; or 30
- Struck out (unanimous)**
- (iii) is incorporated into a context to which the major event is substantively irrelevant; or

- (iv) is made by an existing organisation continuing to carry out its ordinary activities; or

Struck out (unanimous)

- (v) is for the purposes of, or associated with, the reporting of news or criticism or a review in a newspaper or magazine, or by means of television, radio, film, the Internet, or by other means of reporting by a person who ordinarily engages in the business of such reporting; or

5

New (unanimous)

- (v) is for the purposes of reporting news, information, criticism, or a review (including promoting that news, information, criticism, or review) in a newspaper or magazine, or by means of television, radio, film, the Internet, or other means of reporting; or

10

- (vi) in the case of a word or emblem (provided that the word or emblem is not being used in combination with other words or emblems with the intention of suggesting an association that breaches **section 9**), comprises the whole or part of—

15

(A) the proper name of any town or road or other place in New Zealand; or

20

(B) the legal or trade name (not being used for the purpose of defeating the intention of this subpart) of the person making the representation; or

25

(C) an existing registered trade mark.

New (unanimous)

- (2) Nothing in **subsection (1)(d)(v)** authorises a person to make a representation in a way likely to suggest to a reasonable person that there is an association between news, information, criticism, or a review about a major event and—

30

New (unanimous)

- (a) goods or services; or
- (b) a brand of goods or services; or
- (c) a person who provides goods or services.

Compare: 1981 No 47 s 20A(3); 2002 No 49 s 95; London Olympic Games and Paralympic Games Act 2006 Schedule 4 cl 1(2)(b) (UK)

5

Examples

The Football World Cup finals are to be held in New Zealand in 2007. The Football World Cup finals are declared to be a major event under **section 6**.

All combinations of the words "Football", "World", and "Cup" are declared to be major event words under **section 7**.

10

Example 1

The World's Best Cup Makers Limited is a New Zealand business that was established in 1982. For many years it has advertised itself with a slogan that states "Maker of cups and trophies for all sporting events, from football to synchronised swimming!" and a logo that shows a football player kicking a football. The World's Best Cup Makers Limited continues to operate and promote itself in this way during the period when the Football World Cup finals are held in New Zealand.

15

The World's Best Cup Makers Limited does not have the written authorisation of the major event organiser for the use of its company name, its advertising, its slogan, or its logo.

20

This is not a breach of **section 9** because of the exception in **section 11(1)(d)(iv)**.

Example 2

Daily Newspaper A produces a 20-page Football World Cup supplement. It contains a schedule of the games to be played during the Football World Cup finals, an explanation of the rules of football, and details about each of the teams and the players and coaches in each of those teams. The supplement also contains a lot of advertising, none of which breaches **section 9**. However, Company B has paid Daily Newspaper A for the right to state on the cover of the supplement "Coverage of the Football World Cup finals is brought to you by Company B".

25

30

Neither Daily Newspaper A nor Company B has the written authorisation of the major event organiser for Company B's statement on the cover of the supplement.

The content of the supplement and the advertising within it does not breach **section 9** because of the exception in **section 11(1)(d)(v)**. However, both Daily Newspaper A and Company B are in breach of **section 9** because of Company B's statement on the cover of the supplement.

35

- 12 Offences and penalty for breach of section 9**
- (1) Every person commits an offence who knowingly breaches **section 9**.
- (2) Every person commits an offence who, knowing that a representation that breaches **section 9** has been made in relation to or applied to goods,— 5
- (a) imports those goods into New Zealand for the purpose of trade or manufacture; or
- (b) sells those goods, or exposes those goods for sale; or
- (c) possesses those goods for the purpose of trade or manufacture. 10
- (3) Every person who commits an offence against **subsection (1) or (2)** is liable on summary conviction to a fine not exceeding \$150,000.
- Compare: 2002 No 49 ss 124, 125 15
- 13 Defences to breach of section 9**
- (1) It is a defence to an action or a prosecution for a breach of **section 9**, in relation to a representation that is an advertisement, if the defendant proves—
- (a) that the defendant's business includes publishing or arranging for the publication of advertisements; and 20
- (b) that the defendant received the representation in the ordinary course of that business and did not know, and had no reason to believe, that publishing it would constitute a breach of **section 9**. 25
- (2) This section overrides the presumption in **section 10**.
- Compare: 1981 No 47 s 20AA: London Olympic Games and Paralympic Games Act 2006 s 21(2) (UK)
- 14 Registering authority must not register in certain cases**
- (1) Despite anything about registration in any other Act, a registering authority must not register— 30
- (a) an incorporated or unincorporated body under a name if the use by that body of that name, or of any word in that name, would breach **section 9**;
- (b) an emblem on the application of any person if the use of that emblem by that person would breach **section 9**. 35
- (2) The prohibition in **subsection (1)** applies only during the major event's protection period, but also applies to any application for registration that—

- (a) was filed or lodged before the start of the protection period; but
- (b) is not registered at the start of the protection period.

Compare: 1981 No 47 s 21

Subpart 3—Ambush marketing by intrusion protections	5
15 Declaration of clean zones, clean transport routes, and clean periods	
(1) By notice in the <i>Gazette</i> , the Economic Development Minister may declare, in relation to a major event, either or both of the following—	10
(a) clean zones, and the clean periods that relate to those clean zones:	
(b) clean transport routes, and the clean periods that relate to those clean transport routes.	
(2) Before issuing a notice, the Economic Development Minister must take into account the extent to which, in relation to the major event, clean zones or clean transport routes, and clean periods, are required in order to—	15
(a) obtain maximum benefits for New Zealanders:	
(b) prevent unauthorised commercial exploitation at the expense of either a major event organiser or a major event sponsor.	20
(3) A notice under subsection (1) may declare an area as a clean zone for a clean period only to the extent that—	25
(a) the area consists of—	
(i) the venue of a major event activity; and	
(ii) areas that are directly proximate to the area in subparagraph (i) (for example, the adjacent footpath, road, or other thoroughfare); and	
(iii) areas that are otherwise necessary to enable the major event activity to occur; and	30
(b) the area does not consist of excluded land or buildings; and	
(c) a major event activity is performed in the area during that clean period, although the clean period may include times before and after the major event activity that are reasonable in the circumstances.	35
(4) A notice under subsection (1) may declare an area as a clean transport route for a clean period only to the extent that the area—	40

- (a) extends no more than 5 kilometres from the closest point of the boundary of a clean zone; and
- (b) consists of, or is directly proximate to, either—
- (i) a motorway or State highway (as those terms are defined in section 2(1) of the Transit New Zealand Act 1989); or
 - (ii) a railway line (as that term is defined in section 2(1) of the New Zealand Railways Corporation Act 1981); and
- (c) does not consist of excluded land or buildings; and
- (d) is likely to be used by a substantial number of people to travel to or from a clean zone (the **relevant clean zone**) during that clean period, although the clean period may include times before and after the clean period for the relevant clean zone that are reasonable in the circumstances.
- (5) In this section, **excluded land or buildings** means private land and private buildings, whether or not surrounded by other land that is declared to be part of a clean zone or a clean transport route; but does not include—
- (a) billboards; or
 - (b) the venue of a major event activity; or
 - (c) land the public ordinarily has access to (for example, a railway station or a venue's car park).

Examples

The Football World Cup finals are to be held in New Zealand in 2007. The Football World Cup finals are declared to be a major event under **section 6**.

Example 1: Clean zone and clean period

The final game of the Football World Cup is to be held at the rugby stadium located in Phillipstown in Christchurch between 3 pm and 7 pm on Saturday, 9 June 2007.

