



# **Major Sporting Events (Indicia and Images) Protection Act 2014**

**No. 29, 2014**

## **Compilation No. 1**

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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Major Sporting Events (Indicia and Images) Protection Act 2014* that shows the text of the law as amended and in force on 1 July 2015 (the *compilation date*).

This compilation was prepared on 22 July 2015.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on ComLaw ([www.comlaw.gov.au](http://www.comlaw.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on ComLaw for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on ComLaw for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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**An Act to provide for the regulation of the use for commercial purposes of indicia and images associated with certain major sporting events, and for related purposes**

**Part 1—Preliminary**

**1 Short title**

This Act may be cited as the *Major Sporting Events (Indicia and Images) Protection Act 2014*.

**2 Commencement**

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	27 May 2014
2. Sections 3 to 58	The later of: (a) the day after this Act receives the Royal Assent; and (b) 1 July 2014.	1 July 2014
3. Schedules 1, 2 and 3	At the same time as the provision(s) covered by table item 2.	1 July 2014

*Major Sporting Events (Indicia and Images) Protection Act 2014*

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### 3 Objects of this Act

- (1) The objects of this Act are:
- (a) to protect and further the position of Australia as a participant in, and a supporter of, sporting movements of international significance; and
  - (b) to assist in protecting the relations, and in ensuring the performance of the obligations, of Australian governments and other Australian bodies with, and to, international bodies responsible for major sporting events associated with those movements that are held in Australia.
- (2) These objects are achieved by facilitating the raising of revenue in relation to major sporting events through the regulation of the use for commercial purposes of the indicia and images associated with those events.

### 4 Simplified outline of this Act

This Act provides special protection in relation to the use for commercial purposes of indicia and images connected with certain major sporting events. The major sporting events are identified in the Schedules to this Act.

Generally speaking, a person cannot use a major sporting event's protected indicia or images for commercial purposes during the event's protection period, unless the person is an official user for the event (as defined in this Act).



A person does not contravene this prohibition if the person is authorised to use, or is not prevented from using, the indicia or images for commercial purposes under a provision of a law of a State or Territory that is prescribed by the rules or specified in the Schedule to this Act that covers the event.

There must be a register, either under this Act or under a State or Territory law, that sets out details about authorisations to use indicia and images for each event. The register must be published on the internet.

Goods that are imported into Australia that have had a major sporting event's protected indicia or images applied to them can be seized by the Comptroller-General of Customs and forfeited to the Commonwealth if the designated owner's use of the indicia or images for commercial purposes in relation to the goods would contravene the prohibition in this Act.

There are a number of remedies available to official users for a major sporting event, such as injunctions, damages or an account of profits, and corrective advertisements. Some official users need consent before seeking these remedies.

If an official user makes a groundless threat to make an application or bring an action under this Act, any person aggrieved may bring an action in a relevant court seeking a declaration or injunction, or damages for loss that the person has suffered as a result of the threat.

## **5 Act binds the Crown**

This Act binds the Crown in each of its capacities.

## **6 Application of Act**

This Act extends to:

- (a) Norfolk Island; and

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- (b) the Territory of Christmas Island; and
- (c) the Territory of Cocos (Keeling) Islands.

**7 Additional operation of Act**

In addition to its effect apart from this subsection, this Act also has the effect that it would have if each reference to use for commercial purposes were a reference to:

- (a) use for commercial purposes by:
  - (i) a corporation to which paragraph 51(xx) of the Constitution applies; or
  - (ii) a body corporate incorporated in a Territory; or
- (b) use for commercial purposes by any person in the course of:
  - (i) trade or commerce with other countries; or
  - (ii) trade or commerce among the States; or
  - (iii) trade or commerce within a Territory, between a State and a Territory or between the Territories; or
  - (iv) the supply of goods or services to the Commonwealth, a Territory, or to an authority or instrumentality of the Commonwealth or of a Territory; or
- (c) use for commercial purposes by any person by way of the use of, or in the course of providing, a postal, telegraphic, telephonic or other like service within the meaning of paragraph 51(v) of the Constitution; or
- (d) use for commercial purposes of:
  - (i) a trade mark; or
  - (ii) a design that is registered, or is capable of being registered, under the *Designs Act 2003*; or
  - (iii) an artistic work in which copyright subsists; or
- (e) use for commercial purposes by any person that detrimentally affects the rights conferred by or under this Act on an official user that is a corporation to which paragraph 51(xx) of the Constitution applies.

## Part 2—Interpretation

### 8 Simplified outline of this Part

This Part contains the Dictionary and certain other interpretation provisions.

The Dictionary is a list of every term that is defined in this Act. Many terms are defined in the Dictionary itself. If another provision defines the term, the Dictionary has a signpost to that definition.

Many key terms are defined in relation to a major sporting event by reference to the Schedule to this Act that covers the event.

### 9 Dictionary

In this Act:

***action period***, in relation to particular seized goods, means the period prescribed by the rules after notice of a claim for release of the goods is given to the objector under section 32 of this Act.

***advertisement*** means any writing, still or moving picture, sign, symbol or other visual image, or any audible message, or any combination of 2 or more of those things, that promotes:

- (a) goods or services; or
- (b) a person.

An advertisement may:

- (c) be in the form of a signboard; or
- (d) be in a newspaper or periodical; or
- (e) be broadcast on radio or television; or
- (f) be placed on a website; or
- (g) be in any other form.

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***applied*** has a meaning affected by section 11.

***Australia*** includes the following external Territories:

- (a) Norfolk Island;
- (b) the Territory of Christmas Island;
- (c) the Territory of Cocos (Keeling) Islands.

***authorised person***: see subsection 16(4).

***authorising body***, for a major sporting event, means the body specified as the authorising body in the Schedule to this Act that covers the event.

***claim period***, in relation to particular seized goods, means the period prescribed by the rules after notice of seizure of the goods is given to the designated owner under section 26.

***commercial purposes*** has the meaning given by section 12.

***Comptroller-General of Customs*** means the person who is the Comptroller-General of Customs in accordance with subsection 11(3) or 14(2) of the *Australian Border Force Act 2015*.

***covering***: see subsection 11(4).

***designated owner***, in relation to goods imported into Australia, means:

- (a) the person identified as the owner of the goods on the entry made in relation to the goods under section 68 of the *Customs Act 1901*; or
- (b) if no such entry exists—the person determined to be the owner of the goods under section 41 of this Act.

***event body***, for a major sporting event, means a body specified as an event body in the Schedule to this Act that covers the event.

***expression*** includes a word or phrase.

***infringing goods***: see subsection 23(2).

***label***: see subsection 11(4).

**major sporting event** means an event that is covered by a Schedule to this Act.

**objector**, in relation to seized goods, means any official user for a major sporting event who has given a notice under section 23 in respect of those goods that is in force.

**official user**: each of the following is an **official user** for a major sporting event:

- (a) the authorising body for the event;
- (b) any other event body for the event;
- (c) an authorised person for the event.

**personal information** has the same meaning as in the *Privacy Act 1988*.

**promote** includes give publicity to.

**protected images**, of a major sporting event, means any visual or aural representations that, to a reasonable person, in the circumstances of the presentation, would suggest a connection with the event.

**protected indicia**, of a major sporting event, means the protected indicia specified in, or prescribed by rules made for the purposes of, the Schedule to this Act that covers the event.

**protected indicia and images**, of a major sporting event, means protected indicia, and protected images, of the event.

**protected indicia or images**, of a major sporting event, means protected indicia, or protected images, of the event.

**protection period**, for a major sporting event, means the protection period determined in accordance with the Schedule to this Act that covers the event.

**relate**: for when protected indicia or images **relate** to an event body for a major sporting event, see the Schedule to this Act that covers the event.

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**relevant authorisation:** see subsection 16(4).

**relevant court** means:

- (a) the Federal Court of Australia; or
- (b) the Federal Circuit Court of Australia; or
- (c) a court of a State or Territory that has jurisdiction in relation to matters arising under this Act.

