



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
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A Guide to the Major Events Management Act 2007

This Guide provides general information and guidance on the Major Events Management Act 2007 (the MEMA) and is intended to provide an overview of the purpose of the MEMA. In particular, the Guide provides clarity on how to avoid breaching the MEMA through the unauthorised use of the major events emblems and words, which would suggest an official association with the event that does not exist.



**NEW ZEALAND
MAJOR EVENTS**



Contents



What is the Major Events Management Act 2007	3		
What is a Major Event?	3		
Creating an association with a Major Event	4		
Protected Emblems and Words	4		
Exemptions from the prohibition on unauthorised association	4		
Benefiting from a Major Event	5		
Sponsorship	5		
Service Provider	5		
Product Licence	5		
General Economic Benefits	5		
Practical Examples of the MEMA in Use	6		
General Advertising	6		
Fundraising	7		
Editorial Use	8		
Match Schedules	9		
Bars and Restaurants	10		
		Tours and Accommodation	11
		Websites	12
		Merchandise	13
		Shop Displays and Window Dressing	14
		Clean Zones and Clean Transport Routes	15
		Exemptions from the prohibition on advertising	16
		Practical Examples of the Clean Zone and Clean Transport Route Rules in Use	17
		Established Business Signage and Street Trading	18
		Branded Vehicles and Clothing	19
		Promotional Flyers and Giveaways	20
		Placement of Advertising on Buildings	21
		Advertising along Clean Transport Routes	22
		Ticket Sales and Scalping	23
		Contact Information	24

What is the Major Events Management Act 2007



In order to secure hosting rights to global sporting or international events, countries must be able to demonstrate their ability to run an event efficiently and without disruption, and to protect the rights of the official sponsors. These capabilities are critical to the successful delivery of major events.

To ensure that New Zealand can fulfil these requirements, the New Zealand Government passed the Major Events Management Act 2007 (the MEMA).

The MEMA protects the rights of event organisers and official sponsors to benefit from their investment in the major event. It does this by preventing parties that are not official sponsors from advertising, or otherwise promoting their goods or services, in a manner that suggests they are official sponsors or somehow associated with the major event. This has some important implications for the New Zealand business community, particularly around the use of protected emblems and words.

New Zealanders and New Zealand businesses have many opportunities to be part of major event celebrations. However, they need to be mindful of the MEMA and what it means for business activities (such as advertising and promotions) that may create an association with the major event.

What is a Major Event?

An event can be declared a 'major event' by the Governor-General if it meets certain criteria within the MEMA:

- attracts a large number of international participants or spectators and therefore generates significant tourism opportunities for New Zealand
- significantly raises New Zealand's international profile
- requires a high level of professional management and co-ordination
- attracts significant sponsorship and international media coverage
- attracts large numbers of New Zealanders as participants or spectators
- offers substantial sporting, cultural, social, economic, or other benefits for New Zealand or New Zealanders.

The Government must be satisfied that the event will take place, at least in part, in New Zealand, and that the event organiser has the capacity and intention to successfully and professionally stage and manage the event. As an example, the following have been declared a 'major event' under the MEMA:

- FIFA Under-17 Women's World Cup 2008
- FIBA Under-19 World Championship 2009
- World Rowing Championships 2010
- Under-19 Cricket World Cup 2010
- Rugby World Cup 2011
- Triathlon World Cup 2011 Series Event and Triathlon World Championship Grand Final 2012
- Volvo Ocean Race Auckland Stopover 2010
- IRB Junior World Championship 2014
- ICC Cricket World Cup 2015
- FIFA Under-20 World Cup New Zealand 2015

When an event is declared a 'major event', the legal protections offered by the MEMA prevent unauthorised commercial exploitation by prohibiting the following unauthorised commercial associations:

- representations that suggest individuals, businesses, brands, goods or services have an association with the major event when they do not
- advertising and promotional activity (including in declared clean zones or transport routes (if any)) that intrudes on the major event activities and/or the attention of the associated audience
- activities that might compromise the smooth running of the major event such as ticket scalping and pitch invasion.