The police and the Christchurch City Council have decided, in the particular circumstances of this major event activity, that in order to host safely the final game of the Football World Cup, it is necessary to close Stevens Street, Talfourd Place, and Lismore Street to vehicles from 12.01 am to 11.59 pm on Saturday, 9 June 2007. Falsgrove Street (between Lismore Street and Stevens Street) will also be closed for parts of that day.

After taking into account the matters set out in **section 15(2)** and looking at the requirements of the particular event, the Economic Development Minister decides to declare a clean zone and a clean period for the final game of the Football World Cup in accordance with **section 15(1)**.

The Minister declares the clean zone to be the area bordered by, and including, the footpaths on the north side of Stevens Street, the west side of Wilsons Road North (between Stevens Street and Lismore Street), the south side of Lismore Street (between Wilsons Road North and Falsgrove Street), and the west side of Falsgrove Street (between Lismore Street and Stevens Street).

5

The stadium and its surrounds, including the stadium carpark, (all of which are within the area described above) are included in the clean zone. However, none of the private land or private buildings within the area described above is included in the clean zone.

10

The Minister declares the clean period for this clean zone to start at 12.01 am on Saturday, 9 June 2007 and finish at 11.59 pm on Saturday, 9 June 2007.

Example 2: Clean transport routes and clean periods

In accordance with section 15(1), the Economic Development Minister also decides to declare 2 clean transport routes and a clean period for the final game of the Football World Cup.

15

State highway 73 and the Christchurch Southern Motorway 73 are declared to be a clean transport route from the point on the Christchurch Southern Motorway that is 5 km in a straight line (in a south-westerly direction) from the corner of Falsgrove and Lismore Street, to the point on State highway 73 that is 5 km in a straight line (in a south-easterly direction) from the corner of Lismore Street and Wilsons Road North.

20

All of State highway 74A is within 5 km of the clean zone and therefore all of this highway is also declared to be a clean transport route.

25

Both clean transport routes are declared to include the areas directly proximate to the highways and motorway that do not consist of private land or private buildings.

It appears that very few people will be using the railway lines to the north of State highway 73 to travel to or from the clean zone. Therefore, the Minister decides not to declare this railway line to be a clean transport route.

30

The clean period for the clean transport routes is declared to start at 8 am on Saturday, 9 June 2007 and finish at 11 pm on Saturday, 9 June 2007.

16 No street trading in clean zone without authorisation

35

- (1) No person may engage in street trading in a clean zone during a clean period without the written authorisation of the major event organiser.

New (unanimous)

(1A) No person who is outside a clean zone may, without the written authorisation of the major event organiser, engage in street trading with a person who is in a clean zone during a clean period.

(2) In this section, **street trading** means selling, hawking, or giving away goods or services, but excludes operating an existing business out of existing permanent premises of that business.

Examples

These examples refer to the clean zone and the clean period set out in the examples in **section 15**.

Example 1

Richard is a hot dog vendor. Richard sets up his hot dog cart and starts selling hot dogs on the footpath of Stevens Street on Saturday, 9 June 2007.

Richard does not have the written authorisation of the major event organiser for Richard's street trading in the clean zone during the clean period.

Richard is in breach of **section 16(1)**.

Example 2

Richard shifts his hot dog cart and sets it up on private property that is not part of the clean zone. Richard starts selling hot dogs to people over the fence of the property to people standing in the clean zone. It is still Saturday, 9 June 2007.

Richard does not have the written authorisation of the major event organiser for Richard's street trading with a person in the clean zone during the clean period.

Richard is in breach of **section 16(1A)**.

Example 3

Richard shifts his hot dog cart to the footpath of Moorhouse Avenue, about 100 m outside the clean zone, and starts selling hot dogs. It is still Saturday, 9 June 2007.

Richard does not have the written authorisation of the major event organiser for his street trading.

This is not a breach of **section 16**.

17 No advertising in clean zone without authorisation
No person may advertise in a clean zone during a clean period without the written authorisation of the major event organiser.

Examples

These examples refer to the clean zone and the clean period set out in the examples in **section 15**.

Example 1

Two weeks before the final game of the Football World Cup is held, Company A pays Company B for the right to place an advertisement advertising Company A's products on a billboard in Talfourd Place. The billboard is owned by Company B and is located within the area that will be a clean zone for the clean period. Company A has not advertised in this position before.

Neither Company A nor Company B has the written authorisation of the major event organiser for this advertising.

Both Company A and Company B are in breach of **section 17** during the clean period.

Example 2

Company A pays Company B to undertake an advertising campaign on its behalf. Accordingly, Company B hires people to stand on Lancaster Street, just outside the clean zone, and give away T-shirts to people as they enter the clean zone in order to watch the final game of the Football World Cup. The T-shirts are in Company A's corporate colours and are identifiable as relating to Company A and its products. Many of the people who are given these T-shirts put them on and wear them in the clean zone.

None of Company A, Company B, or the people giving away the T-shirts has the written authorisation of the major event organiser for this advertising.

Both Company A and Company B are in breach of **section 17**.

The people giving away the T-shirts are not in breach of **section 17**.

18 No advertising that is clearly visible from clean zone

- (1) No person may advertise in a manner that is clearly visible from anywhere within a clean zone during a clean period without the written authorisation of the major event organiser.
- (2) **Subsection (1)** includes advertising on or by means of an aircraft, but does not include normal markings and livery on an aircraft.
- (3) In this section, **clearly visible** means visible to an extent that a reasonable person would consider the content, subject, message, or purpose of the advertisement to be able to be determined without the use of visual apparatus other than contact lenses or glasses.

Examples

These examples refer to the clean zone and the clean period, as well as the clean transport routes and the associated clean periods, set out in the examples in **section 15**.

Example 1

Two weeks before the final game of the Football World Cup is held, Company A pays Company B to undertake an advertising campaign on its behalf. Accordingly, Company B arranges with Company C for the right to place a large advertisement advertising Company A's services on a billboard on top of a tall building located outside the clean zone. The billboard is owned by Company C, and Company C is paid for Company A's advertising being placed on the billboard. Company A has never advertised in this manner before. The advertising on the billboard is clearly visible from within the clean zone.

None of Company A, Company B, or Company C has the written authorisation of the major event organiser for this advertising.

Company A, Company B, and Company C are all in breach of **section 18** during the clean period.

Example 2

Company X produces goods that directly compete with goods produced by Company Y. Company Y is an official sponsor of the Football World Cup finals. Company X is not a sponsor of, and has no association with, the Football World Cup finals.

Two weeks before the final game of the Football World Cup is held, Company X places an advertisement advertising its products on a billboard on Lancaster Street, about 50 m outside the clean zone. The billboard faces away from the clean zone so that, although the back of the billboard is clearly visible from within the clean zone, the advertising on the billboard cannot be seen from within the clean zone. The billboard is not in a clean transport route.

Company X does not have the written authorisation of the major event organiser for this advertising.

This is not a breach of **section 18**.

19 No advertising in clean transport route without authorisation

No person may advertise in a clean transport route during a clean period without the written authorisation of the major event organiser.

Examples

These examples refer to the clean transport routes and the associated clean periods, as well as the clean zone and the clean period, set out in the examples in **section 15**.

Example 1

Two weeks before the final game of the Football World Cup is held, Company A pays Company B for the right to place advertisements advertising Company A's products on a number of billboards on the grass verge alongside State highway 73. The billboards are all owned by Company B and are all located within the area that will be a clean transport route during the associated clean period. Company A has not advertised in this position before.

Neither Company A nor Company B has the written authorisation of the major event organiser for this advertising.

Both Company A and Company B are in breach of **section 19** during the clean period.

Example 2

Lots of advertising is clearly visible from a clean transport route during the associated clean period. However, none of this advertising is located within the clean transport route. It is also not located in a clean zone and is not clearly visible from within a clean zone.

None of the advertising has the written authorisation of the major event organiser.