**rules** means rules made under section 58.

**seized goods** means goods seized under section 25.

**supply:** see subsection 12(4).

**this Act** includes the rules.

**working day** means a day that is not:

- (a) a Saturday; or
- (b) a Sunday; or
- (c) a public holiday in the Australian Capital Territory.

## 10 Interpretation provisions for protected indicia and images

- (1) The use in this Act of the words “indicia” and “images” is not intended to express a contrary intention for the purposes of section 23 of the *Acts Interpretation Act 1901*.

Note: Paragraph 23(b) of the *Acts Interpretation Act 1901* provides that words in the plural include the singular.

- (2) For the purposes of this Act, any protected indicia that are represented in a language other than English are taken to be protected indicia.

## 11 When protected indicia and images are *applied* to goods and services

- (1) Without limitation, protected indicia or images are *applied* to goods or services if:
  - (a) in the case of goods—the indicia or images:

- (i) are woven in, impressed on, worked into, or affixed or annexed to, the goods; or
  - (ii) are applied to any covering, document, label, reel or thing in or with which the goods are, or are intended to be, dealt with or provided in the course of trade; or
  - (b) in the case of goods or services—the indicia or images:
    - (i) are used in an advertisement that promotes the goods or services; or
    - (ii) are used in an invoice, price list, catalogue, brochure, business letter, business paper or other commercial document that relates to the goods or services.
- (2) For the purposes of this Act, if:
- (a) an advertisement promotes a particular person; and
  - (b) the person provides goods or services; and
  - (c) it would be concluded, by a reasonable person, that the advertisement was designed to enhance the commercial image of the person mentioned in paragraph (a);
- the advertisement is taken to promote those goods or services.
- (3) For the purposes of Parts 4 and 5, protected indicia or images are ***applied*** to goods by a person if:
- (a) the goods are imported into Australia for the purpose of sale or distribution by the person; and
  - (b) when imported, the goods have already had the indicia or images applied to them.
- (4) In this Act:
- covering*** includes packaging, frame, wrapper, container, stopper, lid or cap.
- label*** includes a band or ticket.

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**12 When protected indicia or images are used for *commercial purposes***

- (1) A person (the *user*) uses a major sporting event's protected indicia or images for *commercial purposes* if:
- (a) the user causes the event's protected indicia or images to be applied to the user's goods or services; and
  - (b) the application is for the primary purpose of advertising or promoting, or enhancing the demand for, the goods or services; and
  - (c) the application would suggest, to a reasonable person, that the user is or was a sponsor of, or is or was the provider of other support for:
    - (i) the major sporting event; or
    - (ii) any other event arranged by an event body for the major sporting event in connection with the major sporting event.

Note: This rule is affected by sections 13 (presumption relating to advertising etc.) and 14 (criticism, review and provision of information).

- (2) A person (the *secondary user*) also uses a major sporting event's protected indicia or images for *commercial purposes* if:
- (a) another person has used the event's protected indicia or images for commercial purposes as described in subsection (1) in relation to goods or services; and
  - (b) the other person is not an official user for the event; and
  - (c) any of the following applies:
    - (i) for goods or services—the secondary user supplies, or offers to supply, the goods or services;
    - (ii) for goods—the secondary user exposes the goods for supply by the secondary user;
    - (iii) for goods—the secondary user keeps the goods for supply by the secondary user or by another person.

Note: This rule is affected by sections 13 (presumption relating to advertising etc.) and 14 (criticism, review and provision of information).



(3) Subsection (2) does not apply for the purposes of sections 23 (notice of objection to importation of goods) and 25 (seizure of goods by Comptroller-General of Customs).

(4) In this Act:

*supply* includes:

- (a) in the case of goods—supply (including resupply) by way of sale, exchange, lease, hire or hire-purchase; and
- (b) in the case of services—provide, grant or confer.

### **13 Presumption relating to advertising or promotion etc.**

The application of protected indicia or images by a person for the primary purpose of advertising or promoting, or enhancing the demand for, the goods or services, is prima facie sufficient to suggest the existence of a sponsorship arrangement, or the provision of other support, for the purposes of paragraph 12(1)(c).

### **14 Criticism, review and provision of information**

Doing any of the following is not alone sufficient to suggest the existence of a sponsorship arrangement, or the provision of other support, for the purposes of paragraph 12(1)(c):

- (a) using protected indicia or images for the primary purpose of criticism or review;
- (b) using protected indicia or images for the primary purpose of providing information, including through reporting news and presenting current affairs.

## **Part 3—Regulation of use of protected indicia and images for commercial purposes**

### **Division 1—Introduction**

#### **15 Simplified outline of this Part**

Generally speaking, a person cannot use a major sporting event's protected indicia or images for commercial purposes during the event's protection period, unless the person is an official user for the event (that is, either an event body or an authorised person for the event).

Event bodies can use the event's protected indicia or images for commercial purposes during the protection period if the indicia or images relate to the body.

Authorised persons can use the event's protected indicia or images for commercial purposes during the protection period if the use of the indicia or images is in accordance with the relevant authorisation given by the event body to which the indicia or images relate (or by a person on behalf of, or as authorised by, that event body).

A person does not contravene the prohibition in this Act against using a major sporting event's protected indicia or images for commercial purposes if the person is authorised to use, or is not prevented from using, the indicia or images for commercial purposes under a provision of a law of a State or Territory that is prescribed by the rules or specified in the Schedule to this Act that covers the event.

An authorising body for a major sporting event must establish and maintain a register, either under this Act or under a State or Territory law, that sets out details about relevant authorisations

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given to authorised persons for the event. The register must be published on the internet.

Use by a person of protected indicia or images is taken to be use by an authorised person that is covered by a relevant authorisation if details of an authorisation in relation to the indicia or images are included on the relevant register in relation to the person.

The authorising body must notify the Secretary of the Department and the Comptroller-General of Customs of changes to the register.

## Division 2—Regulation of use of protected indicia and images for commercial purposes

### 16 Regulation of use of protected indicia and images for commercial purposes

*Person must not use protected indicia or images unless authorised*

- (1) A person must not use a major sporting event's protected indicia or images for commercial purposes during the event's protection period, except as provided by subsection (2) or (3).

Note: There may be an exception under subsection (5) if the person is authorised to use, or is not prevented from using, the indicia or images for commercial purposes under certain State or Territory laws.

- (2) An event body for a major sporting event may use any of the event's protected indicia and images that relate to the event body for commercial purposes during the event's protection period.

Note: For when protected indicia and images relate to an event body for a major sporting event, see the Schedule to this Act that covers the event.

*Authorisation for authorised persons*

- (3) An authorised person for a major sporting event may use, in accordance with the relevant authorisation, any of the event's protected indicia and images for commercial purposes during the event's protection period.

*Meaning of authorised person*

- (4) A person is an **authorised person** for a major sporting event if the person has written authorisation (the **relevant authorisation**) from either of the following to use any or all of the event's protected indicia or images for commercial purposes:
- (a) an event body to which the protected indicia or images relate;

- (b) another person on behalf of, or as authorised by, such an event body.

Note 1: For when protected indicia or images relate to an event body for a major sporting event, see the Schedule to this Act that covers the event.

Note 2: An event body may also be an authorised person for the event if the event body has a relevant authorisation in relation to particular protected indicia or images.

*Exception—authorisation etc. under State/Territory law*

- (5) Despite subsection (1), a person who uses a major sporting event's protected indicia or images for commercial purposes does not contravene this section if the person is authorised to use, or is not prevented from using, the indicia or images for commercial purposes under a provision of a law of a State or Territory that is:
- (a) specified in the Schedule to this Act that covers the event; or
  - (b) prescribed by the rules in relation to the event.

*Indicia that closely resemble protected indicia*

- (6) For the purposes of subsection (1), the use of an indicium that so closely resembles a protected indicium for a major sporting event that a reasonable person is likely to mistake it for the protected indicium is taken to be the use of that protected indicium.

