

Commonwealth Games Arrangements (ACGA Image and Reference) Amendment Regulation 2016

Explanatory notes for SL 2016 No. 239

made under the

Commonwealth Games Arrangements Act 2011

General Outline

Short title

Commonwealth Games Arrangements (ACGA Image and Reference) Amendment Regulation 2016

Authorising law

Section 80 of the *Commonwealth Games Arrangements Act 2011*

Policy objectives and the reasons for them

The *Commonwealth Games Arrangements Act 2011* (the Act) protects the Gold Coast 2018 Commonwealth Games (GC2018) brand. The Act prohibits the unauthorised use of certain images and references for commercial or promotional purposes, and prohibits conduct falsely inferring an association with GC2018.

The *Commonwealth Games Arrangements Regulation 2013* (the Regulation) brings a number of Games references and images under the protection of the Act. They require the enhanced remedies provided in the Act to enable speedy and cost-effective enforcement, particularly close to and during the Games when timeframes involved under existing Australian intellectual property laws will not be sufficient.

The *Commonwealth Games Arrangements (ACGA Image and Reference) Amendment Regulation 2016* (the Amendment Regulation) amends the Regulation to protect the new Australian Commonwealth Games Association (ACGA) brand “Commonwealth Games Australia” for GC2018.

Australian Commonwealth Games Association

The Australian Commonwealth Games Association (ACGA) is responsible for Commonwealth Games operations, publicity and development in Australia. The ACGA specifically provides and organises funding, clothing, travel, accommodation and accreditation of athletes and officials to each Commonwealth Games.

ACGA references and expressions are already protected under the Act and the official ACGA logo is protected under the Regulation.

ACGA recently launched a new brand name, “Commonwealth Games Australia”, and logo as part of the official commencement of its GC2018 campaign. As a result, the ACGA logo currently prescribed under the Regulation needs to be omitted and the new logo substituted in its place. Furthermore, ACGA’s new brand name will need to be prescribed under the Regulation as an ACGA reference to provide it with the protections under the Act against unauthorised use.

An agency-assessed Regulatory Impact Analysis (RIA) was undertaken under *The Queensland Government Guide to Better Regulation (August 2016)*. It was concluded that the *Commonwealth Games Arrangements (ACGA Image and Reference) Amendment Regulation 2016* (the amendment regulation) is machinery in nature under category (g) of the agency-assessed exclusion categories and therefore warrants no further assessment under the RIA system.

Achievement of policy objectives

The policy objective will be achieved by omitting the current ACGA image from Schedule 1 of the Regulation and inserting the replacement image in its place, and inserting a new Schedule into the Regulation to prescribe “Commonwealth Games Australia” as an ACGA reference.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the authorising law, as described above.

Inconsistency with policy objectives of other legislation

There is no inconsistency with the policy objectives of other legislation.

Benefits and costs of implementation

The costs of implementing the amendment regulation are negligible.

Consistency with fundamental legislative principles

The amendment regulation is consistent with fundamental legislative principles under the *Legislative Standards Act 1992*.

The Amendment Regulation strengthens existing frameworks to protect ACGA's new brand name and image for GC2018. Commonwealth Games Australia will be protected by existing Australian intellectual property law, so the Amendment Regulation does not prohibit anything for which there is not already a legal remedy for intellectual property breaches.

As previously noted, ACGA references and expressions are already protected under the Act and the official ACGA logo is protected under the Regulation. Omitting the old ACGA logo and protecting the new brand Commonwealth Games Australia aligns with the original intent of protecting the ACGA's brand for GC2018.

By protecting ACGA's new brand name and image, the amendment regulation will provide streamlined remedies for enforcement of relevant intellectual property rights. The rationale for doing so is the large number of breaches that occur around major sporting events such as the Commonwealth Games, and the need to make timely enforcement realistically achievable for Games organisers and Intellectual Property rights holders.

Consultation

Consultation occurred with the Gold Coast 2018 Commonwealth Games Corporation (GOLDOC) and ACGA.

GOLDOC and ACGA support the amendment regulation.