Creating an Association with a Major Event

The MEMA gives the event organiser of the 'major event' the exclusive right to grant its official sponsors and licensees permission to create an association with their event.

Whether or not an association with a major event has been made will depend on the overall suggestion created by the particular advertisement or other representation. Importantly, the MEMA prohibits suggesting an association with the event regardless of the precise words or emblems used to suggest that association. It, therefore, should not be assumed that a representation is 'safe' simply because a protected emblem or word is not used. For example, if an entity were to reproduce the event match schedule and brand it with its company logo, an association with the event is likely to be suggested even if the match schedule did not use the event name or any of the other protected words or emblems.

The question to be asked in each case is:

"Would this particular representation suggest to a reasonable person an association with the 'major event'?"

Protected Emblems and Words

A major event's emblems and words can be declared 'major event emblems and words' under the MEMA. As a general rule, only the event organiser or sponsor can use, or authorise the use of, protected emblems and words (and confusingly similar variations of those emblems and words) for advertising or promotions, or in connection with goods or services.

A list of specific emblems and words that have been declared 'major event emblems and words' will be contained within the specific Event Order that can be found at www.legislation.govt.nz.

Exemptions from the prohibition on unauthorised association

There are five instances where the restrictions within the MEMA do not apply:

1. Where a representation has the written authorisation of the event.
2. Where a representation is of personal opinion and is made for no commercial gain.
3. Where a protected major event emblem or word makes up part, or all, of the proper name of:
 - a town, road, or place in New Zealand
 - the legal or trade name of the person making the representation (unless used to defeat the intention of the MEMA)
 - or is an existing registered trade mark.
4. Where a representation is necessary to indicate the intended purpose of a good or service, or is made by an existing organisation that is continuing to carry out its ordinary activities. This must be in accordance with honest practices in industrial or commercial matters.

5. Where a representation is made for the purposes of reporting news, information, criticism, or a review in a newspaper, magazine, or by means of television, radio, film, or the Internet.

These exemptions do not, however, extend to situations where a representation suggests to a reasonable person that there is an association between news, information, criticism, or a review about the event and goods and services, brands of goods and services, or a person who provides goods and services.

Benefiting from a Major Event

Individuals and organisations do not necessarily need to be an official sponsor of a major event in order to benefit from it. There are many different ways to get involved in a major event, from becoming an official sponsor to benefiting from the tourism activity that the event will bring. Businesses can benefit from a major event in many ways without using protected emblems and words or by suggesting an association with the event when no such association exists.

Examples of benefits and opportunities that exist in relation to a major event are given below:

Sponsorship

Large scale major events will often have multi-tier sponsorship packages available. If you are interested in sponsoring a major event, contact the event organiser.

Service Provider

The infrastructure required to stage a major event is vast and varied, and may include upgrading permanent stadia, venues and transport networks, and setting up and servicing temporary facilities such as hospitality areas and fan zones.

Product Licence

Product licensing rights are generally available to purchase in relation to the production of official products. If you are interested in holding a product licence for a major event, contact the event organiser.

General Economic Benefits

- Increased retail sales from increased tourism
- Increased trade from the higher national profile
- Increased productivity from the increased stock of infrastructure

Practical Examples of the MEMA in Use



The following sections contain examples of legitimate representations that are permitted under the MEMA. It also contains some examples that create an unauthorised association with the event, which the MEMA prohibits. As it is not possible to address every situation in this Guide, these examples are intended to provide general guidance only. If you have any concerns about the application of the MEMA in a particular situation, please seek legal advice.



Please note:

The logo and words 'Sports World Cup 2020' shown to the left have been created by the Ministry of Business, Innovation & Employment solely for the purposes of this document and to assist with describing the effects of the MEMA. They relate to a fictitious event and any resemblance to a real event is purely coincidental. The logo and words should not be used outside this document.

General Advertising



A magazine advertisement that uses general terms and/or images which are not declared 'major event emblems' or 'major event words', and which does not suggest an association with the Sports World Cup is not in breach of the MEMA.