## **17 Persons involved in contravening section 16**

For the purposes of this Act, a person is taken to have contravened section 16 if:

- (a) the person has attempted to contravene section 16; or
- (b) the person has aided, abetted, counselled or procured a person to contravene section 16; or
- (c) the person has induced, or attempted to induce, a person, whether by threats or promises or otherwise, to contravene section 16; or

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- (d) the person has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of section 16; or
- (e) the person has conspired with others to contravene section 16.

## **Division 3—Registration requirements for authorised persons**

### **18 Register of authorised persons**

#### *Register of authorised persons*

- (1) The authorising body for a major sporting event must establish and maintain a register of authorised persons for the event.

Note: Section 19 (State/Territory registers) provides an exception to the requirements in this section.

#### *Details to be included in register*

- (2) The authorising body must include in the register the following details for each relevant authorisation given to an authorised person for the event:
- (a) the name and principal place of business of the authorised person;
  - (b) the protected indicia or images for the event that are covered by the authorisation;
  - (c) the circumstances in which the authorised person is authorised to use those indicia or images for commercial purposes;
  - (d) if the authorisation is to use the indicia or images only during a specified period—that period;
  - (e) the date on which the details are included;
  - (f) any other matter prescribed by the rules.
- (3) If a relevant authorisation ceases to be in force for an authorised person, the authorising body for the event must update the register to include the date of effect of that cessation.

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*Publishing the register*

- (4) The authorising body must publish the register (including as updated under subsection (3)) on the authorising body's website and in any other manner prescribed by the rules.

*Giving information to authorising bodies*

- (5) If a person other than an authorising body has given a relevant authorisation as mentioned in subsection 16(4), that person must give the authorising body sufficient information to allow the authorising body to comply with this section.

**19 State/Territory register provisions may apply**

- (1) Section 18 does not apply in relation to a relevant authorisation for a major sporting event if:
- (a) the Schedule to this Act that covers the event specifies, or the rules prescribe in relation to the event, a provision of a law of a State or Territory that establishes a register (the ***State/Territory register***) relating to authorisations to use expressions or images in relation to the event; and
  - (b) the State/Territory register contains information about the relevant authorisation.
- (2) Before making rules for the purposes of paragraph (1)(a) in relation to a major sporting event, the Minister must be satisfied that:
- (a) substantially the same details in relation to authorisations to use expressions or images in relation to the event are required to be included in the State/Territory register as would otherwise be required to be included under subsections 18(2) and (3) of this Act; and
  - (b) the State/Territory register is required to be published on the internet.



## **20 Person on register taken to be authorised person**

- (1) If details about an authorisation given to a person are included in the register referred to in section 18, or the State/Territory register referred to in section 19:
  - (a) the person is taken to be an authorised person for the major sporting event concerned; and
  - (b) the use for commercial purposes of any protected indicia or images referred to in the register in relation to the authorisation or the person is taken to be covered by a relevant authorisation given to the authorised person.
- (2) However, if the register specifies circumstances in which, or a period during which, the person is authorised to use protected indicia or images, then the relevant authorisation referred to in paragraph (1)(b) is taken only to cover the use of the indicia or images in those circumstances or during that period.

Note: The effect of this section is that a person can rely on the details included in the register when working out whether another person is an authorised person for the purposes of other provisions of this Act, including:

- (a) paragraph 12(2)(b) (secondary use of protected indicia or images for commercial purposes); and
- (b) Part 4 (importation of goods).

## **21 Notifying Secretary and Comptroller-General of Customs of changes to registers**

The authorising body must give the Secretary of the Department and the Comptroller-General of Customs written notice of any change to the register referred to in section 18, or the State/Territory register referred to in section 19, as soon as practicable after the change is made.

## Part 4—Importation of goods

### Division 1—Introduction

#### 22 Simplified outline of this Part

An official user for a major sporting event (the *objector*) can give the Comptroller-General of Customs a notice objecting to the importation of infringing goods in relation to the event.

Generally, the Comptroller-General of Customs must seize any infringing goods imported after the objection notice is given. The Comptroller-General of Customs may decide not to seize goods if one or more objectors have not given a written undertaking, or security, to cover the Commonwealth's likely expenses if the goods were seized. The Comptroller-General of Customs may permit objectors to inspect seized goods.

The Comptroller-General of Customs must notify the designated owner if goods are seized. The designated owner may either consent to the forfeiture of the goods to the Commonwealth, or make a claim for release of the goods. If a claim is not made during the claim period, the goods are forfeited to the Commonwealth.

If a claim is made during the claim period, the Comptroller-General of Customs must notify each objector. An objector must apply for an injunction under section 45 before the end of the action period, otherwise the Comptroller-General of Customs must release the goods to the designated owner.

If an application for an injunction is made, the court may:

- (a) order the release of the goods; or
- (b) order that the goods be forfeited to the Commonwealth.

If the court orders the release of the goods, the court may also order that compensation be paid to the designated owner.

The Comptroller-General of Customs must release the goods if no order of the court is in force within 20 working days after the application is made, or at any time if each objector consents.

The Comptroller-General of Customs may also release seized goods at any time if satisfied that there are no reasonable grounds for believing that the designated owner's use of the indicia or images for commercial purposes in relation to the goods would contravene section 16 and no objector has made an application for an injunction.

However, the Comptroller-General of Customs may retain control of goods if required or allowed under any other Commonwealth law.

An official user must notify the Comptroller-General of Customs if the official user is importing goods that have any of the event's protected indicia or images applied to them.

## Division 2—Objection to importation and seizure of goods

### 23 Notice of objection to importation

- (1) An official user for a major sporting event may give the Comptroller-General of Customs a written notice objecting to the importation, after the date of the notice, of infringing goods.
- (2) Goods are *infringing goods* if a major sporting event's protected indicia or images have been applied to them, which the designated owner of the goods is not authorised by this Act to use for commercial purposes in relation to the goods.

Note: Subsection 12(3) limits when indicia or images are used for commercial purposes for the purposes of this section.
- (3) The notice must be accompanied by any fee or document prescribed by the rules.
- (4) A notice may be revoked at any time by written notice given to the Comptroller-General of Customs by the objector.
- (5) A notice ceases to be in force at the earliest of the following times:
  - (a) when the notice is revoked;
  - (b) at the end of the major sporting event's protection period;
  - (c) for a notice given by an authorised person in relation to protected indicia or images covered by the relevant authority—at the end of the period during which the person is authorised to use the protected indicia or images.

### 24 Limitation on giving notices of objection to importation

- (1) A person may only give a notice under section 23 in relation to a major sporting event's protected indicia or images if:
  - (a) the person is an event body for the event and the protected indicia or images relate to the event body; or

- (b) the person is an authorised person for the event and the protected indicia or images are covered by the relevant authorisation.

Note 1: For when protected indicia or images relate to an event body for a major sporting event, see the Schedule to this Act that covers the event.

Note 2: An event body may also be an authorised person for the event if the event body has a relevant authorisation in relation to particular protected indicia or images.

*Authorised persons require consent*

- (2) An authorised person for a major sporting event may not give a notice under section 23 in relation to protected indicia or images covered by a relevant authorisation except with the written consent of the person (the **authoriser**) who gave the authorisation.

Note: See also subsection 49(4) (consent not required in order to apply for injunction relating to conduct involving seized goods).

- (3) The authoriser is taken to have given the consent if:
- (a) the authorised person gives the authoriser a written request for the consent; and
  - (b) the authoriser neither gives nor refuses that consent before the end of the third working day following the day on which the request was given.
- (4) Consent under subsection (2) must not be unreasonably refused.

## **25 Seizure of goods by Comptroller-General of Customs**

*Comptroller-General of Customs must seize goods*

- (1) The Comptroller-General of Customs must seize goods that are subject to customs control under the *Customs Act 1901* if:
- (a) the goods were manufactured outside Australia and imported into Australia; and

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- (b) it appears to the Comptroller-General of Customs that the goods are infringing goods in relation to a major sporting event; and
- (c) there is in force under section 23 a notice of objection to importation that relates to the goods; and
- (d) the Comptroller-General of Customs does not make a decision under subsection (2) or (3) in relation to the goods.

Note: Subsection 12(3) limits when indicia or images are used for commercial purposes for the purposes of this section.

