

South Australia

Major Events Act 2013

An Act to facilitate the holding and conduct of major events in South Australia; and for other purposes.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Major Events Act 2013*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Objects

The objects of this Act are as follows:

- (a) to attract, support and facilitate the holding and conduct of major events in the State, in particular, events that are anticipated to be of a large scale with a significant number of participants or spectators (whether of a sporting, cultural or other nature);
- (b) to increase the benefits flowing from major events to the people of the State;
- (c) to promote the safety and enjoyment of participants and spectators at major events;
- (d) to prevent unauthorised commercial exploitation of major events, including ambush marketing, at the expense of event organisers and sponsors.

4—Interpretation

- (1) In this Act, unless the contrary intention appears—

advertising controlled airspace—see section 7(3);

ambush marketing—see section 6;

controlled area—see section 7(3);

event organiser for a major event means a person designated in the regulations as the organiser for the event;

major event means an event declared by the regulations to be a major event;

major event period, in relation to a major event, means the period specified in the regulations for which the declaration of the major event is in force;

major event venue—see section 5;

official insignia means an official logo, official symbol or official title;

official logo means a logo that is declared to be an official logo under Part 3 Division 4;

official symbol means a combination of an official logo and an official title;

official title means a name, title or expression that is declared to be an official title under Part 3 Division 4;

prescribed article—see section 7(3);

public place means—

- (a) a place that—
 - (i) the public is entitled to use; or
 - (ii) is open to members of the public; or
 - (iii) is used by the public,whether or not on payment of money; or
- (b) a place that the occupier allows members of the public to enter, whether or not on payment of money;

road has the same meaning as in the *Road Traffic Act 1961*;

road-related area has the same meaning as in the *Road Traffic Act 1961*;

sales control period—see section 7(3).

- (2) For the purposes of this Act, goods will be taken to be marked with official insignia if such insignia are affixed or annexed to, marked on, or incorporated in or with—
 - (a) the goods; or
 - (b) any covering or container in which the goods are wholly or partly enclosed; or
 - (c) anything placed in or attached to any such covering or container; or
 - (d) anything that is attached to the goods or around which the goods are wrapped or wound.

5—Meaning of major event venue

For the purposes of this Act, a **major event venue** is—

- (a) any of the following that has been declared to be a major event venue by the regulations:
 - (i) a venue or facility used for the conduct of a major event (including ancillary, service or related areas used in connection with such a venue or facility);
 - (ii) a media centre or other communications facility for the media for a major event;
 - (iii) physical infrastructure associated with a major event; and
- (b) a public place, or any part of a public place, that is within 50 metres of a major event venue, being a public place, or part of a public place, specified in the regulations for the purposes of this paragraph; and

- (c) any other place prescribed by the regulations for the purposes of this definition,

but is only such a venue during the relevant major event period.

6—Meaning of ambush marketing

For the purposes of this Act, the following marketing activities constitute *ambush marketing*:

- (a) taking advantage of the holding and conduct of a major event to promote a person, goods or services without the written approval of the event organiser;
- (b) any other activity that would suggest to a reasonable person that a person, goods or services have a sponsorship, approval or affiliation with—
 - (i) a major event; or
 - (ii) the event organiser of a major event; or
 - (iii) any event or activity associated with a major event,without the written approval of the event organiser.

Part 2—Regulations declaring major events

7—Regulations declaring major events

- (1) The Governor may make such regulations as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
 - (a) declare an event to be a major event; and
 - (b) specify the major event period for the event; and
 - (c) declare a major event venue for the purposes of the event; and
 - (d) designate a person as the event organiser for the event; and
 - (e) require the event organiser to prepare a major event plan in connection with the event; and
 - (f) provide for the admission, exclusion or expulsion of members of the public to or from the major event venue or a part of the major event venue; and
 - (g) prohibit or regulate eating, drinking (including liquor), smoking or the consumption of unlawful substances at the major event venue or a part of the major event venue; and
 - (h) close specified roads to traffic for a specified period—
 - (i) for the purposes of the event; and
 - (ii) for the purposes of maintaining good order, or preventing interference with events or activities conducted, at the major event venue; and
 - (i) prohibit or regulate the driving, parking or standing of vehicles at the major event venue; and

