

Major Events Bill 2014

Report No. 51

State Development, Infrastructure and Industry Committee

October 2014

State Development, Infrastructure and Industry Committee

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Chair's foreword

This report presents a summary of the State Development, Infrastructure and Industry Committee's examination of the Major Events Bill 2014.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles to the legislation, including whether it has sufficient regard to rights and liberties of individuals and to the institution of Parliament.

The committee supports the framework proposed for managing major events in Queensland. The powers given to authorised persons were the most controversial aspects of the Bill. The committee has carefully considered the clauses and has made recommendations in order to balance the views of submitters, people's rights and liberties and the necessity to ensure people can safely enjoy major events hosted in Queensland.

On behalf of the committee, I thank those organisations and individuals who lodged written submissions on the Bill and others who informed the committee's deliberations.

I would also like to thank the officials from the Department of Tourism, Major Events, Small Business and the Commonwealth Games who briefed the committee, the committee's secretariat, the Technical Scrutiny of Legislation Secretariat and the Parliamentary Library and Research Service.

I commend the report to the House.



David Gibson MP
Chair

October 2014

Abbreviations

Bill	Major Events Bill 2014
committee	State Development, Infrastructure and Industry Committee
CCAAC	Commonwealth Consumer Affairs Advisory Council
department	Department of Tourism, Major Events, Small Business and the Commonwealth Games
explanatory notes	Major Events Bill 2014, Explanatory Notes
FLP	fundamental legislative principle
LSA	<i>Legislative Standards Act 1992</i>
MSFA	<i>Major Sports Facilities Act 2001</i>
OIC	Office of the Information Commissioner Queensland
PPRA	<i>Police Powers and Responsibilities Act 2000</i>
QLS	Queensland Law Society
QPS	Queensland Police Service
QTIC	Queensland Tourism Industry Council
Senate Committee	Senate Economics References Committee
SLC	Scrutiny of Legislation Committee
TORUM	<i>Transport Operations (Road Use Management) Act 2005</i>

Recommendations

Recommendation 1 2

The committee recommends the Major Events Bill 2014 be passed.

Recommendation 2 6

The committee recommends clause 12 of the Bill be amended to provide a major event is to be declared at least three months prior to the event.

Recommendation 3 6

The committee recommends clause 11 of the Bill be amended to provide that a controlled area is shown on a map in the regulation.

Recommendation 4 9

The committee recommends clause 18(5) of the Bill be amended to:

- (a) include an element of reasonableness such as provided by section 568(2)(b) of the *Police Powers and Responsibilities Act 2000*
- (b) reflect a person can only be asked to consent to a search if they have been screened beforehand, such as electronic screening, and
- (c) clarify that the intent that an authorised person is not permitted to touch a person or their possessions.

Recommendation 5 10

The committee recommends the Bill be amended to provide that a regulation declaring a major event must provide cultural and gender sensibility training for all authorised persons undertaking searches.

Recommendation 6 12

The committee recommends clause 60 be amended to provide an authorised person's identity card must differentiate between the powers specified in their instrument of appointment.

Recommendation 7 16

The committee recommends clause 31 be amended to provide an offence for tickets sold at greater than 10% above the original sale price.

Recommendation 8 26

The committee recommends clause 33(6) be amended to provide that an authorised person is required to take reasonable steps to prevent damage happening when covering or removing an advertisement.

Recommendation 9 27

The committee recommends clause 34 be amended to include an element of intent.

Points for clarification

Point for clarification 1 6

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games provides further information in relation to the development of the Queensland Government Events Framework and details of any criteria that may be included to assess a major event.

Point for clarification 2 11

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games clarifies in her second reading speech, whether there are any issues relating to the application of the *Personal Property Securities Act 2009* (Cth) and the provisions of the Bill relating to the moving and removal of vehicles.

Point for clarification 3 15

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games provides further information about the types of considerations that would be preconditions for enlivening the ticket scalping provisions for a major event.

Point for clarification 4 16

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games consults with the Minister for National Parks, Recreation, Sport and Racing to review the merits of ticket scalping provisions contained in the *Major Sports Facilities Act 2001* in light of the recent reports of the Senate Economics References Committee and Commonwealth Consumer Affairs Advisory Council.

Point for clarification 5 16

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games clarifies the intent of clause 31(1)(a) in her second reading speech.

Point for clarification 6 20

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games clarifies the necessity for clause 25 given the search powers contained in clause 18(5) of the Bill.

Point for clarification 7 23

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games advises how a major events organiser would communicate to the public that it is 'reasonably satisfied' that the appointed authorised persons have the appropriate level of training, experience or qualifications.

Point for clarification 8 26

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games clarifies whether entering a property to cover or remove advertising would include a commercial building in a major event area, and whether the consent element provided in subsection (5) would also apply to a business owner.

1 Introduction

1.1 Role of the committee

The State Development, Infrastructure and Industry Committee (the committee) was established by resolution of the Legislative Assembly on 18 May 2012 and consists of government and non-government members.