*When Comptroller-General of Customs is not required to seize goods*

- (2) The Comptroller-General of Customs may decide not to seize the goods if he or she is satisfied that there are no reasonable grounds for believing that section 16 of this Act would be contravened by the designated owner's use of the indicia or images for commercial purposes in relation to the goods.
- (3) The Comptroller-General of Customs may decide not to seize the goods if:
  - (a) the objector (or one or more of the objectors) has not given the Comptroller-General of Customs a written undertaking acceptable to the Comptroller-General of Customs to repay to the Commonwealth the expenses (the *seizure expenses*) that may be incurred by the Commonwealth if the goods were seized; or
  - (b) if the Comptroller-General of Customs has required security to be given as mentioned in subsection (4)—the objector (or one or more of the objectors) does not give the security.
- (4) The Comptroller-General of Customs may require security to be given, instead of an undertaking mentioned in paragraph (3)(a), in an amount that the Comptroller-General of Customs considers sufficient to repay the seizure expenses if:
  - (a) an amount payable under an undertaking given under paragraph (3)(a) by the objector (or one or more of the

- objectors) in relation to other goods has not been paid in accordance with that undertaking; and
- (b) the Comptroller-General of Customs considers it reasonable in all the circumstances to require the security.
- (5) An undertaking may be withdrawn or varied if the Comptroller-General of Customs consents in writing to a written request from the objector or objectors to do so.

*Seized goods must be kept securely*

- (6) Goods seized under this section must be kept in a secure place as directed by the Comptroller-General of Customs.

## **26 Notice of seizure**

- (1) As soon as practicable after goods are seized under section 25, the Comptroller-General of Customs must give the designated owner and each objector a written notice (the ***seizure notice***) identifying the goods and stating that the identified goods have been seized.
- (2) The seizure notice must state that the goods will be released to the designated owner if:
- (a) the designated owner makes a claim for the release of the goods within the claim period; and
  - (b) no objector has, by the end of the action period:
    - (i) applied for an injunction under section 45 in relation to the goods; and
    - (ii) given the Comptroller-General of Customs written notice of that application.
- (3) The seizure notice must also:
- (a) set out the claim period for the goods; and
  - (b) set out the action period for the goods and state that the action period will begin only if the designated owner makes a claim for the release of the goods; and

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- (c) if the notice is given to an objector—state the name and the address of the place of business or residence of the designated owner (if known); and
  - (d) if the notice is given to the designated owner—state the name and the address of the place of business or residence of:
    - (i) each objector; or
    - (ii) if an objector has nominated a person to be the objector’s agent or representative for the purposes of this Part—that person.
- (4) The Comptroller-General of Customs may, at any time after the goods are seized, give to an objector:
- (a) the name and the address of the place of business or residence of any person or body (whether in or outside Australia) that made arrangements, on behalf of the designated owner of the goods, for the goods to be brought to Australia or any information that the Comptroller-General of Customs has, and believes on reasonable grounds may help in identifying and locating, such a person or body; and
  - (b) any information (including personal information) that the Comptroller-General of Customs has and believes on reasonable grounds may be relevant for the purpose of identifying and locating the importer of the goods; and
  - (c) any information (including personal information) that the Comptroller-General of Customs has and believes on reasonable grounds may be relevant for the purpose of identifying and locating the designated owner of the goods.

**27 Inspection, release etc. of seized goods**

- (1) The Comptroller-General of Customs may permit an objector or the designated owner to inspect seized goods.
- (2) If an objector gives the Comptroller-General of Customs the requisite undertakings, the Comptroller-General of Customs may permit the objector to remove one or more samples of the seized goods from the custody of the Comptroller-General of Customs for inspection by the objector.



- (3) If the designated owner gives the Comptroller-General of Customs the requisite undertakings, the Comptroller-General of Customs may permit the designated owner to remove one or more samples of the seized goods from the custody of the Comptroller-General of Customs for inspection by the designated owner.
- (4) The requisite undertakings are undertakings in writing that the person giving the undertaking will:
  - (a) return the sample goods to the Comptroller-General of Customs at a specified time that is satisfactory to the Comptroller-General of Customs; and
  - (b) take reasonable care to prevent damage to the sample goods.
- (5) If the Comptroller-General of Customs permits inspection of the seized goods, or the removal of sample goods, by an objector in accordance with this section, the Commonwealth is not liable to the designated owner for any loss or damage suffered by the designated owner arising out of:
  - (a) damage to any of the seized goods incurred during that inspection; or
  - (b) anything done by the objector or any other person to, or in relation to, sample goods removed from the custody of the Comptroller-General of Customs or any use made by the objector of such sample goods.

## **Division 3—Forfeiture or release of seized goods**

### **28 Consent to forfeiture of seized goods**

Seized goods are forfeited to the Commonwealth if:

- (a) the designated owner of the goods consents to the forfeiture of the goods by written notice given to the Comptroller-General of Customs; and
- (b) no objector has applied for an injunction under section 45 in relation to the goods before the consent is given.

### **29 Claim for release of seized goods**

- (1) The designated owner may make a claim to the Comptroller-General of Customs for the release of seized goods.
- (2) The claim must be made before the end of the claim period for the goods.
- (3) The claim must:
  - (a) be in the form (if any) prescribed by the rules; and
  - (b) include the information prescribed by the rules.

Note: Sections 137.1 and 137.2 of the *Criminal Code* create offences for providing false or misleading information or documents.

### **30 Seized goods not claimed are forfeited**

- (1) Seized goods are forfeited to the Commonwealth if a claim for the release of the goods is not made within the claim period for the goods.
- (2) However, if the Comptroller-General of Customs allows a late claim for release of the goods (see section 31), the goods are taken not to have been forfeited.

### **31 Late claim for release of seized goods**

- (1) The Comptroller-General of Customs may allow the designated owner to make a claim (the *late claim*) to the Comptroller-General of Customs for the release of seized goods after the end of the claim period for the goods.
- (2) The Comptroller-General of Customs may allow the late claim only if:
  - (a) no objector has applied for an injunction under section 45 in relation to the goods; and
  - (b) the Comptroller-General of Customs considers it reasonable in the circumstances; and
  - (c) the goods have not been disposed of under section 36.
- (3) An application may be made to the Administrative Appeals Tribunal for the review of a decision of the Comptroller-General of Customs under subsection (1) refusing to allow a late claim for the release of seized goods.

### **32 Objector to be notified of claim**

- (1) If the designated owner makes a claim for the release of seized goods, the Comptroller-General of Customs must, as soon as practicable, give notice of the claim to each objector.
- (2) The notice:
  - (a) must be in writing; and
  - (b) may include any information that the Comptroller-General of Customs has, and reasonably believes may be relevant, for the purpose of identifying and locating either or both of the following:
    - (i) the importer of the goods;
    - (ii) any other person or body (whether in or outside Australia) that made arrangements for the goods to be brought to Australia.

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**33 Release of seized goods**

- (1) The Comptroller-General of Customs must release seized goods to the designated owner if:
  - (a) each objector gives written notice to the Comptroller-General of Customs stating that the objector consents to the release of the seized goods; and
  - (b) the goods have not been disposed of under section 36.
- (2) The Comptroller-General of Customs may release seized goods to the designated owner at any time if:
  - (a) the Comptroller-General of Customs, having regard to information that has come to his or her knowledge after the goods were seized, is satisfied that there are no reasonable grounds for believing that section 16 of this Act would be contravened by the designated owner's use of the protected indicia or images for commercial purposes in relation to the goods; and
  - (b) no objector has applied for an injunction under section 45 in relation to the goods.
- (3) The Comptroller-General of Customs must release seized goods to the designated owner if:
  - (a) the designated owner has made a claim for the release of the goods; and
  - (b) no objector has, by the end of the action period:
    - (i) applied for an injunction under section 45 in relation to the goods; and
    - (ii) given the Comptroller-General of Customs written notice of that application.
- (4) The Comptroller-General of Customs must release seized goods to the designated owner if:
  - (a) the designated owner has made a claim for the release of the goods; and
  - (b) an objector has applied for an injunction under section 45 in relation to the goods; and

- (c) at the end of a period of 20 working days commencing on the day the application was made, there is not in force an order of the court to which the application was made preventing the release of the goods.

