

Tourism and Events Queensland Bill 2012

Explanatory Notes

Short title

The short title of the Bill is the Tourism and Events Queensland Bill 2012.

Policy objectives and the reasons for them

To provide a more coordinated and strategic approach to attracting visitors to Queensland, Events Queensland and Tourism Queensland are proposed to be brought together into a single entity to be called ‘Tourism and Events Queensland’.

The objectives of the Bill are to:

- merge Events Queensland and Tourism Queensland and name the entity Tourism and Events Queensland; and
- implement governance arrangements and structure for Tourism and Events Queensland.

Achievement of policy objectives

To achieve the objectives, the Bill will continue Tourism Queensland in existence as Tourism and Events Queensland and transfer the assets and liabilities of Events Queensland to the entity. The *Tourism Queensland Act 1979* will be repealed.

The Bill sets out the object and functions for Tourism and Events Queensland which take into account its dual tourism and events role.

A board will be established to oversee the entity. The Bill provides for the board to comprise the chief executive of the administering department (currently the Department of Tourism, Major Events, Small Business and the Commonwealth Games) and at least eight members appointed by the Governor in Council. Current members of the Corporation of Tourism Queensland will transition to Tourism and Events Queensland.

A chief executive officer role for Tourism and Events Queensland will also be established by the Bill.

Tourism and Events Queensland will operate according to the highest standards of governance, accountability, and transparency. The entity will be subject to the *Financial Accountability Act 2009*, the *Financial and Performance Management Standard 2009*, and the *Statutory Bodies Financial Arrangements Act 1982*.

In addition, the Minister may give the entity a statement of expectations to ensure it operates within the broader context of Government priorities. The entity will be required to respond with a statement of intent about how it proposes to comply with the statement of expectations.

Finally, the Bill continues the Tourism Queensland Employing Office in existence as the Tourism and Events Queensland Employing Office and will provide for the recognition of service and accrued leave (including annual, long service and sick leave) of Events Queensland employees transferred to Tourism and Events Queensland.

Alternative ways of achieving policy objectives

In deciding to merge Events Queensland and Tourism Queensland, the Government considered various governance models including those established in other jurisdictions. A statutory body model was considered the most suitable structure as it ensures a balance between accountability and autonomy.

Estimated cost for government implementation

Minimal administrative costs will be incurred by government in implementing the merged entity. These costs will be met from the current budgets of Tourism Queensland and Events Queensland (which will be administered by Tourism and Events Queensland when formed).

Consistency with fundamental legislative principles

The Bill is consistent with fundamental legislative principles.

Consultation

Consultation has occurred with Tourism Queensland and Events Queensland in relation to the Bill.

Consistency with legislation of other jurisdictions

Clause 49 of the Bill includes a displacement provision for the *Corporations Act 2001* to avoid any direct inconsistencies between the corporations legislation and clause 48 of the Bill.

Notes on provisions

Part 1 Preliminary

Clause 1 sets out the short title of the Bill.

Clause 2 provides that the dictionary in schedule 1 defines particular words used in this Act.

Clause 3 details the main object of this Act which is to establish Tourism and Events Queensland to achieve economic and social benefits for the State through marketing and promoting tourism in Queensland; tourism experience and destination development; and securing major events to be held in Queensland.

Part 2 Tourism and Events Queensland

Division 1 Establishment, functions and powers

Clause 4 continues Tourism Queensland in existence as Tourism and Events Queensland (the corporation).

Clause 5 provides that the corporation is a body corporate with a seal and the ability to sue and be sued in its corporate name. The clause also provides that the corporation represents the State and has the status, privileges and immunities of the State.

Clause 6 provides that the corporation is a statutory body under the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*.

The *Statutory Bodies Financial Arrangements Act 1982*, part 2B (Powers under this Act and relationship with other Acts) explains how that Act affects the corporation's powers. Part 2B of the *Statutory Bodies Financial Arrangements Act 1982* provides powers, such as banking, borrowing and investment powers, to statutory bodies, additional to powers provided under enabling legislation.

Division 2 Functions and powers

Clause 7 sets out the functions of the corporation. These functions include to: attract international and domestic travellers to travel to and within Queensland through promotion and marketing of Queensland and tourism experience and destination development; and to identify, attract, develop and promote major events for the State that contribute to the Queensland economy, attract visitors to Queensland, enhance the profile of Queensland, and foster community pride in Queensland.

Other functions are to: work collaboratively with the administering department and other public sector units and Queensland tourism industry participants to identify opportunities to increase tourism and travel to and within Queensland; conduct research into, and analysis of, tourism in Queensland; and advise the Minister about the corporation's functions.

The functions of the corporation also include any other function given to the corporation under this Act or another Act.

In discharging its functions, the corporation may work in partnership with the Queensland tourism industry.