- (j) fix fees and provide for the payment, recovery, refund, waiver or reduction of such fees; and
 - (k) prescribe penalties not exceeding \$1 250 for breach of any regulation.
- (3) Without limiting the generality of the previous subsections, regulations declaring an event to be a major event may—
 - (a) declare that Part 3, or a provision of Part 3, applies to any (or all) of the following:
 - (i) the event;
 - (ii) the major event venue declared for the event;
 - (iii) a specified controlled area declared for the event; and
 - (b) declare an area shown on a map in the regulations to be a *controlled area* for the event; and
 - (c) declare an article of a prescribed class to be a *prescribed article* in relation to the event; and
 - (d) declare a prescribed period to be a *sales control period* in relation to the event; and
 - (e) declare airspace that is within unaided sight of a major event venue for the event to be *advertising controlled airspace* for the period prescribed by the regulations for the purposes of this paragraph.
- (4) A controlled area declared for a major event may include—
 - (a) a road or road-related area; and
 - (b) a bridge, footpath or other thoroughfare; and
 - (c) any other public place, or part of any other public place,within the vicinity of a major event venue for the event.
- (5) Before a regulation is made declaring an event to be a major event, the Minister must consult with any council in whose area the event is to be held or whose area will be directly affected by the holding of the event.
- (6) Without limiting subsection (2)(b), a major event period may include a period to set up or prepare for the major event and to pack up or clean up after the event and to replace, restore or remove any infrastructure or equipment.
- (7) The regulations may—
 - (a) be of general or limited application; and
 - (b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and
 - (c) provide that any matter or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister or another prescribed person or authority.

- (8) In proceedings for an offence against a regulation dealing with the driving, parking or standing of vehicles—
- (a) an allegation in a complaint that a person named in the complaint was the owner of a specified vehicle on a specified day will be taken to be proved in the absence of proof to the contrary; and
 - (b) if it is proved that a vehicle was parked in contravention of a regulation, it will be presumed, in the absence of proof to the contrary, that the vehicle was so parked by the owner of the vehicle.
- (9) A regulation under this section may have effect despite the provisions of any other Act.
- (10) In this section—
council has the same meaning as in the *Local Government Act 1999*.

Part 3—Commercial activities, broadcasting and airspace controls

Division 1—Regulation of certain commercial activities

8—Sale and distribution of prescribed articles

- (1) A person must not, without the written approval of the event organiser for a major event, during the sales control period for the event, sell or distribute, in a controlled area for the event, a prescribed article.
- Maximum penalty:
- (a) in the case of a body corporate—\$25 000;
 - (b) in the case of a natural person—\$5 000.
- (2) Subsection (1) places an evidential burden on the accused to show that the accused had the approval of the event organiser.
- (3) An authorised person may give a direction to a person who sells or distributes a prescribed article during the sales control period in a controlled area without the approval of the event organiser to remove the article, and any other prescribed articles within the person’s possession or under the person’s control, from the area immediately or by such other time as may be directed.
- (4) A person must not fail or refuse to comply with a direction given to the person under subsection (3).
- Maximum penalty: \$5 000.
- (5) If a person fails or refuses to comply with a direction given under subsection (3) for the removal of a prescribed article, the authorised person may seize the article.
- (6) In this section—
authorised person, in relation to a major event, means—
- (a) the event organiser; or
 - (b) a person authorised in writing by the event organiser to exercise powers under this section.

9—Ticket scalping

- (1) A person must not, without the written approval of the event organiser for a major event to which this section is declared to apply—
 - (a) in a controlled area for the event—sell or offer for sale a ticket for admission to the event; or
 - (b) in any other case, sell or offer for sale a ticket for admission to the event at a price which exceeds the original ticket price by more than 10%.

Maximum penalty:

- (a) in the case of a body corporate—\$25 000;
 - (b) in the case of a natural person—\$5 000.
- (2) Subsection (1) places an evidential burden on the accused to show that the accused had the approval of the event organiser.
- (3) In this section—

original ticket price, in relation to a ticket for admission to an event, means the price for which the ticket was purchased when first offered for retail sale by or on behalf of the event organiser (and includes, if a booking fee or other commission was payable to the ticket seller in relation to that sale, the amount of that fee or commission).