This is not a breach of **section 19**.

20 Persons who advertise

In **sections 17 to 19**, a person **advertises** if that person—

- (a) *(paid)* pays for, *(commissioned)* commissions, or *(authorised)* authorises the advertisement; or
- (b) *(received)* receives consideration for the placement or the location of the advertisement.

21 Exceptions to sections 17 to 19

Sections 17 to 19 do not apply to advertising—

- (a) if, in accordance with honest practices in industrial or commercial matters, the advertising is done by an existing organisation continuing to carry out its ordinary activities; or
- (b) on articles of clothing (including shoes) or other personal items being worn, carried, or used by—

- (i) a member of the public, unless that item is being worn, carried, or used in co-ordination with other persons with the intention that the advertising intrude on a major event activity or the attention of the associated audience; or 5
- (ii) a person who is a participant in, or who is officiating at, a major event activity; or
- (iii) a volunteer engaged in the management or conduct of a major event activity; or
- (c) (on a radio, television, or electronic device) in a newspaper or magazine, or on a television, radio, or electronic device, being used for personal use, unless it is being used with the intention that the advertising intrude on a major event activity or the attention of the associated audience; or 10 15
- (d) on a train, boat, or vehicle, provided that that train, boat, or vehicle is being used to carry out its ordinary activities in its usual manner; or
- (e) on an aircraft that is used for an emergency that involves a danger to life or property necessitating the urgent transportation of persons or medical or other supplies for the protection of life or property. 20

Compare: 1981 No 47 s 20A(3); 1990 No 98 s 13A(3); 2002 No 49 s 95; London Olympic Games and Paralympic Games Act 2006 Schedule 4 cl 1(2)(b) (UK)

Examples

These examples refer to the clean zone and the clean period, as well as the clean transport routes and the associated clean periods, set out in the examples in **section 15**.

Example 1

Existing Business A carries on its business from a private building situated on private land on Stevens Street. Although the land is located within the overall parameters of the clean zone, because it is private land it has not been declared to be part of the clean zone. Existing Business A has a large billboard on the roof of its building advertising Existing Business A's services. This billboard has been there for many years. The advertising on the billboard is clearly visible from within the clean zone.

Existing Business A does not have the written authorisation of the major event organiser for this advertising.

This is not a breach of **section 18** because of the exception in **section 21(a)**.

Example 2

Two years before the final game of the Football World Cup is held, Company A pays Company B for the right to place advertisements advertising Company A's services on a number of billboards on the grass verge alongside State highway 73. The billboards are all owned by Company B and are all located within the area that will be a clean transport route during the associated clean period. These billboards are maintained in this area throughout the 24 months leading up to the final game of the Football World Cup, throughout the clean period, and for a period after the final game.

5

10

Neither Company A nor Company B has the written authorisation of the major event organiser for this advertising.

This is not a breach of **section 19** because of the exception in **section 21(a)**.

Example 3

Amy attends the final game of the Football World Cup. She wears her favourite T-shirt and hat, which have advertising brands clearly visible upon them. She is also carrying a newspaper that has many advertisements within it. In order to get to the game, Amy catches a bus that travels along a clean transport route.

15

Amy does not have the written authorisation of the major event organiser for this advertising.

20

This is not a breach of **section 17, 18, or 19** because of the exceptions in **section 21(1)(b)(i) and (c)**.

22 Offences and penalties for breach of any of sections 16 to 19

25

- (1) Every person commits an offence who knowingly breaches any of **sections 16 to 19**.
- (2) Every person who commits an offence against **subsection (1)** is liable on summary conviction to a fine not exceeding \$150,000.

30

23 Defences to breaches of sections 17 to 19

It is a defence to an action or a prosecution for a breach of any of **sections 17 to 19**, in relation to an advertisement, if the defendant proves—

- (a) that the defendant's business includes publishing or arranging for the publication of advertisements; and
- (b) that the defendant received the advertisement in the ordinary course of that business and did not know, and

35

had no reason to believe, that publishing it would constitute a breach of any of **sections 17 to 19**.

Compare: 1981 No 47 s 20AA; London Olympic Games and Paralympic Games Act 2006 s 21(2) (UK)

Subpart 4—Ticket-scalping protections

5

24 Ticket-scalping protections

(1) No person may, without the authorisation of the major event organiser, sell or trade a ticket to a major event activity for a value greater than the original sale price of that ticket.

(2) In **subsection (1)**,—

10

original sale price includes charges necessary to effect the sale or trade of a ticket including, for example, a booking fee or postage or courier charges

sell or trade includes any transaction, regardless of its form, in which a substantial purpose of the transaction is the sale or trade of a ticket to a major event activity for a value greater than the original sale price of that ticket.

15

25 Offence and penalty for breach of section 24

(1) Every person commits an offence who knowingly sells or trades a ticket to a major event activity in breach of **section 24**.

20

(2) A person who commits an offence against this section is liable on summary conviction to a fine not exceeding \$5,000.

Compare: 1981 No 47 s 24

New (unanimous)

Subpart 5—Pitch invasion

25A Offence to invade pitch at major sporting event

25

(1) Every person commits an offence who, without authority, does either or both of the following:

(a) goes onto the playing surface at a major sporting event;
or

(b) propels any object onto the playing surface at a major sporting event.

30

(2) In this section,—

New (unanimous)

major sporting event means any major event that is a sporting event

playing surface means the area on which a major sporting event is played and any adjacent area required for the major sporting event to be played

propels means intentionally setting an object in motion in any manner, including, for example, throwing, kicking, dropping, or rolling.

- (3) A person who commits an offence against this section is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$5,000.

Part 3

Permanently protected emblems and words

26 **Unauthorised use of emblems and words relating to Olympic Games and Commonwealth Games** 15

Every person commits an offence who, without the written authorisation of the New Zealand Olympic Committee Incorporated,—

- (a) causes an incorporated or unincorporated body to be formed under any name, title, style, or designation that— 20
- (i) includes any word in **Parts 2 and 3 of the Schedule**; or
 - (ii) so closely resembles any word in **Parts 2 and 3 of the Schedule** as to be likely to deceive or confuse any person; or 25
- (b) in a business, trade, or occupation carries on activities under any word, name, title, style, or designation that—
- (i) includes any emblem or word in **Parts 1 to 3 of the Schedule**; or
 - (ii) so closely resembles any emblem or word in **Parts 1 to 3 of the Schedule** as to be likely to deceive or confuse any person; or 30
- (c) in any business, trade, or occupation displays, exhibits, or otherwise uses any word, name, title, style, or designation that— 35
- (i) includes any emblem or word in **Parts 1 to 3 of the Schedule**; or

- (ii) so closely resembles any emblem or word in **Parts 1 to 3 of the Schedule** as to be likely to deceive or confuse any person.