However, a magazine advertisement that uses the protected words (provided in the Event Order) may be in breach of the MEMA. Generally speaking, these words can only be used with the written authorisation of the event organiser.

Fundraising



The MEMA prohibits the Sports World Cup tickets being offered as prizes in fundraising activities, competitions, and other promotional activities without the authorisation of the event organiser.



The same rules also apply to scratch-and-win games, or any other form of lottery that creates an unauthorised association with the Sports World Cup.

Editorial Use



The MEMA does not limit or prevent legitimate editorial use of protected emblems and words. This means, for example, that newspapers or radio bulletins may use images and protected words for the purposes of reporting the news.

However, the MEMA does prohibit 'advertorials' – where advertisements are presented in the manner of editorials, but suggest a commercial relationship between the Sports World Cup and a business or individual that is not authorised to use a protected emblem or word. Advertorials are treated in the same manner as general advertising.

Match Schedules



Match schedules are popular items that are regularly produced in conjunction with major events. The event organiser will generally permit the use of match schedules for non-commercial information purposes, provided that they are not presented or distributed in a way that creates an unauthorised association with the event organiser.



Match schedules that are not 'advertorial' and simply list match times and locations will comply with the MEMA. This example is permitted under the MEMA as it doesn't create an association between a business and the Sports World Cup.



This example, however, would be in breach of the MEMA because the branding of the schedule creates an association between the business ('Company Name') and the Sports World Cup.



Bars and Restaurants



The MEMA does not prevent bars or restaurants from alerting the public that an event will be televised in their premises at a certain time, provided that an unauthorised association with the Sports World Cup is not created.



Bars and restaurants may fall foul of the MEMA, however, if they create the suggestion that they are associated with the Sports World Cup when they are not. This may result from using words like 'presented by' and branding in connection with advertising or promotional materials.



This applies even when words like 'unofficial' are used in the manner of a disclaimer.



Tours and Accommodation

The sale of official event travel and hospitality packages often happens in conjunction with a major event. Opportunities can sometimes exist for New Zealand households to rent out their houses, bach/crib and apartments to visiting fans coming to New Zealand for a major event. However, people need to be mindful when advertising accommodation, tours, or sightseeing packages that they do not use protected major event words or emblems or suggest an unauthorised association with the major event.



In order to avoid confusion with an official programme, advertisements must not use any of the protected emblems or words. The example above is advertising generic tours in New Zealand and would be permitted under the MEMA.

On the other hand, the two examples above would not be acceptable as they include the protected words and/or a protected emblem.

Websites



Care should be taken when selecting and registering internet domain names for websites, as the same set of rules apply as for other forms of advertising. Websites offering accommodation, for example, must not use protected emblems or words in the domain name.

Similarly, website content must not use protected emblems or words, unless that content falls under one of the exemptions listed (page 4) - such as for reporting of news and information about the event.

Merchandise



Many major events operate an official licensing programme, and licences can often be issued to New Zealand businesses by the event organiser on application. These licences cover many different categories, from apparel to stamps. Businesses which do not have a licence to produce official event merchandise cannot produce anything that contains protected emblems or words.



Merchandise that does not use any protected event emblems or words and does not create an association with the Sports World Cup will not breach the MEMA.

However, merchandise that uses protected emblems or words will breach the MEMA.

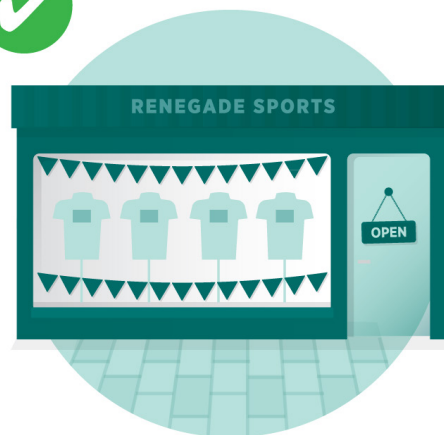
Shop Displays and Window Dressing



Businesses are able to show their support for a major event by dressing their shop frontage.