Note: Section 37 (power of Comptroller-General of Customs to retain control of goods) provides an exception to the rules in this section.

### **34 Forfeiture or release of seized goods—by court following application for injunction**

- (1) If an objector in relation to seized goods applies for an injunction under section 45, the court may:
- (a) at any time, if it thinks it just, order that the seized goods be released to the designated owner subject to such conditions (if any) as the court thinks fit; or
  - (b) order that the seized goods be forfeited to the Commonwealth.
- (2) The court may order the objector to pay compensation to the designated owner or any other respondent if:
- (a) the court decides that the injunction should not be granted; and
  - (b) the designated owner or the respondent satisfies the court that he or she has suffered loss or damage because the goods were seized.
- (3) The amount of compensation determined by the court must compensate the owner or respondent for any part of the loss or damage that is attributable to any period beginning on or after the day on which the application was made.
- (4) If the court orders that the goods be released, the Comptroller-General of Customs must comply with the order.

Note: Section 37 (power of Comptroller-General of Customs to retain control of goods) provides an exception to the rule in this subsection.

- (5) In hearing the application, the court:

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- (a) may allow another person to join the application as a respondent if:
    - (i) the person applies to be joined; and
    - (ii) the person has sufficient interest in the subject-matter of the application; and
  - (b) must allow the Comptroller-General of Customs to appear and be heard.
- (6) Subsection (1) applies in addition to any relief that the court may grant apart from this section.

**35 Goods released but not collected are forfeited**

Seized goods are forfeited to the Commonwealth if:

- (a) the goods are released by the Comptroller-General of Customs to the designated owner; and
- (b) the designated owner does not take possession of the goods within 90 days of the release.

**36 Disposal of goods forfeited to the Commonwealth**

- (1) Seized goods forfeited to the Commonwealth must be disposed of:
- (a) in the manner prescribed by the rules; or
  - (b) if no manner of disposal is prescribed—as the Comptroller-General of Customs directs.

Note: Section 37 (power of Comptroller-General of Customs to retain control of goods) provides an exception to the rule in this subsection.

- (2) However, goods forfeited under section 30 must not be disposed of until 30 days after their forfeiture.

Note: If the Comptroller-General of Customs allows a late claim under section 31 for goods that have been forfeited under section 30, the goods are taken not to have been forfeited.

- (3) Subsection (1) does not require the disposal of goods that are required in relation to an application made, or an action brought, under Part 5.

*Right of compensation in certain circumstances*

- (4) Despite the forfeiture of seized goods to the Commonwealth, a person may apply to a relevant court under this section for compensation for the disposal of the goods.
- (5) A right to compensation exists if:
  - (a) the use by the person of the protected indicia or images applied to the goods for commercial purposes would not have contravened section 16; and
  - (b) the person establishes, to the satisfaction of the court:
    - (i) that he or she was the owner of the goods immediately before they were forfeited; and
    - (ii) that there were circumstances providing a reasonable excuse for the failure to make a claim for the release of the goods.
- (6) If a right to compensation exists under subsection (4), the court must order the payment by the Commonwealth to the person of an amount equal to the market value of the goods at the time of their disposal.

**37 Power of Comptroller-General of Customs to retain control of goods**

Despite this Part, the Comptroller-General of Customs:

- (a) must not release, or dispose of, any seized goods; and
- (b) must not take any action in relation to the goods to give effect to any order of a court under section 34;

if the Comptroller-General of Customs is required or allowed to retain control of the goods under any other law of the Commonwealth.

## Division 4—Miscellaneous

### 38 Failure to comply with undertaking etc.

- (1) If an amount payable under an undertaking in relation to goods covered by a notice given under section 23 is not paid in accordance with the undertaking, the Comptroller-General of Customs may decide not to seize goods covered by the notice until the amount owing is paid.
- (2) An amount not paid under an undertaking:
  - (a) is a debt due by the objector, or by the objectors jointly or each of them separately, to the Commonwealth; and
  - (b) may be recovered by an action taken in a relevant court.
- (3) If the amount paid under an undertaking in relation to goods covered by a notice given under section 23 is in accordance with the undertaking but is not sufficient to meet the expenses incurred by the Commonwealth as a result of the action taken by the Comptroller-General of Customs under this Part because of the notice, the amount of the difference between those expenses and the amount paid:
  - (a) is a debt due by the objector, or by the objectors jointly or each of them separately, to the Commonwealth; and
  - (b) may be recovered by an action taken in a relevant court.

### 39 Insufficient security

- (1) This section applies if the security given by an objector or objectors as required under subsection 25(4) is not sufficient to meet the expenses incurred by the Commonwealth as a result of the action taken by the Comptroller-General of Customs under this Part because of the notice given by the objector or objectors.
- (2) The amount of the difference between those expenses and the amount of security given:



- (a) is a debt due by the objector, or by the objectors jointly and severally, to the Commonwealth; and
- (b) may be recovered by action in a relevant court.

#### **40 Commonwealth not liable for loss etc. suffered because of seizure**

The Commonwealth is not liable for any loss or damage suffered by a person:

- (a) because the Comptroller-General of Customs seized, or failed to seize, goods under this Part; or
- (b) because of the release or disposal of any seized goods.

#### **41 Determinations about owners of goods**

An officer of Customs (within the meaning of subsection 4(1) of the *Customs Act 1901*) may determine that a person is the owner of goods for the purposes of paragraph (b) of the definition of **designated owner** in section 9 of this Act if the person is an owner (within the meaning of subsection 4(1) of the *Customs Act 1901*) of the goods.

#### **42 Notice to Comptroller-General of Customs of imports by official users**

- (1) If:
  - (a) goods are to be imported by or for an official user for a major sporting event during the event's protection period; and
  - (b) any of the event's protected indicia or images have been applied to the goods;the official user must give the Comptroller-General of Customs a written notice specifying the indicia or images so applied.
- (2) The notice must set out particulars sufficient to enable the Comptroller-General of Customs to identify the goods.

**43 Modification in relation to Norfolk Island etc.**

The rules may provide for the modification or adaptation of this Part in its application to any or all of the following:

- (a) Norfolk Island;
- (b) the Territory of Christmas Island;
- (c) the Territory of Cocos (Keeling) Islands.

## Part 5—Remedies

### 44 Simplified outline of this Part

If section 16 is contravened in relation to a major sporting event, official users have the following remedies:

- (a) injunctions;
- (b) damages or an account of profits.

An authorised person may only seek a remedy with the consent of the person who gave the relevant authorisation.

The authorising body for the event may apply for an order requiring a person to publish a corrective advertisement.

Generally, the remedies under this Part are in addition to remedies available under other Commonwealth, State and Territory laws. However, if an official user has brought an action for damages or an account of profits under certain State or Territory laws, the official user may be prevented from bringing or continuing such an action under this Act.

### 45 Injunctions

- (1) If a person has engaged, is engaging, or is proposing to engage, in conduct that contravenes section 16, a relevant court may grant an injunction restraining the person from engaging in the conduct.
- (2) The power of the court to grant an injunction may be exercised:
  - (a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
  - (b) whether or not the person has previously engaged in conduct of that kind.

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- (3) An injunction under this section may only be granted on the application of an official user for the major sporting event concerned.
- (4) An official user for a major sporting event may only apply for an injunction under this section in relation to the event's protected indicia or images if:
  - (a) the official user is an event body for the event and the protected indicia or images relate to the event body; or
  - (b) the official user is an authorised person for the event and the protected indicia or images are covered by the relevant authorisation.

Note 1: For when protected indicia or images relate to an event body for a major sporting event, see the Schedule to this Act that covers the event.

Note 2: An event body may also be an authorised person for the event if the event body has a relevant authorisation in relation to particular protected indicia or images.