Clause 8 sets out the powers of the corporation and provides that the corporation has all the powers of an individual, such as the power to: enter into contracts or agreements; acquire, hold, deal with, and dispose of, property; appoint agents and attorneys; engage consultants and researchers; charge for services it provides; and do anything else necessary or convenient to be done in the performance of its functions.

Additionally, the corporation has the powers given to it under this Act or another Act.

Clause 9 provides that the corporation may perform its functions and exercise its powers outside Queensland and Australia.

Clause 10 provides that the Minister may give the corporation a written direction about the performance of the corporation's functions or the exercise of its powers, and the corporation must comply with the direction.

Clause 11 enables the corporation to delegate its functions.

Division 3 Chief executive officer

Clause 12 provides for the appointment of a chief executive officer (CEO) for the corporation by the Governor in Council on the recommendation of the Minister. The CEO is to be employed under this Act, and not under the *Public Service Act 2008*.

Clause 13 sets out the function of the CEO which is to ensure the efficient and effective administration and operation of the corporation in accordance with the board's priorities.

Clause 14 enables the CEO to delegate his/her functions.

Clause 15 provides that the CEO holds office for the period, of not more than 3 years, stated in the officer's instrument of appointment.

Clause 16 provides for the CEO's terms and conditions of appointment, which are that the CEO is to be paid the remuneration and allowances decided by the Governor in Council and holds office on the terms and

conditions, not provided by this Act, that are decided by the Governor in Council.

Clause 17 provides that the office of the CEO becomes vacant if the chief executive officer: completes a term of office and is not reappointed; or resigns office by signed notice given to the Minister; or is a person who is an insolvent under administration under the *Corporations Act 2001*, section 9; or is convicted of an indictable offence; or is removed from office by the Governor in Council.

Additionally, the clause provides that the Governor in Council may at any time remove the CEO from office for any reason or none.

Division 4 Board

Subdivision 1 Establishment

Clause 18 stipulates that the corporation has a board.

Clause 19 provides that the board is responsible for the way the corporation performs its functions and exercises its powers, including ensuring the corporation performs its functions and exercises its powers in an appropriate, effective and efficient way.

Clause 20 provides for the composition of the board of the corporation. The board is to consist of the chief executive of the department (currently the Department of Tourism, Major Events, Small Business and the Commonwealth Games) and at least eight members appointed by the Governor in Council on the recommendation of the Minister. The clause also provides that, in recommending members, the Minister must have regard to the person's experience and expertise in business, financial management and promoting and staging events; and his/her knowledge of the tourism industry.

Clause 21 provides that a member holds office for the period, of not more than 3 years, stated in the member's instrument of appointment and the member cannot be appointed for more than 2 consecutive periods.

Clause 22 provides for members' terms and conditions of appointment, which are that a member is to be paid the remuneration and allowances decided by the Governor in Council and a member holds office on the

terms and conditions, not provided by this Act, that are decided by the Governor in Council.

Clause 23 provides that the office of a member becomes vacant if the member completes a term of office and is not reappointed; or resigns office by signed notice given to the Minister; or is a person who is an insolvent under administration under the *Corporations Act 2001*, section 9; or is convicted of an indictable offence; or is absent from 3 consecutive meetings of the board without permission of the board or reasonable excuse; or is removed from office by the Governor in Council.

Additionally, the clause provides that the Governor in Council may at any time remove a member of the corporation from office for any reason or none.

Clause 24 provides that the Governor in Council must appoint 1 member of the board as chairperson of the board, and the person holds office for the term decided by the Governor in Council. The clause also provides that a vacancy occurs if the chairperson resigns or stops being a member. The chairperson may continue to be a member of the corporation if he/she resigns as chairperson.

Clause 25 provides that the Governor in Council must appoint 1 member of the board as deputy chairperson of the board, and the person holds office for the term decided by the Governor in Council. The clause also provides that a vacancy occurs if the deputy chairperson resigns or stops being a member. The deputy chairperson may continue to be a member of the corporation if he/she resigns as deputy chairperson. In addition, the clause allows the deputy chairperson to act as chairperson in certain situations.

Clause 26 enables the corporation to establish committees and decide a committee's membership and functions.

Subdivision 2 Proceedings and business

Clause 27 enables the chief executive of the department to appoint an officer of the department as his/her representative at board meetings. The appointment must be in writing and given to the chairperson of the corporation. The representative is taken to be a member for the meeting, if the chief executive is absent and the representative attends the meeting in the chief executive's stead.

Clause 28 provides that the board may conduct its proceedings, including its meetings, as it considers appropriate and may decide the time and place of meetings.

Clause 29 states that the chairperson presides at all meetings of the board at which the chairperson is present. However, if the chairperson is absent, the deputy chairperson presides. Also if the chairperson and deputy chairperson are absent a member chosen by the members present presides.

Clause 30 provides that a quorum for a meeting of the board is the majority of the members appointed at the time the meeting is held.