The committee's primary areas of portfolio responsibility are:¹

- State Development, Infrastructure and Planning
- Energy and Water Supply, and
- Tourism, Major Events, Small Business and the Commonwealth Games.

1.2 The referral

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for considering:

- the policy to be given effect by the Bill, and
- the application of the fundamental legislative principles to the Bill.

On 26 August 2014, the Major Events Bill 2014 (the Bill) was referred to the committee for examination and report. In accordance with Standing Order 136(1), the Committee of the Legislative Assembly fixed the committee's reporting date of 20 October 2014.

1.3 The committee's inquiry process

On 28 August 2014, the committee called for written submissions by placing notification of the inquiry on its website, notifying its email subscribers and sending letters to a range of relevant stakeholders. The closing date for submissions was 15 September 2014. The committee received five submissions (see Appendix A for list of submitters).

On 8 September 2014, the committee held a public briefing with the Department of Tourism, Major Events, Small Business and the Commonwealth Games (the department). On 29 September 2014, the committee held a public hearing in Brisbane (see Appendix B for list of witnesses).

The submissions and the transcripts of the public departmental briefing and public hearing are available from the committee's webpage at www.parliament.qld.gov.au/sdiic.²

1.4 Policy objectives of the Bill

The policy objectives of the Bill are to:³

- provide a generic legislative framework that can be used to conduct major events across Queensland,
- provide a more efficient model and streamlining of approval processes for major events, and
- alleviate the ongoing need for event-specific legislation for future major events.

A regulation made under the proposed legislation would declare a major event and identify the provisions of the legislation that would apply to the event.

¹ Schedule 6 of the *Standing Rules and Orders of the Legislative Assembly*, effective from 31 August 2004 (amended 11 February 2014).

² At the time of writing this report, the transcript of the public briefing and hearing were proof transcripts.

³ Explanatory notes, p 1.

The Bill would also repeal the *Motor Racing Events Act 1990* and the *Health Practitioners (Special Events Exemption) Act 1998* and omit Chapter 19, Part 2 of the *Police Powers and Responsibilities Act 2000* and place the necessary provisions within the Bill.

The Bill also makes minor amendments to the *Commonwealth Games Arrangements Act 2011*, the *Environmental Protection Act 1994*, the *Tobacco and Other Smoking Products Act 1998* and other Acts listed in Schedule 1.

1.5 The Government's consultation on the Bill

The explanatory notes advise that the following organisations were consulted in relation to the Bill:

- Gold Coast 2018 Commonwealth Games Corporation
- Australian Commonwealth Games Association
- Tourism and Events Queensland
- Stadiums Queensland
- Local Government Association of Queensland, and
- Chamber of Commerce and Industry Queensland.

Specific local councils including the City of the Gold Coast, Brisbane City Council, Townsville City Council and Cairns Regional Council were also consulted.

In addition, consultation took place with the Major Sporting Events Taskforce in the Federal Department of Health and with the Civil Aviation Safety Authority.⁴

The committee considers it would have been helpful for the explanatory notes to provide the results of the consultation undertaken and any amendments made to the Bill as a result.

1.6 Should the Bill be passed?

Standing Order 132(1)(a) requires the committee to determine whether to recommend the Bill be passed. After examining the Bill, and considering the issues raised in submissions and at the public hearing, the committee has determined the Bill should be passed.

Recommendation 1

The committee recommends the Major Events Bill 2014 be passed.

⁴ Explanatory notes, p 6.

2 Examination of the Bill

2.1 Background

The Bill proposes to consolidate current legislation governing major events in order to provide a more efficient and streamlined framework. The Bill would remove the need for event-specific legislation to be drafted for each major event and reduce the regulatory burden for event organisers.⁵

Similar legislation exists in other Australian jurisdictions including:

- *Major Events Act 2009* (NSW)
- *Major Sporting Events Act 2009* (Vic)
- *Major Events Act 2013* (SA), and
- *Major Events Act 2014* (ACT).

A notable feature of the Queensland Bill is that it includes motor racing events, whilst other jurisdictions maintain separate legislation for such events.

The Bill is also required to meet contractual commitments the government has made to host future events such as the Gold Coast 2018 Commonwealth Games and the 2015 Asian Cup.⁶

2.2 Declaration of a major event

Clause 7 of the Bill provides that a 'major event' is an event prescribed by regulation and includes any activity directly associated with the major event (e.g. trial runs for the event).

Clause 12 provides the Governor in Council may, on recommendation of the Minister, prescribe a major event by regulation.

The regulation must prescribe—

- a) the major event organiser
- b) the major event area⁷
- c) the major event period
- d) the provisions of the Act that apply to—
 - i. the major event, and
 - ii. the major event area, and the period when those provisions apply.

The regulation may also prescribe—

- a) a controlled area for the major event,⁸
- b) the control period, and
- c) the provisions of this Act that apply to a controlled area, and the period when those provisions apply.