Compare: 1981 No 47 s 20A

27	Authorisation by New Zealand Olympic Committee Incorporated	5
(1)	The New Zealand Olympic Committee Incorporated must make a decision on an application for its written authorisation for a person to take an action described in section 26 within 10 working days after receipt of the information it considers necessary to make that decision, and if it fails to do so the Committee is to be treated as having given the written authorisation sought in the application.	10
(2)	A decision of the New Zealand Olympic Committee Incorporated under subsection (1) is an exercise of a statutory power of decision for the purposes of the Judicature Amendment Act 1972.	15
Compare: 1981 No 47 s 20A		
28	Exceptions to section 26	
(1)	Section 26 does not apply to the display, exhibition, or use of any emblem or word if—	20
(a)	the display, exhibition, or use is expressly authorised by or under any Act or by the Governor-General by Order in Council; or	
(b)	immediately before 18 December 1998, either—	25
(i)	that display, exhibition, or use was expressly authorised by any consent, permission, approval, or authority given by a person lawfully entitled to give it; or	
(ii)	the emblem or word was registered under any statutory authority; or	30
(c)	the emblem or word is part of the description of any sporting or recreational facilities operated by a local authority or community organisation; or	
(d)	the display, exhibition, or use is for the purposes of, or associated with, the reporting of news or criticism or a review in a newspaper or magazine, or by means of television, radio, film, the Internet, or by other means of	35

- reporting by a person who ordinarily engages in the business of such reporting; or
- (e) the display, exhibition, or use is for the purposes of, or associated with, a radio or television programme, an Internet website, or a film, book, or article for publication in a newspaper or magazine, relating to a person who was a member or official of the New Zealand team that competed at an Olympic Games or Commonwealth Games; or 5
- (f) in the case of a word, the word comprises the whole or part of the proper name of any town or road or other place in New Zealand; or 10
- (g) in the case of a word, the word is the surname or initials (not being used for the purpose of defeating the intention of this section) of a foundation member of the body or of the person engaging in the business, trade, or occupation. 15

Compare: 1981 No 47 s 20A

29 **Penalty for offence against section 26**

Every person who commits an offence against **section 26** is liable on summary conviction to a fine not exceeding \$150,000. 20

Compare: 1981 No 47 s 24

30 **Defence to offence against section 26**

It is a defence to a prosecution for an offence against **section 26**, in relation to a breach of **section 26** committed by the publication of an advertisement, if the defendant proves— 25

- (a) that the defendant's business includes publishing or arranging for the publication of advertisements; and
- (b) that the defendant received the advertisement, or the emblem or word contained in the advertisement, in the ordinary course of that business and did not know, and had no reason to believe, that the publication of the advertisement or the publication of the advertisement containing that emblem or word would constitute a breach of **section 26**. 30 35

Compare: 1981 No 47 s 20AA(1)

31 Injunction for breach of section 26

- (1) The New Zealand Olympic Committee Incorporated may apply to the Court or a District Court for an injunction under this section.
- (2) On an application under **subsection (1)**, if the court is satisfied that a person has committed an offence against **section 26**, whether or not it appears to the court that the person intends to engage again, or to continue to engage, in that conduct, the court may,—
- (a) grant an injunction restraining the person from engaging in conduct that appears to the court to constitute that offence; or
- (b) if it is desirable to do so, grant an interim injunction restraining the person from engaging in conduct that appears to the court to constitute that offence.
- (3) On an application under **subsection (1)**, if it appears to the court that a person (**person A**) is likely to commit an offence against **section 26**, whether or not person A has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial damage to any other person if person A engages in conduct of that kind, the court may,—
- (a) grant an injunction restraining person A from engaging in conduct that appears to the court to constitute that offence; or
- (b) if it is desirable to do so, grant an interim injunction restraining person A from engaging in conduct that appears to the court to constitute that offence.
- (4) The court may at any time rescind or vary an injunction granted under this section.

Compare: 1981 No 47 s 20B

32 Registering authority must not register in certain cases

- (1) Despite anything about registration in any other Act, a registering authority must not register—
- (a) an incorporated or unincorporated body under a name if the use by that body of that name, or of any word in that name, would be an offence against **section 26**;
- (b) an emblem on the application of any person if the use of that emblem by that person would be an offence against **section 26**.

- (2) However, a registering authority may authorise the registration of an incorporated or unincorporated body under a name to which **subsection (1)(a)** applies if the Registrar is satisfied that in the context in which it is intended to be used—
- (a) it is not likely to deceive any person; and 5
 - (b) that name, or any word in that name,—
 - (i) comprises the whole or part of the proper name of any town or road or other place in New Zealand which is to be used in full by the incorporated or unincorporated body; or 10
 - (ii) is the surname (not being a surname taken or used for the purpose of defeating the intention of this subsection) of a foundation member of the incorporated or unincorporated body. 15
- Compare: 1981 No 47 ss 21, 20(5)

Part 4 Enforcement

Subpart 1—Matters of general application

- 33 Act does not affect other rights** 20
- Nothing in this Act affects any principle of law or any other remedy in any other Act, including—
- (a) the law relating to passing off; or
 - (b) rights under the Fair Trading Act 1986; or
 - (c) rights under the Geographical Indications (*Act 1994*) (Wines and Spirits) Registration Act 2006; or 25
 - (d) rights under the Trade Marks Act 2002; or
 - (e) rights under the Copyright Act 1994.

Compare: 2002 No 49 s 88

- 34 Interrelationship of civil and criminal remedies under this Act** 30
- Any right of action or other remedy available under this Act (whether civil or criminal) may be taken, proceeded with, or heard in conjunction with any other action or remedy available under this Act.

Subpart 2—Border protection measures

35 Application of Trade Marks Act 2002 to major event emblems and major event words

- (1) Subpart 3 of Part 4 of the Trade Marks Act 2002 applies to major event emblems and major event words in the manner set out in this section and, as far as practicable, must be interpreted consistently with this section. 5
- (2) In particular,—
- (a) an Order in Council under **section 7** must be treated as a notice that has been accepted under section 139 of the Trade Marks Act 2002; and 10
- (b) **claimant** means the relevant major event organiser; and
- (c) the period for which the notice is to be in force is the relevant protection period; and
- (d) **infringing sign** means major event emblems or major event words that are used to make a representation in a way likely to suggest to a reasonable person that there is an association between a major event and— 15
- (i) goods or services; or
- (ii) a person who provides goods or services; and 20
- (e) except as specified in **paragraph (a)**, sections 137 to 141 of the Trade Marks Act 2002 do not apply.
- (3) In applying subpart 3 of Part 4 of the Trade Marks Act 2002 in the manner set out in this section,—
- (a) that subpart and this section do not apply in relation to any infringing sign that has been applied to goods in an overseas country by, or with the written authorisation of, the major event organiser; and 25
- (b) the chief executive or a customs officer may release any goods that are in the control of the Customs or that have been detained in the custody of the chief executive or a customs officer if a reasonable person would not believe there is an association between those goods and the major event. 30
- (4) Any term or expression that is defined in section 135 of the Trade Marks Act 2002 and used, but not defined, in this section has the same meaning as in that section. 35

Subpart 3—Enforcement officers

- 36 Chief executive may appoint enforcement officers**
 The chief executive of the Ministry of Economic Development may appoint enforcement officers, on a permanent or temporary basis, to perform the functions set out in **section 38** and exercise the powers conferred by this Act. 5
 Compare: 2003 No 51 s 330
- 37 Authority to act as enforcement officer**
- (1) The chief executive of the Ministry of Economic Development must issue a warrant of appointment to every person appointed as an enforcement officer. 10
- (2) A warrant of appointment must—
- (a) be in the prescribed form; and
- (b) bear the photograph and signature of the holder; and
- (c) contain any other particulars that may be prescribed. 15
- (3) A warrant of appointment is, in the absence of evidence to the contrary, sufficient proof that the holder of the warrant may exercise the powers conferred on an enforcement officer under this subpart.
- (4) A person who ceases to be an enforcement officer must return the person's warrant of appointment. 20
- (5) A person who fails to comply with **subsection (4)** commits an offence and is liable on summary conviction to a fine not exceeding \$1,000. 25
 Compare: 2003 No 51 s 331
- 38 Functions of enforcement officer**
 An enforcement officer must, to the extent reasonably practicable, ensure compliance with this Act by carrying out the following functions:
- (a) identifying breaches or potential breaches of **sections 9, 16 to 19, and 24** and offences under **sections 12, 22, and 25:** 30
- (b) issuing formal warnings in accordance with **section 44:**
- (c) inspecting and monitoring clean zones:
- (d) seizing or covering things in clean zones in accordance with **sections 40 to 43:** 35
- (e) obtaining search warrants, executing search warrants, seizing things, and covering things in accordance with **section 40(6)** and **subpart 6 of this Part:**

- (f) reporting to the chief executive of the Ministry of Economic Development on any matters relating to the enforcement officer's functions.