10—Ambush marketing

- (1) A person must not participate in ambush marketing in relation to a major event to which this section is declared to apply.

Maximum penalty:

 - (a) in the case of a body corporate—\$250 000;
 - (b) in the case of a natural person—\$50 000.
- (2) Subsection (1) places an evidential burden on the accused to show that the accused had the written approval of the event organiser.
- (3) An authorised person may give a direction to a person who participates in ambush marketing in relation to a major event to which this section is declared to apply to do, or to cease doing, anything related to the ambush marketing, immediately or by such other time as may be directed.
- (4) A person must not fail or refuse to comply with a direction given to the person under subsection (3).

Maximum penalty:

- (a) in the case of a body corporate—\$250 000;
 - (b) in the case of a natural person—\$50 000.
- (5) An authorised person may give a direction to a person who participates in ambush marketing in relation to a major event to which this section is declared to apply, to remove from the controlled area for the event, or obscure, any item or goods being used in relation to the ambush marketing within the person's possession or under the person's control, immediately or by such other time as may be directed.

- (6) A person must not fail or refuse to comply with a direction given to the person under subsection (5).

Maximum penalty: \$5 000.

- (7) If a person fails or refuses to comply with a direction given under subsection (5) for the removal of an item or goods used in relation to ambush marketing, the authorised person may seize the item or goods.

- (8) In this section—

authorised person, in relation to a major event, means—

- (a) the event organiser; or
- (b) a person authorised in writing by the event organiser to exercise powers under this section.

Division 2—Regulation of broadcasting

11—Unauthorised broadcasting

- (1) A person must not, without the written approval of the event organiser for a major event to which this section is declared to apply—
- (a) broadcast, telecast or transmit by any means whatsoever any sound or moving image of the event or any part of the event at or from a place within or outside the event venue; or
 - (b) make any sound recording or any visual record of moving images of the event or any part of the event for profit or gain, or for a purpose that includes profit or gain, at or from a place within or outside the event venue.

Maximum penalty:

- (a) in the case of a body corporate—\$250 000;
 - (b) in the case of a natural person—\$50 000.
- (2) Subsection (1) does not apply to the use of a personal mobile electronic device to transmit or record any sound or image within limits of what would be generally accepted in the community as normal incidents of social interaction.
- (3) Subsection (1) places an evidential burden on the accused to show that the accused had the approval of the event organiser.

Division 3—Control of airspace

12—Control of airspace

- (1) A person must not, during a major event to which this section is declared to apply and in the course of State air navigation, cause an aircraft to enter, or operate an aircraft within, controlled airspace or a restricted area that is over a major event venue unless permitted to do so by or under relevant Commonwealth law (including permission by or under an instrument given under such a law).

Maximum penalty:

- (a) in the case of a body corporate—\$500 000;
- (b) in the case of a natural person—\$100 000.

- (2) The provisions of this section prevail to the extent of any inconsistency between this section and the provisions of the Commonwealth Air Navigation Regulations (as applied to and in relation to State air navigation by the *Air Navigation Act 1937*).
- (3) This section does not apply to the operation of—
 - (a) a military aircraft, or an aircraft of South Australia Police, when being operated for military, security or emergency purposes; or
 - (b) an aircraft when being operated exclusively for emergency purposes relating to human life or safety, or the protection of property.

- (4) In this section—

CASA means the Civil Aviation Safety Authority established by the *Civil Aviation Act 1988* of the Commonwealth;

Commonwealth Air Navigation Regulations means the *Air Navigation Regulations 1947* of the Commonwealth;

Commonwealth Airspace Regulations means the *Airspace Regulations 2007* of the Commonwealth;

controlled airspace means airspace that CASA has determined under the Commonwealth Airspace Regulations to be a control area or control zone;

restricted area means airspace that CASA has declared under the Commonwealth Airspace Regulations to be a restricted area;

State air navigation means air navigation within South Australia to and in relation to which the Commonwealth Air Navigation Regulations are applied as if they were State law by section 5 of the *Air Navigation Act 1937*.

13—Prohibition of certain aerial advertising

- (1) A person must not, without the written approval of the event organiser for a major event, display an advertisement, or cause an advertisement to be displayed, in airspace that has been declared to be advertising controlled airspace in respect of the event during the prescribed period.