The clause further provides that a question at a meeting of the board is to be decided by a majority of the votes of the members present and voting at the meeting. If the votes are equal, the member presiding at the meeting has a casting vote.

Additionally, a resolution is a valid resolution of the board, even though it is not passed at a meeting of the board, if at least a majority of the members give written agreement to the resolution and notice of the resolution is given under procedures approved by the board.

Subdivision 3 Duty of members

Clause 31 requires the disclosure of interests of members of the board and provides for the management of any such interest.

Part 3 Tourism and Events Queensland Employing Office

Division 1 Establishment and functions

Clause 32 continues the Tourism Queensland Employing Office in existence as the Tourism and Events Queensland Employing Office. It provides that the employing office consists of the employing office's executive officer and its staff and is a separate entity from the corporation.

Clause 33 states that the employing office represents the State and has all the immunities and privileges of the State.

Clause 34 provides that the employing office is a statutory body under the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*.

Clause 35 lists the functions of the employing office.

Division 2 Executive Officer

Clause 36 provides for the appointment of an executive officer of the employing office by the Governor in Council on the recommendation of the Minister. The executive officer is employed under this Act and not under the *Public Service Act 2008*.

Clause 37 provides that the employing office acts through the executive officer and anything done by the executive officer in the name of, or for, the employing office is taken to have been done by the employing office.

Clause 38 provides a discretionary right for the employing office to be able to employ staff. It provides that such employment is on behalf of the State. The clause clarifies that a person employed by the employing office is an employee of that office. It gives the employing office the authority to decide its employees' terms of appointment subject to any industrial instrument that applies. Finally, it makes it clear that the employment of employing office staff is done under this Act and not the *Public Service Act 2008*.

Part 4 Planning and Accountability

Division 1 Statement of Expectations

Clause 39 enables the Minister to give the corporation a written statement of expectations about the performance of its functions and exercise of its powers. The statement must set out the Minister's expectations for the period stated and may include provisions about the strategic or operational

activities to be carried out by the corporation; reporting; and activities to be carried out by the corporation and department respectively. A statement of expectations is taken to be a direction under clause 10.

Clause 40 enables the corporation to give the Minister a statement of intent in response to the statement of expectations within 30 days of receiving the statement of expectations.

Division 2 Reporting

Clause 41 states that the corporation must submit for the Minister's approval a strategic plan developed for the corporation under the *Financial Accountability Act 2009*. A strategic plan approved by the Minister is taken to be the corporation's strategic plan.

Part 5 Miscellaneous provision

Clause 42 allows the Governor in Council to make regulations under this Act.

Part 6 Repeal and transitional provisions

Division 1 Repeal

Clause 43 repeals the *Tourism Queensland Act 1979*.

Division 2 Transitional provisions

Subdivision 1 Definitions

Clause 44 outlines definitions for certain words in Division 2.

Subdivision 2 Provisions relating to the corporation

Clause 45 continues particular Tourism Queensland appointments under this Act including the general manager; members; chairperson; deputy chairperson; and executive officer of the employing office.

Clause 46 enables the continuation of employment of employees of the Tourism Queensland Employing Office in the Tourism and Events Queensland Employing Office.

Clause 47 states that in a document, a reference to Tourism Queensland may, if the context permits, be taken to be a reference to Tourism and Events Queensland.

Subdivision 3 Provisions relating to Events Queensland

Clause 48 provides for the transfer of the assets, liabilities, property, agreements or arrangements, and legal proceedings of Events Queensland to Tourism and Events Queensland.

Additionally, clause 48 provides for the resignation of Events Queensland as a member of the Asia Pacific Screen Awards Ltd and Gold Coast Events Management Ltd and for Tourism and Events Queensland to be deemed to have applied to become, and been approved as, a member of these subsidiary companies. It also transfers ownership of the Gold Coast Events Company Pty Ltd from Events Queensland to the corporation.

It also states that the corporation is not liable to pay duty under the *Duties Act 2001* in relation to anything done under the section.

Clause 49 provides that section 48 is declared to be a Corporations legislation displacement provision for section 5G of the *Corporations Act 2001*.

Clause 50 provides that if Asia Pacific Screen Awards Ltd, Gold Coast Events Management Ltd, or Gold Coast Events Company Pty Ltd is a party to a contract, lease or licence immediately before the commencement of the division, a change in membership under section 48(2) or transfer under section 48(3) is taken not to constitute a change in control of these entities for the contract, lease, or licence.

Clause 51 provides for the recognition of service (annual leave, long service, and sick leave) of Events Queensland employees transferred to Tourism and Events Queensland.

Clause 52 states that in a document, a reference to Events Queensland may, if the context permits, be taken to be a reference to Tourism and Events Queensland.

Schedule 1 Dictionary

Schedule 1 provides a dictionary which defines key terms used in the Bill.