Compare: 2003 No 51 s 332

- 39 Enforcement officer's entry to premises restricted** 5
- An enforcement officer may not enter any place except in the following circumstances:
- (a) when the place is part of a clean zone; or
- (b) when the place is outside a clean zone and it is a place that the enforcement officer may lawfully enter without a search warrant; or 10
- (c) when the entry is authorised by a search warrant issued under **section 64**.
- Compare: 2003 No 12 s 127
- 40 Power of enforcement officer to seize or cover things** 15
- (1) An enforcement officer may seize or cover any thing if the officer has reasonable grounds to believe it breaches, or is being used to breach, any of **sections 9, 16 to 19, and 24** and that thing is either—
- (a) within a clean zone; or 20
- (b) outside a clean zone (*but in a location where*) and it is in a place that the enforcement officer may lawfully be without a search warrant.
- (2) An enforcement officer may exercise the power set out in **subsection (1)** only after he or she has, as applicable,— 25
- (a) given the person from whom the thing is proposed to be seized the opportunity to surrender the thing to the officer; or
- (b) given the person in possession of the thing the opportunity to cover the thing. 30
- (3) When exercising the power set out in **subsection (1)**, an enforcement officer may use such force as is reasonable in the circumstances.
- (4) To avoid doubt, **subsection (1)** does not authorise an enforcement officer to— 35
- (a) search any person; or
- (b) enter any place, except in accordance with **section 39**.

- (5) An enforcement officer who exercises powers under this section must—
- (a) show his or her warrant of appointment to any person present who may be interested in, or affected by, the exercise of those powers; and 5
 - (b) take all steps that are practicable in the circumstances to ensure that as little damage as possible is caused.
- (6) The powers to seize or cover things in this section are in addition to the powers of enforcement officers under **subpart 6** to— 10
- (a) enter and search any place, vehicle, or thing, whether that place, vehicle, or thing is part of, or within, a clean zone, or outside a clean zone; and
 - (b) seize or cover any specified thing.
- Compare: 2003 No 51 s 335 15

41 Notice of thing seized or covered under section 40

- (1) If any thing is seized or covered under **section 40**, an enforcement officer must give or leave a written notice stating—
- (a) the date and time when the thing was seized or covered; and 20
 - (b) the name of the person who seized or covered the thing; and
 - (c) for seized things, particulars of the thing and details of when and where it can be collected; and
 - (d) for covered things, details of when it can be uncovered; and 25
 - (e) if relevant, the date and time at which the applicable clean period ends.
- (2) The notice must be given or left when the thing is seized or covered. 30
- (3) The notice must be—
- (a) given to the person from whom the thing was seized under **section 40**; or
 - (b) given to the person who surrendered the thing to the enforcement officer in accordance with **section 40**; or 35
 - (c) left in a prominent place where the thing was seized or covered.

Compare: 2003 No 51 s 337

- 42 Uncovering of things covered under section 40**
- (1) Any thing covered under **section 40** for a breach of any of **sections 16 to 19** must remain covered until the applicable clean period has ended.
- (2) In relation to any thing covered under **section 40** for a breach of **section 9, sections 74 and 75** apply (with all necessary modifications) as if that thing had been covered under a warrant issued under **section 64**. 5
- 43 Return of things seized under section 40**
- (1) Any thing seized under **section 40** for a breach of any of **sections 16 to 19** must either be returned to, or be made available for collection by, the person from whom it was seized as soon as practicable after the applicable clean period has ended. 10
- (2) In relation to any thing seized under **section 40** for a breach of **section 9 or 24, sections 73 and 75** apply (with all necessary modifications) as if that thing had been seized under a warrant issued under **section 64**. 15
- Compare: 2003 No 51 s 337
- 44 Enforcement officers may issue formal warnings**
- (1) An enforcement officer may issue 1 or more formal warnings to a person if the enforcement officer has reasonable grounds to believe that that person has breached **section 9, 16, 17, 18, 19, or 24**. 20
- (2) A formal warning must— 25
- (a) state—
- (i) that the enforcement officer believes that the person to whom the warning is issued is in breach of **section 9, 16, 17, 18, 19, or 24**; and
- New (unanimous)**
- | | |
|---------------------------------------|--|
| (ia) the grounds for that belief; and | |
|---------------------------------------|--|
- (ii) the consequences that that person may face for a breach of **section 9, 16, 17, 18, 19, or 24** if that person does not take steps to remedy the breach; and 30
- (b) be in the prescribed form; and

- (c) be issued in the manner specified in regulations made under **section 79**.

Compare: 2003 No 51 s 338

- 45 No liability if powers are exercised in good faith**
- (1) This section applies to— 5
- (a) enforcement officers;
- (b) persons who assist enforcement officers in accordance with **section 65(2)**;
- (c) police officers who perform any of the functions of an enforcement officer under **section 46**. 10
- (2) No action may be taken against a person to whom this section applies in relation to the exercise of his or her powers under this Act if he or she exercised those powers—
- (a) in good faith; and
- (b) in a reasonable manner; and 15
- (c) in the reasonably held belief that the prerequisites for the exercise of the power had been satisfied.
- 46 Functions and powers of police**
- Every member of the police—
- (a) may perform any of the functions of an enforcement officer; and 20
- (b) has all, and may exercise any, of the powers of an enforcement officer.
- Compare: 2003 No 51 s 339
- Subpart 4—Civil proceedings 25
- General matters concerning civil proceedings*
- 47 Who may apply for relief**
- (1) A major event organiser may apply to the Court for relief—
- (a) to prevent a breach of any of **sections 9, 16 to 19, and 24**; or
- (b) if there is or has been a breach of any of **sections 9, 16 to 19, and 24**. 30
- (2) A major event sponsor may request the major event organiser's permission for the sponsor to take proceedings for relief—
- (a) to prevent a breach of any of **sections 9, 16 to 19, and 24**; or 35
- (b) if there is or has been a breach of any of **sections 9, 16 to 19, and 24**.

- (3) If the major event organiser gives a major event sponsor permission for the sponsor to take proceedings,—
- (a) the sponsor may commence proceedings in the sponsor's own name as if the sponsor were the major event organiser, and every reference to major event organiser in this subpart is to be read as a reference to major event sponsor; and 5
 - (b) the major event organiser may join or be joined in the proceeding, but is not liable for any costs in the proceedings unless that person takes part in the proceedings; and 10
 - (c) the defendant has all the defences that would be available against proceedings by the major event organiser.

Compare: 1994 No 143, ss 123(3), 124(2)

48 Time for bringing civil proceedings 15

A major event organiser may bring civil proceedings under this subpart for a breach of any of **sections 9, 16 to 19, and 24** at any time within 3 years after the date on which the breach was discovered or ought reasonably to have been discovered.

49 Unjustified civil proceedings 20

- (1) If a person brings civil proceedings alleging a breach of this Act, the Court may, on the application of any person against whom the proceedings are brought,—
- (a) make a declaration that the bringing of proceedings is unjustified; 25
 - (b) make an order for the payment of damages for any loss suffered by the person against whom the proceedings are brought.
- (2) The Court must not grant relief under this section if the person who brings the proceedings proves that the acts in respect of which proceedings are brought constituted, or would have constituted if they had been done, a breach of this Act. 30
- (3) Nothing in this section makes a barrister or solicitor of the High Court of New Zealand liable to any proceedings under this section in respect of any act done in his or her professional capacity on behalf of a client. 35

Compare: 2002 No 49 s 105

*Injunctions, damages, and account of profits***50 Court may grant injunction, damages, and account of profits**

In any civil proceedings for a breach of any of **sections 9, 16 to 19, and 24**, the relief that the Court may grant includes—

- (a) an injunction on any terms that the Court thinks fit;
- (b) either damages or an account of profits.