Maximum penalty:

- (a) in the case of a body corporate—\$500 000;
 - (b) in the case of a natural person—\$100 000.
- (2) Subsection (1) places an evidential burden on the accused to show that the accused had the approval of the event organiser.
- (3) For the purposes of this section—

advertisement includes advertising by any of the following methods:

- (a) skywriting or signwriting by an aircraft;
- (b) a banner, or other sign, towed by or attached to an aircraft;
- (c) matter displayed on an aircraft, other than its normal markings and livery;
- (d) matter displayed on a hang glider, parachute, paraglider or similar device, other than its normal markings, or on a banner or sign attached to a hang glider, parachute, paraglider or similar device;

- (e) a banner, or other sign, attached to a person suspended from a hang glider, parachute, paraglider or similar device;

aircraft includes an airship or a balloon.

Division 4—Use of official logos and official titles

14—Minister may declare official logo or official title

- (1) The Minister may, in respect of a major event to which this Division is declared to apply, by notice in the Gazette, make either or both of the following declarations:
 - (a) that specified logos are official logos in respect of the event;
 - (b) that specified titles are official titles in respect of the event.
- (2) Before making a declaration under subsection (1), the Minister must be satisfied that—
 - (a) the logos or titles are sufficiently connected to the identity and conduct of the major event; and
 - (b) the event has commercial arrangements that are likely to be adversely affected by unauthorised use of logos or titles.
- (3) The Minister may require the event organiser of a major event to which this Division is declared to apply to publish a notice in a newspaper circulating generally in South Australia of the making of a declaration by the Minister under this section.
- (4) A notice required to be published under subsection (3) must be in the form and include the information determined by the Minister.

15—Event organiser may authorise use of official logo or official title

For the purposes of this Division, the event organiser of a major event to which this Division is declared to apply may, by notice in writing, authorise a person to use an official logo or official title in respect of that event.

16—Minister may authorise non-commercial use of official logo or official title

- (1) For the purposes of this Division, the Minister may, after consulting with the event organiser for a major event to which this Division is declared to apply, by notice in writing, authorise a person to use for non-commercial use an official logo or official title in respect of the event.
- (2) The Minister must cause the event organiser of the major event in respect of which the Minister has given an authority under subsection (1) to be given notice of the authorisation.

17—Contents of authorisation

- (1) An authorisation under section 15 or 16 is subject to any terms and conditions to which the event organiser or Minister (as the case may be) thinks are reasonable to impose, including (but not limited to) any of the following:
 - (a) the duration of the authorisation;
 - (b) whether the authorisation applies generally or in specified circumstances;

- (c) whether the authorisation authorises the use of all official logos or official titles, or specified kinds of official logos or official titles, in relation to the major event to which the authorisation relates.
- (2) An authorisation under section 15 or 16 expires at the earlier of—
- (a) the expiration date specified in the authorisation; or
 - (b) if no date is specified—12 months after the end of the major event to which the authorisation relates.

18—Register of authorisations

- (1) An event organiser of a major event to which this Division is declared to apply must—
- (a) maintain a register of authorisations given under this Division; and
 - (b) record in the register of authorisations—
 - (i) each authorisation by the event organiser under section 15; and
 - (ii) each authorisation by the Minister under section 16 of which the event organiser has been notified under that section; and
 - (c) make the register available for inspection by members of the public free of charge during ordinary office hours.
- (2) The register of authorisations must include—
- (a) the name of any person authorised by the event organiser under section 15 or the Minister under section 16 to use official logos or official titles in relation to the event; and
 - (b) the date of the authorisation and the period of its duration.
- (3) The Minister may determine that the register of authorisations can be inspected at a website determined by the Minister.