A window display that does not use protected emblems or words, and does not otherwise create a suggestion of an association with the event, will be permitted under the MEMA.



One safe option for most businesses is the use of official "flags of the nations" bunting that is sometimes developed.



Care must be taken not to create an unauthorised association, particularly through the use of protected emblems or words.

Clean Zones and Clean Transport Routes



To assist in preventing ambush marketing during the 'major event', 'clean zones' and 'clean transport routes' which will operate during 'clean periods' can be declared under the MEMA.

Clean zones may consist of the major event venues, and 'high risk' areas around each venue where fans are likely to be concentrated before and after the event. Clean transport routes may consist of motorways, state highways, and railway lines, up to five kilometres from the clean zone boundaries.

These clean zones and clean transport routes only apply during declared clean periods, which in most cases will be on event day/s and the day before. The precise clean periods in force for each clean zone and clean transport route can be found in the specific Event Order that can be found at www.legislation.govt.nz.

During a clean period, unauthorised advertising – unless it is by an existing business honestly carrying out its ordinary activities – is prohibited within the clean zone, anywhere clearly visible from within the clean zone (including advertising placed on private property such as a house or commercial building), and along the clean transport route.

This prohibition also covers the unauthorised distribution of pamphlets, flyers, or free giveaways within the clean zone, even if they do not mention or otherwise suggest an association with the major event.

Signage bearing advertising (or that are in other ways clearly related to a product, service, brand, or commercial organisation) are not allowed to be parked in, placed, or driven through,

clean zones, clean transport routes, or areas where they are visible to people within clean areas, unless honestly going about their ordinary activities. The advertising prohibition also covers blimps, sky writing, and aircraft towing signs, as well as branded clothing being worn by a group of people in a co-ordinated effort to draw attention to a product, brand, or service.

In addition to the restrictions on advertising, street trading within clean zones is prohibited during clean periods unless conducted by event licensees. This prohibition extends to existing businesses such as bars and restaurants planning to use temporary facilities on a footpath or other public space to cater for extra patronage in a way that departs from their usual practice. It also applies to buskers or hawkers who usually trade when sporting events are taking place.

The clean zone and clean transport route provisions apply in addition to the general rules preventing non-sponsors from suggesting they have an association with the major event.

Existing local authority bylaws, district plan rules, and legislation such as the Resource Management Act 1991, continue to apply, and may prohibit or restrict street trading and similar activities. It should therefore not be assumed that an activity is 'safe' simply because it is taking place outside a clean zone or a clean transport route.

If you are planning promotional or trading activities to coincide with a major event, and which will take place close to the venue, you should seek advice from your local council or your lawyer.

Exemptions from the prohibition on advertising

There are six exceptions to the restrictions on advertising along clean transport routes and within, or visible from, clean zones:

1. **Where advertising has the written authorisation of the event organiser.**
2. **Where advertising is done by an existing organisation continuing to carry out its ordinary activities.**

This must be in accordance with honest practices in industrial or commercial matters.

This 'business as usual' principle will allow businesses within the clean zones to continue to operate as usual using their existing business signage, even if ordinarily they sell products that compete with one of the official sponsors. However, businesses within the clean zone that sell or promote different products or services than they would usually offer on any other day (e.g. a car yard selling clothing) in anticipation of demand from fans do not fall within the 'business as usual' exception.

3. **Where advertising is on clothing or another personal item being worn, carried, or used by a member of the public.**

This exemption does not apply if the advertising is worn, carried or used in co-ordination with other people with the intention of drawing attention to that advertising.

4. **Where advertising is in a newspaper or magazine, or on a television, radio, or electronic device, for personal use.**

This exemption does not apply if the advertising is used with the intention of intruding on the major event activity or the attention of fans.

5. **Where advertising is on a train, boat, or vehicle carrying out its ordinary activities in its usual manner.**

Deliberately branded trains, boats or vehicles which deliberately travel through, or park in, clean zones (or in areas clearly visible from them) or clean transport routes with the intention of attracting attention will generally not fall within the 'business as usual' exception.