- (5) The court may discharge or vary an injunction granted under this section.
- (6) The powers conferred on the court by this section are in addition to, and not in derogation of, any other powers of the court, whether conferred by this Act or otherwise.
- (7) For the purposes of subsection (4), if an indicium so closely resembles the protected indicium referred to in that subsection that a reasonable person is likely to mistake it for that protected indicium, the indicium is taken to be the protected indicium.

#### 46 Interim injunctions

- (1) A relevant court may grant an interim injunction pending the determination of an application under section 45.
- (2) For the purposes of subsection (1) of this section, a contravention of section 16 is to be taken to have caused immediate and irreparable damage to the applicant.

**47 Corrective advertisements**

- (1) The authorising body for a major sporting event may, during the event's protection period, apply to a relevant court for an order requiring a person to publish a corrective advertisement at the person's expense.
- (2) The court may make the order if the court is satisfied that the person has engaged in conduct contravening section 16 in relation to the event.
- (3) The order must:
  - (a) specify the means (including a broadcast) by which the person must publish the advertisement; and
  - (b) specify the times at which the advertisement must be published.
- (4) The terms of the advertisement must either:
  - (a) be specified in the order; or
  - (b) be determined in accordance with the order.
- (5) This section does not limit the generality of section 45 (injunctions) and applies whether or not relief is granted under that section.

**48 Damages or accounts of profits**

- (1) If an official user for a major sporting event suffers loss or damage as a result of anything done by a person that contravenes section 16 in relation to the event, the official user may bring an action in a relevant court against the person.

Note: See also subsections (6), (7) and (8).
- (2) The relief that the court may grant in an action under this section is, at the option of the official user, either damages or an account of profits.
- (3) The action must be brought within 3 years after the day on which the contravention occurred.

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- (4) A request under section 49 for consent to the bringing of an action under this section must be given before the end of the protection period for the event.
- (5) This section applies whether or not relief is granted under section 45 (injunctions).
- (6) However, an official user for a major sporting event may not bring an action against a person under this section in relation to the use of the event's protected indicia or images if the official user has already brought an action against the person in relation to that use under a provision of a law of a State or Territory that is:
  - (a) specified in the Schedule to this Act that covers the event; or
  - (b) prescribed by the rules in relation to the event.
- (7) An official user for a major sporting event may not continue an action against a person under this section in relation to the use of protected indicia or images if the official user brings an action against the person in relation to that use under a provision specified or prescribed as referred to in subsection (6).
- (8) If the court grants an official user damages or an account of profits under this section in relation to the use of a major sporting event's protected indicia or images by a person, the official user may not bring an action against the person under a provision specified or prescribed as referred to in subsection (6).

**49 Consent for authorised persons to pursue remedies**

- (1) An authorised person for a major sporting event may not do either of the following in relation to protected indicia or images covered by the relevant authorisation except with the written consent of the person (the *authoriser*) who gave the authorisation:
  - (a) make an application for an injunction under section 45;
  - (b) bring an action for damages or for an account of profits under section 48.
- (2) The authoriser is taken to have given the consent if:

- (a) the authorised person gives the authoriser a written request for the consent; and
  - (b) the authoriser neither gives nor refuses that consent before the end of the third business day following the day on which the request was given.
- (3) Consent under subsection (1) must not be unreasonably refused.
- (4) Paragraph (1)(a) does not apply if the authorised person is an objector in relation to seized goods and the injunction relates to conduct involving those goods.

### **50 Remedies under this Part are additional**

- (1) The remedies provided under this Part are in addition to remedies provided by any law (whether a law of the Commonwealth or a law of a State or Territory) that confers any rights or powers on an official user for a major sporting event in relation to conduct of a kind that contravenes section 16 of this Act.

Note: For other rules about the relationship between this Act and other laws, see subsection 16(5) and sections 54 and 55.

- (2) Without limiting subsection (1), the remedies provided under this Part are in addition to the remedies provided by the Australian Consumer Law in relation to engaging in conduct that is misleading or deceptive (see section 18 of the Australian Consumer Law) and, in particular, in relation to representations:
- (a) that goods or services have sponsorship or approval that they do not have (see paragraph 29(1)(g) of the Australian Consumer Law); or
  - (b) that a person has a sponsorship, approval or affiliation that the person does not have (see paragraph 29(1)(h) of the Australian Consumer Law).
- (3) The references in subsection (2) to particular provisions of the Australian Consumer Law do not imply that other provisions of the Australian Consumer Law do not apply in relation to conduct of a kind that contravenes section 16 of this Act.

**Part 5 Remedies**

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- (4) This section applies subject to subsections 48(6) and (7) (limitation on bringing or continuing actions).



## Part 6—Groundless threats

### 51 Simplified outline of this Part

If an official user makes a groundless threat to make an application or bring an action under this Act, any person aggrieved may bring an action in a relevant court seeking a declaration or injunction, or damages for loss that the person has suffered as a result of the threat.

A person may not bring or continue such an action if the official user has made an application, or brought an action, under Part 5 against the threatened person in relation to the act, or proposed act, to which the threat related.

It is a defence for an official user that the conduct of the threatened person, in relation to which the threat was made, contravenes section 16.

An official user may make a counterclaim for any relief to which the official user would be entitled under Part 5.

### 52 Groundless threats of legal proceedings

- (1) If an official user threatens to make an application, or bring an action, under this Act against a person (the *threatened person*) on the ground that the threatened person has engaged, is engaging, or is proposing to engage in conduct that contravenes section 16, any person aggrieved by the threat may bring an action in a relevant court against the official user.
- (2) Neither of the following alone constitute a threat to make an application, or bring an action, for the purposes of subsection (1):
  - (a) a notification that a visual or aural representation is a protected image for a major sporting event;

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- (b) a notification that an indicium is a protected indicium for a major sporting event.

*Remedies*

- (3) In an action under this section, the court may:
  - (a) make a declaration that the official user had no grounds for making the threat; and
  - (b) grant an injunction restraining the official user from continuing to make the threat; and
  - (c) award damages for loss that the person aggrieved has suffered as a result of the making of the threat.

*Limitation on bringing or continuing action under this section*

- (4) An action may not be brought under this section if the official user has made an application, or brought an action, under Part 5 against the threatened person in relation to the act, or proposed act, to which the threat related.
- (5) An action under this section may not be continued if the official user makes an application, or brings an action, under Part 5 against the threatened person in relation to the act, or proposed act, to which the threat related.

*Defence—conduct of threatened person contravenes section 16*

- (6) It is a defence to an action under this section that the conduct of the threatened person, in relation to which the threat was made, contravenes section 16.

*Counterclaim*

- (7) If the official user would be entitled to make an application, or bring an action, against the threatened person for contravening section 16, the official user may, in an action under this section, make a counterclaim for any relief to which the official user would be entitled under Part 5.

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- (8) Parts 4 and 5 apply as if a counterclaim were an application or action made or brought by the official user under Part 5.

*Protection—lawyer acting on behalf of client*

- (9) This section does not make a barrister or solicitor of the High Court, or of the Supreme Court of a State or Territory, liable to an action for an act done in a professional capacity on behalf of a client.

## Part 7—Miscellaneous

### 53 Simplified outline of this Part

This Part provides for a number of miscellaneous matters, such as:

- (a) interaction between this Act and other Commonwealth, State and Territory laws; and
- (b) a constitutional safety net in relation to any acquisition of property otherwise than on just terms, and any constitutional doctrine of implied freedom of political communication; and
- (c) the making of rules by the Minister.

### 54 Copyright, design and trade mark rights not affected

Nothing in this Act is intended to affect the operation of the following Acts:

- (a) the *Copyright Act 1968*;
- (b) the *Designs Act 2003*;
- (c) the *Trade Marks Act 1995*;

or to affect any rights conferred, or liabilities imposed, by or under those Acts.