19—Use of official logos and official titles that does not require authorisation

- (1) The following persons may use official logos and official titles without the authorisation of the event organiser of a major event to which this Division is declared to apply:
- (a) the event organiser;
 - (b) a person who has been authorised in writing by the Minister to use official logos or official titles under this Division.
- (2) Subject to this section, any person may use official logos or official titles without authorisation under this Division in the following circumstances:
- (a) if the use is incidental to—
 - (i) the provision of information, including the reporting of news and the presentation of current affairs; or
 - (ii) the purposes of criticism and review, including criticism or review in a newspaper, magazine or similar periodical, a broadcast or a film;
 - (b) if the use is for—
 - (i) the purposes of professional advice; or

- (ii) research or study purposes; or
 - (iii) educational purposes.
- (3) A person referred to in subsection (2) is not authorised to use an official logo or official title if the use—
 - (a) is for promotional, marketing or commercial purposes; or
 - (b) suggests a sponsorship-like arrangement.
- (4) If—
 - (a) goods apparently intended for a commercial purpose are marked with official insignia; and
 - (b) an authorised person suspects on reasonable grounds that the use of the insignia has not been authorised under this Division,the authorised person may seize those goods.

20—Offence to use without authorisation official logos or official titles

- (1) A person must not use—
 - (a) official logos or official titles in relation to a major event to which this Division is declared to apply; or
 - (b) any thing that is substantially identical to or deceptively similar to official logos or official titles in relation to an event to which this Division is declared to apply,if the use—
 - (c) is for commercial purposes; or
 - (d) is for promotional, advertising or marketing purposes, whether or not for commercial gain; or
 - (e) would suggest a sponsorship-like arrangement to a reasonable person.Maximum penalty:
 - (a) in the case of a body corporate—\$250 000;
 - (b) in the case of a natural person—\$50 000.
- (2) Subsection (1) does not apply to—
 - (a) any use of official logos or official titles that has been authorised under section 15 by the event organiser for that major event; or
 - (b) any use of official logos or official titles that has been authorised under section 16 by the Minister in respect of that major event; or
 - (c) any use of official logos or official titles in accordance with section 19; or
 - (d) any use of official logos or official titles or any other logos or titles that is otherwise authorised by or under this Act or any other law.
- (3) If—
 - (a) goods apparently intended for a commercial purpose are marked with official insignia; and

- (b) an authorised person suspects on reasonable grounds that the use of the insignia has not been authorised under this Division,
the authorised person may seize those goods.
- (4) In this section—
authorised person, in relation to a major event, means—
 - (a) the event organiser; or
 - (b) a person authorised in writing by the event organiser to exercise powers under this section.

Part 4—Miscellaneous

21—Entry to and exit from major event venue

- (1) A person must not enter a major event venue unless the person pays the entrance fee (if any) or has the consent of the occupier of the venue or the event organiser to enter.
Maximum penalty: \$750.
Expiation fee: \$105.
- (2) Subsection (1) places an evidential burden on the accused to show that the accused had the consent of the occupier or event organiser (as the case may be).
- (3) If the occupier of a major event venue designates points of entrance to and exit from the venue, a person must not, without reasonable excuse—
 - (a) enter the venue other than through a designated point of entrance; or
 - (b) leave the venue other than through a designated point of exit.Maximum penalty: \$750.
Expiation fee: \$105.
- (4) Subsection (3) places an evidential burden on the accused to show reasonable excuse.

22—Possession of flares and explosive devices at major event venue

- (1) A person must not, while in a major event venue, carry or be in possession of a flare or a firework or other explosive device unless authorised by the occupier of the venue or the event organiser.
Maximum penalty: \$5 000 or imprisonment for 1 year.
- (2) Subsection (1) places an evidential burden on the accused to show that the accused was authorised by the occupier or event organiser (as the case may be).

23—Obstruction or interference at major event

A person must not, while in a major event venue, obstruct or interfere with the conduct of the major event or the reasonable enjoyment of the major event by a member of the public present at the major event venue.
Maximum penalty: \$5 000 or imprisonment for 1 year.

24—Entering restricted areas at major event venue

- (1) A person must not enter into or onto—
 - (a) an area within a major event venue while the major event is occurring or on a day scheduled for its occurrence unless the person—
 - (i) is officially involved in the event or in the preparation for the event; or
 - (ii) has the consent of the occupier of the venue or the event organiser to enter the area; or
 - (b) any other area within a major event venue to which access is restricted by the occupier of the venue or the event organiser unless the person has the consent of the occupier of the venue or the event organiser.

Maximum penalty: \$750.

Expiation fee: \$105.