Compare: 2002 No 49 s 106

*Order for erasure***51 Order for erasure**

- (1) The Court may make an order under **subsection (2)** if a major event organiser applies for the order. 10
- (2) If the Court is satisfied that a person has breached any of **sections 9, 17, 18, and 19**, the Court may make an order for erasure requiring that person— 15
 - (a) to erase, remove, or obliterate the unauthorised representation or advertisement from any goods, material, or object in the person's possession, custody, or control; or
 - (b) to cover the unauthorised representation or advertisement on any goods, material, or object in the person's possession, custody, or control; or 20
 - (c) if it is not reasonably practicable to erase, remove, cover, or obliterate the unauthorised representation or advertisement, to destroy the goods, material, or object; or 25
 - (d) to erase or remove the unauthorised representation or advertisement from any land, building, structure, or surface (including the surface of an aircraft, boat, train, or vehicle); or
 - (e) to cover the unauthorised representation or advertisement on any land, building, structure, or surface (including the surface of an aircraft, boat, train, or vehicle). 30
- (3) If an order under **subsection (2)(a), (b), or (c)** is not complied with, or it appears to the Court likely that the order would not be complied with, the Court may order that the relevant goods, material, or object be delivered to any person whom the Court may direct— 35

- (a) to erase, remove, or obliterate the unauthorised representation or advertisement from the goods, material, or object; or
- (b) to cover the unauthorised representation or advertisement on the goods, material, or object; or
- (c) if it is not reasonably practicable to erase, remove, cover, or obliterate the unauthorised representation or advertisement, to destroy the goods, material, or object.

5

Compare: 2002 No 49 s 108

New (unanimous)**51A Rights of persons with interest in unauthorised representation or advertisement**

10

Every person who has an interest in the goods, material, object, land, building, structure, or surface, or the unauthorised representation or advertisement, to which an order under **section 51** relates is entitled to—

15

- (a) appear in proceedings for an order under that section, whether or not the person is served with notice; and
- (b) appeal against any order made, whether or not the person appears in the proceedings.

Direction for corrective advertising

20

52 Order to disclose information or publish advertisement

- (1) The Court may make an order under **subsection (2)** if a major event organiser applies for the order.
- (2) If the Court is satisfied that a person has breached **section 9**, the Court may order that person or any other person involved in the breach to do either or both of the following:

25

Struck out (unanimous)

- (a) disclose information specified in the order that the person possesses or to which the person has access—
 - (i) to the public; or
 - (ii) to a particular person; or
 - (iii) to a particular class of persons:
- (b) publish corrective statements—
 - (i) at the times specified in the order; and

30

Struck out (unanimous)

- (ii) in the terms specified in the order or determined in accordance with the order.

New (unanimous)

- (a) disclose information specified in the order about a civil proceeding for a breach of **section 9**;
 (b) publish corrective statements.

5

- (3) The information or corrective statements ordered by the Court under **subsection (2)** are to be published or disclosed to the public, or to a particular member of or class of the public,—
 (a) at the person's own expense; and
 (b) in the manner specified in the court order; and

10

New (unanimous)

- (c) at the times specified in the order; and
 (d) in the terms specified in the order or determined in accordance with the order.

- (4) The Court may make an order under **subsection (1)** whether or not the person has previously breached **section 9**.

15

Compare: 1986 No 121 s 42

*Orders for delivery up***53 Order for delivery up of goods, material, or object**

- (1) The Court may make an order under **subsection (2)** if a major event organiser applies for the order.
 (2) The Court may order any goods, material, or object on, by, or through which a breach of **section 9** is committed to be delivered up to the major event organiser or any other person that the Court thinks fit.
 (3) No order may be made under this section unless—
 (a) the Court makes an order under **section 54** at the same time; or
 (b) it appears to the Court that there are grounds for making an order under that section.

20

25

- (4) A person to whom any goods, material, or object is delivered up under an order made under this section must, if an order under **section 54** has not been made, retain them pending—
- (a) the making of an order under that section; or
 - (b) the decision not to make an order under that section, in which case **section 60** applies. 5
- (5) Nothing in this section affects any other power of the Court.
Compare: 2002 No 49 s 109
- 54 Order for forfeiture, destruction, or retention of goods, material, or object** 10
- The Court may order that the goods, material, or object subject to an order under **section 53** must be—
- (a) forfeited to the major event organiser or any other person that the Court thinks fit; or
 - (b) destroyed or otherwise dealt with as the Court thinks fit; 15
or
 - (c) retained by the major event organiser or any other person that the Court thinks fit until the end of the relevant protection period and then returned to the person who delivered them up. 20
- Compare: 2002 No 49 s 110
- 55 Matters to be considered by Court**
- In considering what order, if any, should be made under **section 54**, the Court must consider—
- (a) whether other remedies available for a breach of **section 9** would be adequate to compensate, or protect the interests of,— 25
 - (i) the major event organiser:
 - (ii) the major event sponsor (if any); and
 - (b) the need to ensure that nothing is disposed of in a manner that would adversely affect— 30
 - (i) the major event organiser:
 - (ii) the major event sponsor (if any).
- Compare: 2002 No 49 s 111
- 56 Directions for service** 35
- The Court must issue directions for the service of notice on every person who is known to have an interest in the goods, material, or object to which an order under **section 54** relates.

- 57 Rights of persons with interest in goods, material, or object**
 Every person who has an interest in the goods, material, or object to which an order under **section 53 or 54** relates is entitled to— 5
- (a) appear in proceedings for an order under that section, whether or not the person is served with notice; and
 - (b) appeal against any order made, whether or not the person appears in the proceedings.
- 58 When order under section 54 takes effect** 10
 An order made under **section 54** takes effect either,—
- (a) if no notice of an appeal has been given, (*at the end of the period within which notice of an appeal may be given*) after 10 working days; or
 - (b) if notice of an appeal has been given, on the final determination or abandonment of the proceedings on appeal. 15
- 59 Additional Court order if more than 1 person interested in goods, material, or object**
 If more than 1 person is interested in the goods, material, or object to which an order under **section 54** relates, the Court may— 20
- (a) direct that the goods, material, or object be sold, or otherwise dealt with, and the proceeds divided; and
 - (b) make any other order that it thinks fit. 25
- 60 Position where no order made under section 54**
 If the Court decides that no order should be made under **section 54**, the person who had possession, custody, or control of the goods, material, or object before (*being*) it was delivered up is entitled to (*their*) its return. 30

Subpart 5—Criminal offences

- 61 When criminal proceedings may be commenced**
 Despite section 14 of the Summary Proceedings Act 1957, an information for an offence against **section 12, 22, 25, or 26** may be laid at any time within 3 years after the time when the matter of the information arose. 35

62 Application of Sentencing Act 2002

If a person is convicted of an offence against **section 12, 22, 25, 25A, or 26** in circumstances where that offence involves the making of profit or gain,—

- (a) that offence is deemed to have caused a loss of property for the purposes of section 32(1)(a) of the Sentencing Act 2002; and 5
- (b) the provisions of that Act that relate to the imposition of the sentence of reparation apply accordingly. 10

Compare: 2002 No 49 s 118

63 Liability of officers of body corporate

If a body corporate is convicted of an offence against any of **sections 12, 22, 25, and 26**, every director, officer, or other natural person concerned in the management of the body corporate is guilty of the offence if it is proved— 15

- (a) that the act that constituted the offence took place with his or her authority, permission, or consent; and
- (b) that he or she—
 - (i) knew, or could reasonably be expected to have known, that the offence was to be or was being committed; and 20
 - (ii) failed to take all reasonable steps to prevent or stop it.