6. **Where advertising is on an aircraft used for a genuine emergency.**

Practical Examples of the Clean Zone and Clean Transport Route Rules in Use

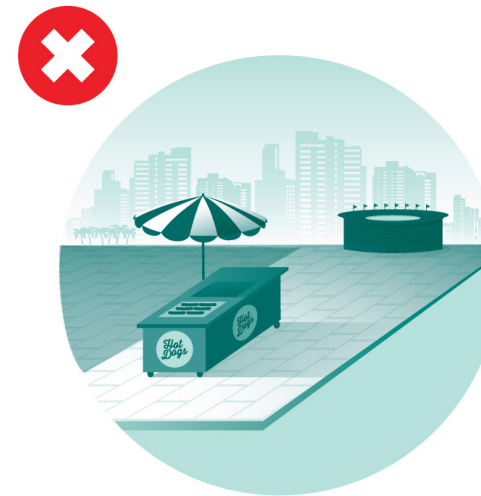


This section contains examples of legitimate activities that are permitted under the MEMA. It also contains some examples that are prohibited by the clean zone and clean transport route provisions of the MEMA. As it is not possible to address every situation in this Guide, these examples are intended to provide general guidance only. If you have any concerns about the application of the MEMA in a particular situation, please seek legal advice.

Established Business Signage and Street Trading



Clean zone and clean transport route requirements will not impact on existing businesses continuing to carry out their ordinary activities on their usual premises, even if ordinarily they sell products that compete with one of the official sponsors (as long as no attempt is made to suggest an association with the event). Established, permanent signage that honestly promotes the business will therefore not need to be removed or obscured while the clean zone or clean transport route provisions are in effect.



Street trading within clean zones is prohibited unless conducted by event licensees.

Branded Vehicles and Clothing



Branded vehicles, boats or trains which deliberately travel through, or park in, clean zones (or in areas clearly visible from them) or along clean transport routes with the intention of attracting attention are prohibited by the MEMA.



The MEMA does not restrict fans from wearing branded apparel, or from carrying or using personal items that contain advertising material...



unless conducted in coordination with other people with the intention that the advertising attracts attention.

Promotional Flyers and Giveaways



The unauthorised distribution of promotional material, including pamphlets, flyers, and free giveaways, is prohibited within clean zones, along clean transport routes, and in areas clearly visible from within clean zones, even if the material does not mention or otherwise suggest an association with the event.



Even if free giveaways (drinks, flags, items of clothing etc) are being handed out outside of the clean zone, fans may not be allowed to take them into the event.

Placement of Advertising on Buildings



Unauthorised advertising is prohibited within clean zones and in places where it can clearly be seen within clean zones, if it is not part of an existing business' usual signage.



Property owners accepting money or other consideration for the placement of third party advertisements should be aware that action under the MEMA can be taken against anyone paid for the placement or location of unauthorised advertising or other promotional activity, as well as against those who pay for, commission or authorise the advertising.



This includes advertising placed on private property, whether the property is a house, a commercial building, or any other space.

Advertising along Clean Transport Routes



Unauthorised advertising is prohibited along clean transport routes if it is not part of an existing business's usual signage. The clean transport routes consist of both the relevant motorways, state highways, and railway lines themselves, and the grass verges and similar areas that immediately adjoin them.



Ticket Sales and Scalping



The appointment of Official Travel Agents and Official Hospitality Agents (or similar) by the event organiser are the only entities officially entitled to provide packages of tickets combined with travel or hospitality. Supporters obtaining packages from unofficial sources should be aware that they run the risk of having their tickets cancelled, being refused entry or being evicted from a venue.



Under the MEMA, reselling or trading a ticket for a value greater than its original sale price (either in person or online) is an offence, punishable by a fine of up to \$5,000. Supporters obtaining tickets from unofficial sources run the risk of having those tickets cancelled, being refused entry or being evicted from a venue.

Further information on the Major Events Management Act 2007

Free copies of the Major Events Management Act 2007 and its associated orders are available online at www.legislation.govt.nz

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Please check www.med.govt.nz/majorevents for the latest version of this Guide.

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