- (2) Subsection (1) places an evidential burden on the accused to show that the accused had the consent of the occupier or event organiser (as the case may be).

25—Power to remove persons from major event venue

- (1) A police officer may enter a major event venue and—
 - (a) order any person who is behaving in a disorderly or offensive manner to leave the venue; or
 - (b) order a person who the officer reasonably suspects of having committed an offence at the venue to leave the venue; or
 - (c) use reasonable force to remove a person from the venue who is behaving in a disorderly or offensive manner or who the officer reasonably suspects of having committed an offence at the venue.
- (2) A police officer may enter a major event venue and—
 - (a) order a person who the officer reasonably suspects of having breached a condition of entry of the venue to leave the venue; and
 - (b) use reasonable force to remove a person from the venue who the officer reasonably suspects of having breached a condition of entry of the venue.
- (3) A person—
 - (a) who remains in a major event venue after having been ordered to leave under this section; or
 - (b) who re-enters, or attempts to re-enter, a major event venue within 24 hours of having left or having been removed from such venue pursuant to this section,

is guilty of an offence.

Maximum penalty: \$2 500 or imprisonment for 6 months.

- (4) A police officer may only exercise a power under subsection (2) if the condition of entry—
 - (a) is reasonably required for regulating the conduct of persons at the major event venue; and

- (b) has been promulgated in a reasonably prominent way by the occupier of the venue or the event organiser (whether by signs at the venue or otherwise).

26—Powers of authorised persons at major event venues

- (1) An authorised person may require a person who the authorised person reasonably suspects of having committed an offence or breached a condition of entry to a major event venue to state truthfully the person's full name and usual place of residence.
- (2) If an authorised person reasonably suspects that a vehicle or animal (other than a guide dog) has been brought to or left at a major event venue or a part of a major event venue without the consent of the occupier of the venue or the event organiser, the authorised person may—
- (a) require the owner or person in charge of the vehicle or animal to remove the vehicle or animal from the venue (or from a part of it); or
 - (b) if the owner or person in charge of the vehicle or animal cannot be located in the vicinity—remove the vehicle or animal from the venue (or part of it).
- (3) A person must not, without reasonable excuse, refuse or fail to comply with a requirement of an authorised person under this section.
Maximum penalty: \$2 500 or imprisonment for 6 months.
- (4) Subsection (3) places an evidential burden on the accused to show reasonable excuse.
- (5) An authorised person (other than the occupier of the venue or the event organiser, or a police officer in uniform) must, at the request of a person in relation to whom the authorised person intends to exercise any powers under this section, produce for the inspection of the person, a copy of his or her identity card.
- (6) A person must not falsely pretend, by words or conduct, to have the power of an authorised person under this section.
Maximum penalty: \$750.
- (7) In proceedings for an offence against this section, an allegation in the complaint that a person named in the complaint was on a specified date an authorised person in relation to a specified major event venue will be accepted as proved in the absence of proof to the contrary.
- (8) In this section—
- authorised person*, in relation to a major event, means—
- (a) the occupier of the major event venue; or
 - (b) the event organiser; or
 - (c) a person authorised in writing by the occupier or event organiser to exercise powers under this section; or
 - (d) a police officer;

guide dog means a dog trained and used, or undergoing training to be used, for the purpose of guiding a person who is wholly or partially blind.

27—Forfeiture etc of seized items and goods

- (1) If items or goods have been seized under this Act and—
 - (a) proceedings are not instituted for an offence against the section under which the items or goods were seized in relation to the items within 3 months of their seizure; or
 - (b) after proceedings have been instituted and completed, the defendant is not convicted,
the person from whom they were seized is entitled to recover—
 - (c) the items or goods or, if they have been destroyed, compensation equal to the market value of the items or goods at the time of their seizure; and
 - (d) compensation for any loss suffered by reason of the seizure of the items or goods.
- (2) An action for the payment of compensation under subsection (1) may be brought against the relevant event organiser in any court of competent jurisdiction.
- (3) The court by which a person is convicted of an offence against this Act may order that items or goods to which the offence relates be forfeited to the Crown.
- (4) Any items or goods forfeited to the Crown must be disposed of in such manner as the Minister may direct and, if sold, the proceeds of the sale paid into the Consolidated Account.