Compare: 2002 No 49 s 119

Subpart 6—Search warrants 25

64 Issue of warrant

- (1) Any High Court Judge, District Court Judge, Community Magistrate, Justice of the Peace, or Registrar of a District Court may issue a search warrant for any place, vehicle, or thing if satisfied, on application in writing made on oath, that there are reasonable grounds for believing that there is at that place, vehicle, or thing, any thing— 30
 - (a) in respect of which an offence under this Act has been or is being committed; or
 - (b) that has been, is being, or is intended to be used by any person for the commission of an offence under this Act; or 35
 - (c) that is evidence of the commission of an offence under this Act by any person.

- (2) The Judge, Community Magistrate, Justice, or Registrar may impose any reasonable conditions on the exercise of the warrant that he or she thinks fit.

Compare: 2003 No 12 s 130

65 Powers conferred by warrant

- (1) A warrant authorises the person named in it—
- (a) to enter and search the place, vehicle, or thing specified in the warrant on 1 occasion within 14 days of the date of issue of the warrant at a time that is reasonable in the circumstances: 10
 - (b) to use any assistance that is reasonable in the circumstances:
 - (c) to use any force for gaining entry and for breaking open any article or thing that is reasonable in the circumstances: 15
 - (d) to search for and seize any thing that the warrant authorises the person who is executing the warrant to search for and seize:
 - (e) to search for and cover any thing that the warrant authorises the person who is executing the warrant to search for and cover: 20
 - (f) if necessary, to take copies of documents, or extracts from documents, that the warrant authorises the person who is executing the warrant to copy:
 - (g) if necessary, to require a person to reproduce, or assist any person executing the warrant to reproduce in usable form, information recorded or stored in a document. 25

New (unanimous)

- (1A) The power in **subsection (1)** to enter and search a place, vehicle, or thing must not be exercised by an enforcement officer unless, when exercising the power, the enforcement officer is accompanied by a member of the police. 30

- (2) A person assisting the person executing the warrant also has the powers referred to in **subsection (1)(c) to (f)**.

- (3) The warrant must be executed in accordance with any reasonable conditions that may be specified in the warrant when it is issued.

Compare: 2003 No 12 s 131; 2002 No 84 s 172(3)

- 66 Form and content of search warrant** 5
- A search warrant must—
- (a) be in the prescribed form; and
 - (b) be directed to—
 - (i) a member of the police by name; or
 - (ii) any member of the police; or 10
 - (iii) an enforcement officer; and
 - (c) contain all of the following particulars:
 - (i) the place, vehicle, or thing that may be searched in accordance with the warrant; and
 - (ii) the offence for which the warrant is issued; and 15
 - (iii) a description of the kind of thing that is authorised to be searched for and seized; and
 - (iv) a description of the kind of thing that is authorised to be searched for and covered; and
 - (v) the period during which the warrant may be executed; and 20
 - (vi) any conditions specified under **section 64(2)**.

Compare: 2003 No 12 s 132

- 67 Warrant must be produced** 25
- A person executing a warrant must—
- (a) have the warrant with him or her; and
 - (b) produce it on initial entry and, if requested, at any subsequent time; and
 - (c) identify himself or herself and any person assisting or accompanying him or her to the owner or occupier or person in charge of the place if that person is present; and 30
 - (d) produce evidence of his or her identity and the identity of any person assisting or accompanying him or her.

Compare: 2003 No 12 s 133; 2002 No 84 s 166(1)

35

68 Other duties of person who executes warrant

A person who executes a warrant must, when the search is completed, leave in a prominent position at the place searched or give to the owner or occupier, a written notice stating—

- (a) the date and time when the place, vehicle, or thing was searched; and 5
- (b) the name of the person who executed the warrant and any person who assisted or accompanied him or her; and
- (c) for any seized thing, a list of its particulars and that it may be returned in accordance with **sections 73 and 75**; and 10
- (d) for any covered thing, a list of its particulars and that it may be uncovered in accordance with **sections 74 and 75**.

Compare: 2003 No 12 s 134; 2002 No 84 s 166(1) 15

69 When alternative to list of seized things may be provided

If it is not practicable to prepare a list under **section 68** after completing the search in relation to seized things, or if the owner or occupier of the place being searched consents, the person executing the warrant— 20

- (a) may, instead of leaving a list, leave a notice stating that things have been seized during the search and that, within 7 days of the search, a list will be delivered, left, or sent stating what things have been seized; and 25
- (b) must, within 7 days of the search,—
 - (i) deliver a list to the owner or occupier; or
 - (ii) leave a list in a prominent position at the place searched; or
 - (iii) send a list by post to the owner or occupier of the place searched. 30

Compare: 2003 No 12 s 135

70 Matters that must be stated in list of documents

A list under **section 68** must state—

- (a) the things that have been seized; and 35
- (b) the location from where they were seized; and
- (c) the location where they are being held.

Compare: 2003 No 12 s 136

71 Duty to assist

The occupier or person in charge of the place that a person authorised by a warrant enters for the purpose of searching must provide that person with all reasonable facilities and assistance in executing the warrant.

5

Compare: 2003 No 12 s 137

72 Power to inspect and take copies of documents, etc, obtained under warrant

The chief executive of the Ministry of Economic Development, or any person authorised by the chief executive of the Ministry of Economic Development for the purpose, may inspect and take copies of any documents or extracts from them obtained under a warrant.

10

Compare: 2003 No 12 s 138

73 Disposal of things seized

15

(1) In any proceedings for an offence relating to any thing seized under warrant, a court may order, either at the trial or hearing or on an application, that it be delivered to the person appearing to the court to be entitled to it, or that it be otherwise disposed of in any manner that the court thinks fit.

20

(2) Any member of the police or an enforcement officer may, at any time, unless an order has been made under **subsection (1)**, return the thing to the person from whom it was seized, or apply to a Judge for an order for its disposal.

(3) An application under **subsection (2)** must be made on notice to any person known to have an interest in the thing.

25

(4) On an application under **subsection (2)**, the Judge may make any order that a court may make under **subsection (1)**.

(5) If proceedings for an offence relating to the thing are not brought within 3 months of seizure, any person claiming to be entitled to it may, after the expiry of that period, apply to a Judge for an order that it be delivered to him or her.

30

(6) On any such application, the Judge may—

(a) adjourn the application, on any terms that he or she thinks fit, for proceedings to be brought; or

35

(b) make any order that a court may make under **subsection (1)**.

Compare: 2003 No 12 s 139

- 74 Uncovering or disposal of things covered**
- (1) In any proceeding for an offence relating to any thing covered under warrant, a court may order, either at the trial or hearing or on an application, that it be uncovered, or that it be otherwise disposed of in any manner that the court thinks fit. 5
- (2) Any member of the police or an enforcement officer may, at any time, unless an order has been made under **subsection (1)**, uncover the thing, or apply to a Judge for an order for its disposal.
- (3) An application under **subsection (2)** must be made on notice to any person known to have an interest in the thing. 10
- (4) On an application under **subsection (2)**, the Judge may make any order that a court may make under **subsection (1)**.
- (5) If proceedings for an offence relating to the thing are not brought within 3 months of it having been covered, any person claiming to be entitled to it may, after the expiry of that period, apply to a Judge for any order that it be uncovered. 15
- (6) On any such application, the Judge may—
- (a) adjourn the application, on any terms that he or she thinks fit, for proceedings to be brought; or 20
- (b) make any order that a court may make under **subsection (1)**.