### 55 Concurrent operation of State and Territory laws

- (1) It is the intention of the Parliament that this Act is not to apply to the exclusion of a law of a State or Territory to the extent that the law is capable of operating concurrently with this Act.
- (2) Without limiting subsection (1), this Part is not intended to exclude or limit the concurrent operation of a law of a State or Territory that does any one or more of the following:
  - (a) prohibits conduct that would contravene section 16 of this Act;

- (b) prohibits the use of an expression or image in relation to a major sporting event for purposes or in circumstances where that use is not authorised by subsection 16(2) or (3) of this Act;
  - (c) prohibits the use of different expressions or images in relation to a major sporting event to the expressions or images that constitute the event's protected indicia or images under this Act.
- (3) Subsection (2) applies even if the law of the State or Territory does any or all of the following:
- (a) provides that a person whose conduct contravenes a prohibition in that law against the use of an expression or image in relation to a major sporting event is liable to an offence against that law, or another liability that is not provided for under this Act;
  - (b) provides different remedies to enforce a prohibition in that law against the use of an expression or image in relation to a major sporting event to those provided under this Act;
  - (c) requires different details to be included on a register that is required to be established under that law in relation to authorisations to use particular expressions or images to the details that are required to be included on a register established under this Act.

## **56 Constitutional safety net—acquisition of property**

This Act does not apply to the extent (if any) to which:

- (a) the operation of this Act would result in the acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph); and
- (b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution.

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**57 Implied freedom of political communication**

This Act does not apply to the extent (if any) that it would infringe any constitutional doctrine of implied freedom of political communication.

**58 Rules**

The Minister may, by legislative instrument, make rules prescribing matters:

- (a) required or permitted by this Act to be prescribed by the rules; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## **Schedule 1—Asian Football Confederation Asian Cup 2015**

Note: See section 9.

### **1 AFC Asian Cup 2015 is a major sporting event**

(1) The event known as the Asian Football Confederation Asian Cup 2015 is a major sporting event covered by this Schedule.

(2) In this Schedule:

*AFC Asian Cup 2015* means the event mentioned in subclause (1).

### **2 Authorising body for AFC Asian Cup 2015**

The body known as the Asian Football Confederation is the authorising body for the AFC Asian Cup 2015.

### **3 Event bodies for AFC Asian Cup 2015**

The following are event bodies for the AFC Asian Cup 2015:

- (a) the authorising body;
- (b) Local Organising Committee AFC Asian Cup 2015 Australia (ACN 15 777 1330);
- (c) the body known as Football Federation Australia.

### **4 Protected indicia for AFC Asian Cup 2015**

(1) The following are protected indicia for the AFC Asian Cup 2015:

- (a) any of the following:
  - (i) AC2015;
  - (ii) AFC Asian Cup;
  - (iii) AFC Asian Cup 2015 Qualifiers;

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- (iv) AFC Asian Cup Australia 2015;
  - (v) AFC Asian Football Confederation;
  - (vi) Asian Cup;
  - (vii) Asian Cup 2015;
  - (viii) Asian Cup Australia 2015;
  - (ix) Local Organising Committee AFC Asian Cup Australia 2015;
- (b) any combination of a Table A expression (see subclause (2)) with a Table B expression (see subclause (3));
- (c) any expression, or any combination of one or more expressions, that is prescribed by the rules.
- (2) For the purposes of paragraph (1)(b), the Table A expressions for the AFC Asian Cup 2015 are set out in the following table:

<b>Table A expressions</b>	
<b>Item</b>	<b>Expressions</b>
1	AC2015
2	AFC Asian Cup
3	AFC Asian Cup Australia
4	Asian Cup
5	Asian Football Confederation
6	Asian Football Cup
7	Asian Soccer Cup

- (3) For the purposes of paragraph (1)(b), the Table B expressions for the AFC Asian Cup 2015 are set out in the following table:

<b>Table B expressions</b>	
<b>Item</b>	<b>Expressions</b>
1	2015
2	agent



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<b>Table B expressions</b>	
<b>Item</b>	<b>Expressions</b>
3	broadcaster
4	caterer
5	champions
6	championship
7	city
8	commercial
9	country
10	event
11	Fanzone
12	finalists
13	football
14	goal scorer
15	hospitality
16	host
17	hotel
18	licensed
19	licensee
20	local
21	merchandise
22	most valuable player
23	MVP
24	official
25	partner
26	product
27	qualifier
28	retail
29	shop
30	soccer
31	sponsor

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<b>Table B expressions</b>	
<b>Item</b>	<b>Expressions</b>
32	store
33	supplier
34	supporter
35	Team of the Tournament
36	ticketing
37	training site
38	travel
39	trophy
40	venue

**5 When protected indicia and images relate to an event body for the AFC Asian Cup 2015**

- (1) Protected indicia and images for the AFC Asian Cup 2015 *relate* to the authorising body, except as prescribed by the rules.
- (2) Protected indicia or images *relate* to any other event body for the AFC Asian Cup 2015 as prescribed by the rules.

**6 Protection period for AFC Asian Cup 2015**

The protection period for the AFC Asian Cup 2015 is the period:

- (a) starting at the commencement of this clause; and
- (b) ending on:
  - (i) 30 June 2015; or
  - (ii) an earlier day prescribed by the rules.

## **Schedule 2—Cricket World Cup 2015**

Note: See section 9.

### **1 Cricket World Cup 2015 is a major sporting event**

The event known as the Cricket World Cup 2015 is a major sporting event covered by this Schedule.

### **2 Authorising body for Cricket World Cup 2015**

ICC Development (International) Ltd (ABN 45 840 543 432) is the authorising body for the Cricket World Cup 2015.

### **3 Event bodies for Cricket World Cup 2015**

The following are event bodies for the Cricket World Cup 2015:

- (a) the authorising body;
- (b) the body known as the International Cricket Council;
- (c) Cricket World Cup 2015 Ltd (ACN 16 267 2675);
- (d) the body known as Cricket Australia.

### **4 Protected indicia for Cricket World Cup 2015**

- (1) The following are protected indicia for the Cricket World Cup 2015:
  - (a) any of the following:
    - (i) Cricket World Champions;
    - (ii) Cricket World Cup;
    - (iii) Cricket World Cup 2015;
    - (iv) Cricket World Cup Champions;
    - (v) Cricket World Tournament;
    - (vi) Cricket World Tournament Sponsor;
    - (vii) Cricket World Trophy;

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- (viii) CWC;
  - (ix) CWC2015;
  - (x) ICC Cricket World Cup;
  - (xi) International Cricket Council;
  - (b) any combination of a Table A expression (see subclause (2)) with a Table B expression (see subclause (3));
  - (c) any expression, or any combination of one or more expressions, that is prescribed by the rules.
- (2) For the purposes of paragraph (1)(b), the Table A expressions for the Cricket World Cup 2015 are set out in the following table:

<b>Table A expressions</b>	
<b>Item</b>	<b>Expressions</b>
1	Cricket World Cup
2	CWC
3	ICC
4	ICC Cricket World Cup
5	ICC Cricket World Cup event
6	ICC World Cup
7	International Cricket Council
8	World Cup Cricket

- (3) For the purposes of paragraph (1)(b), the Table B expressions for the Cricket World Cup 2015 are set out in the following table:

<b>Table B expressions</b>	
<b>Item</b>	<b>Expressions</b>
1	2015
2	agent
3	broadcast
4	broadcaster

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<b>Table B expressions</b>	
<b>Item</b>	<b>Expressions</b>
5	caterer
6	champion
7	city
8	commercial
9	Fanzone
10	finalist
11	finalists
12	hospitality
13	host
14	licensed
15	licensee
16	merchandise
17	merchandiser
18	nation
19	official
20	partner
21	product
22	qualifier
23	retail
24	sponsor
25	store
26	supplier
27	ticket
28	ticketing
29	travel
30	trophy
31	venue

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**5 When protected indicia and images relate to an event body for the Cricket World Cup 2015**

- (1) Protected indicia and images for the Cricket World Cup 2015 *relate* to the authorising body, except as prescribed by the rules.
- (2) Protected indicia or images *relate* to any other event body for the Cricket World Cup 2015 as prescribed by the rules.

**6 Protection period for Cricket World Cup 2015**

The protection period for the Cricket World Cup 2015 is the period:

- (a) starting at the commencement of this clause; and
- (b) ending on:
  - (i) 31 March 2016; or
  - (ii) an earlier day prescribed by the rules.