Compare: 2003 No 12 s 139

- 75 Court order to be suspended on conviction**
- (1) If any person is convicted in any proceedings for an offence relating to any thing for which a warrant has been issued, and any order is made under **section 73 or 74**, the operation of the order is suspended,— 25
- (a) in any case, until the expiration of the time prescribed by the Summary Proceedings Act 1957 for the filing of a notice of appeal or an application for leave to appeal; and 30
- (b) if a notice of appeal is filed within the time so prescribed, until the determination of the appeal; and
- (c) if application for leave to appeal is filed within the time so prescribed, until the application is determined, and, if leave to appeal is granted, until the determination of the appeal. 35

- (2) If the operation of an order under **section 73 or 74** is suspended until the determination of the appeal, the court determining the appeal may, by order, cancel or vary the order.

Compare: 2003 No 12 s 140

Part 5 Miscellaneous

5

76 Emblems and words protected under other Acts

Nothing in this Act limits or affects any of the enactments specified in Schedule 3 of the Flags, Emblems, and Names Protection Act 1981 relating to the protection of various emblems and words.

10

Compare: 1981 No 47 s 23

77 Power to amend Schedule

The Governor-General may, from time to time, by Order in Council,—

15

- (a) amend the **Schedule** by adding, omitting, or amending the specification or description of any emblem or word;
- (b) revoke the **Schedule** or a Part of the **Schedule** and substitute a new schedule or a new Part of the **Schedule**.

Compare: 1981 No 47 s 26A

20

78 Application of Regulations (Disallowance) Act 1989 and Acts and Regulations Publication Act 1989

- (1) An Order in Council made under **section 6 or 7** is a regulation for the purposes of the Regulations (Disallowance) Act 1989 and the Acts and Regulations Publication Act 1989.

25

- (2) A notice in the *Gazette* under **section 15**—

- (a) is a regulation for the purposes of the Regulations (Disallowance) Act 1989 and must be presented to the House of Representatives in accordance with section 4 of that Act; but
- (b) is not a regulation for the purposes of the Acts and Regulations Publication Act 1989.

30

79 Regulations

The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

35

-
- (a) prescribing the information that an event organiser must provide when applying under **section 6(3)(a)** for an event to be declared to be a major event under this Act:
 - (b) prescribing the form of a warrant of appointment of an enforcement officer and any particulars that the warrant must contain for the purposes of **section 37**: 5
 - (c) prescribing the form of formal warnings, and specifying the manner in which they must be issued under **section 44**:
 - (d) prescribing the form of a search warrant for the purposes of **section 66(a)**: 10
 - (e) providing for any other matters contemplated by this Act or necessary for its administration or necessary for giving it full effect.
- 80 Repeal** 15
- The Flags, Emblems, and Names Protection Act 1981 is amended by repealing sections 20A to 20B and Schedule 2A.
-

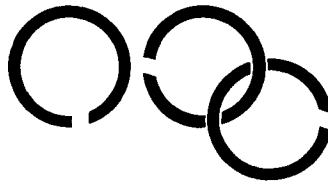
s 26

Schedule
Olympic Games and Commonwealth Games
emblems and words

Part 1
Emblems

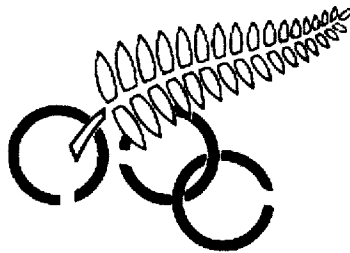
5

THE FIVE RING OLYMPIC SYMBOL
(as depicted below, or in black)



THE FIVE RING OLYMPIC SYMBOL WITH A FERN LEAF
(as depicted below, or in black, with or without the words “New Zealand” or “New Zealand Olympic Committee” or any abbreviation or combination of those words)

10



Part 1—*continued*THE FIVE RING OLYMPIC SYMBOL WITH A FERN LEAF
AND THE WORDS “NEW ZEALAND”

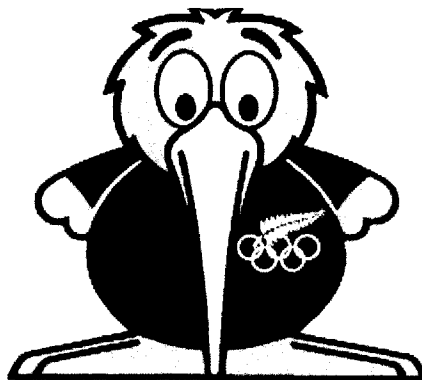
(as depicted below)

“GOLDIE” THE OFFICIAL NEW ZEALAND
OLYMPIC MASCOT

5

(as depicted below, or in any other form, colours, or pose, with or without any sporting equipment, with or without the New Zealand Flag or any flag picturing the five Olympic rings, and with or without words or other symbols)

10



Part 1—*continued*

THE OLYMPIC FLAME SYMBOL

(as depicted below, or in any other form, colours, context, or position, or in a hand-held torch with the Five Ring Olympic symbol, whether or not the Five Ring Olympic symbol is on a flag, and whether or not the torch and symbol are with the New Zealand Flag, or a Fern Leaf, or both)

5



THE NEW ZEALAND COMMONWEALTH GAMES SYMBOL

(as depicted below, or in black)

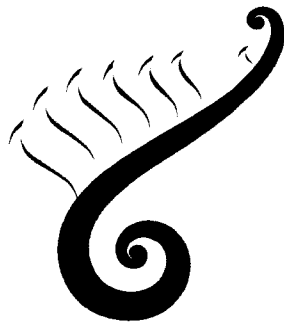


10

Part 1—*continued*

THE NEW ZEALAND COMMONWEALTH YOUTH
GAMES EMBLEM

(as depicted below, or in black)



THE NEW ZEALAND YOUTH OLYMPIC
FESTIVAL EMBLEM

5

(as depicted below, or in black)



Part 1—*continued*

THE COMMONWEALTH GAMES FEDERATION EMBLEM
(as depicted below, or in black)



Part 2

Words that are names

5

- | | | |
|---|--|----|
| 1 | Commonwealth Games | |
| | Five Ring Olympic symbol | |
| | Five Ring Olympic symbol with a Fern Leaf | |
| | International Olympic Committee | |
| | New Zealand Commonwealth Games Team | 10 |
| | New Zealand Commonwealth Youth Games Team | |
| | National Olympic Committee | |
| | New Zealand Olympic and Commonwealth Games Association Incorporated | |
| | New Zealand Olympic Committee Incorporated | 15 |
| | New Zealand Olympic Team | |
| | New Zealand Youth Olympic Festival Team | |
| | Olympic Games | |
| | Olympic Gold | |
| 2 | Any abbreviation, extension, or derivation of the names in clause 1. | 20 |
| 3 | Names that have the same meaning as, or a similar meaning to, the names in clause 1. | |

Part 3

Words relating to Olympic and Commonwealth Games

- 1 The expressions “Turin 2006”, “Torino 2006”, “Melbourne 2006”, “Beijing 2008”, and any words in column A when used in connection with any words in column B. 5
- | Column A | Column B | |
|--------------------|-----------------|----|
| Commonwealth Games | Turin | |
| Olympiad | Torino | |
| Olympian | Melbourne | |
| Olympic | Beijing | 10 |
| | 2006 | |
| | 2008 | |
| | 20th | |
| | Twentieth | |
| | XXth | 15 |
| | 26th | |
| | Twenty-sixth | |
| | XXVIth | |
| | 29th | |
| | Twenty-ninth | 20 |
| | XXIXth | |
- 2 The expressions “Games City”, “Gold Games”, “One Team One Spirit”, and “One Team Our Team”.
- 3 Any abbreviation, extension, or derivation of a word or words in clause 1 or 2. 25
- 4 Words that have the same meaning as, or a similar meaning to, a word or words in clause 1 or 2.

Legislative history

12 December 2006	Introduction (Bill 99–1)
20 February 2007	First reading and referral to Commerce Committee