## **Schedule 3—Gold Coast 2018 Commonwealth Games**

Note: See section 9.

### **1 Gold Coast 2018 Commonwealth Games is a major sporting event**

The event known as the Gold Coast 2018 Commonwealth Games is a major sporting event covered by this Schedule.

### **2 Authorising body for Gold Coast 2018 Commonwealth Games**

The Gold Coast 2018 Commonwealth Games Corporation (ABN 47 959 083 668) is the authorising body for the Gold Coast 2018 Commonwealth Games.

### **3 Event bodies for Gold Coast 2018 Commonwealth Games**

The following are event bodies for the Gold Coast 2018 Commonwealth Games:

- (a) the authorising body;
- (b) the body known as the Commonwealth Games Federation;
- (c) the Australian Commonwealth Games Association (ABN 55 165 736 898).

### **4 Protected indicia for Gold Coast 2018 Commonwealth Games**

- (1) The following are protected indicia for the Gold Coast 2018 Commonwealth Games:
  - (a) any of the following:
    - (i) Australian Commonwealth Games;
    - (ii) Australian Commonwealth Games Association;
    - (iii) Coast 2018 Games;
    - (iv) Commonwealth Games;

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- (v) Commonwealth Games Federation;
- (vi) GC18;
- (vii) GC2018;
- (viii) Gold Coast 2018 Commonwealth Games;
- (ix) Gold Coast 2018 Games;
- (x) Gold Coast Commonwealth Games;
- (xi) GOLDOC;
- (xii) Queen's Baton Relay;
- (b) any combination of an expression set out in an item in List A of the table in subclause (2) with an expression set out in that item in List B;
- (c) any expression, or any combination of one or more expressions, that is prescribed by the rules.

(2) For the purposes of paragraph (1)(b), the table is as follows:

<b>Combinations of expressions</b>		
<b>Item</b>	<b>List A</b>	<b>List B</b>
1	21st 2018	Comm Games Commonwealth Games
2	Commonwealth Games Commonwealth Games athlete	Bronze Gold Silver
3	Australian Commonwealth Games team	GC2018 Gold Coast Gold Coast 2018
4	Australian Commonwealth Games team Commonwealth Games	Celebrating 2018 Coast Games Delivering 2018 Embracing 2018 Gold Coast 2018 Arts and Community Festival Program Gold Coast 2018 Cultural Program



**Combinations of expressions**

<b>Item</b>	<b>List A</b>	<b>List B</b>
		Gold Coast Games
		partner
		provider
		sponsor
		supplier
		venue

**5 When protected indicia relate to an event body for the Gold Coast 2018 Commonwealth Games**

- (1) All protected indicia for the Gold Coast 2018 Commonwealth Games *relate* to the Gold Coast 2018 Commonwealth Games Corporation, except as provided by or under subclause (2), (3) or (4).
- (2) The indicium “Australian Commonwealth Games Association” *relates* to the body known as the Australian Commonwealth Games Association.
- (3) The indicium “Commonwealth Games Federation” *relates* to the body known as the Commonwealth Games Federation.
- (4) An indicium prescribed by the rules under paragraph 4(1)(c) of this Schedule *relates* to an event body for the Gold Coast 2018 Commonwealth Games as prescribed by the rules.

**6 When protected images relate to an event body for the Gold Coast 2018 Commonwealth Games**

- (1) All protected images for the Gold Coast 2018 Commonwealth Games *relate* to the Gold Coast 2018 Commonwealth Games Corporation, except as provided by subclause (2) or (3).

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- (2) An ACGA image (within the meaning of the *Commonwealth Games Arrangements Act 2011* (Qld)) **relates** to the body known as the Australian Commonwealth Games Association.
- (3) A CGF image (within the meaning of the *Commonwealth Games Arrangements Act 2011* (Qld)) **relates** to the body known as the Commonwealth Games Federation.

**7 Protection period for Gold Coast 2018 Commonwealth Games**

The protection period for the Gold Coast 2018 Commonwealth Games is the period:

- (a) starting at the commencement of this clause; and
- (b) ending on:
  - (i) 31 December 2018; or
  - (ii) an earlier day prescribed by the rules.

**8 Avoiding inconsistency between this Act and the *Commonwealth Games Arrangements Act 2011* (Qld)**

For paragraph 16(5)(a) of this Act, sections 51 to 56 of the *Commonwealth Games Arrangements Act 2011* (Qld) are specified in relation to the Gold Coast 2018 Commonwealth Games.

**9 Applying register provisions of the *Commonwealth Games Arrangements Act 2011* (Qld)**

For paragraph 19(1)(a) of this Act, section 57 (Register of authorities) of the *Commonwealth Games Arrangements Act 2011* (Qld) is specified in relation to the Gold Coast 2018 Commonwealth Games.

Note: The effect of this clause is that the Gold Coast 2018 Commonwealth Games Corporation is not required to keep a separate register under section 18 of this Act.

**10 Limitation for actions for damages or account of profits**

For paragraph 48(6)(a) of this Act, sections 62 (Damages) and 63 (Account of profits) of the *Commonwealth Games Arrangements Act 2011* (Qld) are specified in relation to the Gold Coast 2018 Commonwealth Games.

## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

**Endnote 2—Abbreviation key**

A = Act	o = order(s)
ad = added or inserted	Ord = Ordinance
am = amended	orig = original
amdt = amendment	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
c = clause(s)	pres = present
C[x] = Compilation No. x	prev = previous
Ch = Chapter(s)	(prev...) = previously
def = definition(s)	Pt = Part(s)
Dict = Dictionary	r = regulation(s)/rule(s)
disallowed = disallowed by Parliament	Reg = Regulation/Regulations
Div = Division(s)	reloc = relocated
exp = expires/expired or ceases/ceased to have effect	renum = renumbered
F = Federal Register of Legislative Instruments	rep = repealed
gaz = gazette	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)/subsection(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
(md) = misdescribed amendment can be given effect	Sdiv = Subdivision(s)
(md not incorp) = misdescribed amendment cannot be given effect	SLI = Select Legislative Instrument
mod = modified/modification	SR = Statutory Rules
No. = Number(s)	Sub-Ch = Sub-Chapter(s)
	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

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#### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Major Sporting Events (Indicia and Images) Protection Act 2014	29, 2014	27 May 2014	s 3–58 and Sch 1–3: 1 July 2014 (s 2(1) items 2, 3) Remainder: 27 May 2014 (s 2(1) item 1)	
Customs and Other Legislation Amendment (Australian Border Force) Act 2015	41, 2015	20 May 2015	Sch 5 (items 93, 94), Sch 6 (items 91–128) and Sch 9: 1 July 2015 (s 2(1) items 2, 7)	Sch 6 (item 128), Sch 9

**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
s 4 .....	am No 41, 2015
<b>Part 2</b>	
s 9 .....	am No 41, 2015
s 12 .....	am No 41, 2015
<b>Part 3</b>	
<b>Division 1</b>	
s 15 .....	am No 41, 2015
<b>Division 3</b>	
s 21 .....	am No 41, 2015
<b>Part 4</b>	
<b>Division 1</b>	
s 22 .....	am No 41, 2015
<b>Division 2</b>	
s 23 .....	am No 41, 2015
s 25 .....	am No 41, 2015
s 26 .....	am No 41, 2015
s 27 .....	am No 41, 2015
<b>Division 3</b>	
s 28 .....	am No 41, 2015
s 29 .....	am No 41, 2015
s 30 .....	am No 41, 2015
s 31 .....	am No 41, 2015
s 32 .....	am No 41, 2015
s 33 .....	am No 41, 2015
s 34 .....	am No 41, 2015
s 35 .....	am No 41, 2015
s 36 .....	am No 41, 2015
s 37 .....	am No 41, 2015

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
<b>Division 4</b>	
s 38 .....	am No 41, 2015
s 39 .....	am No 41, 2015
s 40 .....	am No 41, 2015
s 41 .....	am No 41, 2015
s 42 .....	am No 41, 2015

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