⁵ Public briefing transcript, 8 September 2014, pp 2-3.

⁶ Public briefing transcript, 8 September 2014, p 3.

⁷ Clause 9 defines 'major event area' as an area prescribed by regulation and shown on a map in the regulation, as the area where the major event is to be held.

⁸ Clause 11 defines 'controlled area' for a major event as an area near a major event area that is prescribed by regulation.

The explanatory notes state that prescribing a major event in this manner ensures that the legislation is only used to meet specific commitments Government has made to host a major event or when the Government decides it is necessary for a particular event.⁹

Clause 13 of the Bill provides the Minister must consult with the following people when considering a recommendation to declare a major event—

- a) each local government in the area to be prescribed a major event
- b) the Police Minister, in cases where a regulation will give an authorised person a power
- c) the Transport Minister, in cases where a major event will affect the operation of transport infrastructure
- d) the Health Minister, in cases where a regulation is to authorise exemptions to health practitioner requirements, and
- e) the Sports Minister, in cases where a major events area includes major sports facility land.

The Minister may also consult with other public authorities before a major event is prescribed.

The Queensland Law Society (QLS) raised concerns at the ability to declare a major event by regulation on the basis that it would not be subject to the same level of scrutiny as legislation. The QLS recommended event-specific legislation be made to manage major events.¹⁰

The department advised the generic model provides the Government with the opportunity to reduce regulatory duplication by having a principal Act that could be used for a range of major events. The development of event-specific legislation was rejected as considerable duplication of effort would be required each time a major event was held in Queensland.¹¹

The Queensland Tourism Industry Council (QTIC) supported the Bill to provide a more streamlined framework for the conduct of major events across Queensland. The QTIC was of the view the Bill provides the necessary level of protection for persons involved in major events.¹²

Criteria for declaring a major event

The Minister is required to be reasonably satisfied that the event is a large state, national or international sporting or cultural event and that it is in the public interest for the Governor in Council to prescribe the event. In making a recommendation the Minister may consider, among other things:¹³

- the size of the event
- the number of spectators likely to attend
- the likely extent of media coverage, and
- the likely contribution the event will make to the State's economy and international reputation.

⁹ Explanatory notes, p 8.

¹⁰ Queensland Law Society, Submission No. 5.

¹¹ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 24 September 2014.

¹² Queensland Tourism Industry Council, Submission No. 2.

¹³ Clause 13(4).

The QTIC recommended a framework be developed to categorise events in order to assist with determining which parts of the legislation would apply to a particular event.¹⁴

The department advised the majority of events held in Queensland would not require the application of the proposed legislation in order to operate effectively. However, the legislative components necessary for some events may be determined by certain pre-conditions for hosting events and would need to be addressed on a case-by-case basis in consultation with key stakeholders.

The department further advised a 'Queensland Government Events Framework is currently being developed which may include an event classification system to help assess the provision of operations and other support for the event from the Queensland Government'.¹⁵

Committee comment

The committee is supportive of a streamlined legislative framework to manage major events and notes that each event would be assessed on a case-by-case basis in order to determine which aspects of the legislation would need to be applied.

The committee acknowledges the concerns of the QLS but is supportive of the proposed regulatory model to declare a major event. The committee considers the matters to be prescribed by regulation are sufficiently defined in the Bill. The committee also notes that declaring a major event by regulation is consistent with the approach taken by other Australian jurisdictions with comparable event legislation.

The committee does however have concerns about the timing of such a regulation being made to allow sufficient time for it to be subjected to Parliamentary scrutiny.

The department advised that in the majority of cases the regulation would be made within a reasonable timeframe before the event and that the requirement for the Minister to consult on the regulation before declaring a major event would ensure the powers prescribed by the regulation are appropriate.¹⁶

Whilst the committee recognises that major events would generally be in the public domain for some time beforehand, the committee seeks greater assurances that a declaration of a major event would occur in a reasonable timeframe. Accordingly, the committee recommends clause 12 be amended to provide that a major event be declared at least three months prior to the event.

The committee also notes a major event area would be an area prescribed by regulation and shown on a map in a regulation. However, a controlled area would be prescribed by regulation, not necessarily shown on a map in a regulation. Given certain conditions could be imposed in a controlled area, the committee considers a controlled area should also be shown on a map in a regulation.

Lastly, the committee seeks further information in relation to the development of the Queensland Government Events Framework and details of the criteria that may be included to assess a major event.

¹⁴ Queensland Tourism Industry Council, Submission No. 2.

¹⁵ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 24 September 2014.

¹⁶ Public briefing transcript, 8 September 2014, p 10.

Recommendation 2

The committee recommends clause 12 of the Bill be amended to provide a major event is to be declared at least three months prior to the event.

Recommendation 3

The committee recommends clause 11 of the Bill be amended to provide that a controlled area is shown on a map in the regulation.

Point for clarification 1

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games provides further information in relation to the development of the Queensland Government Events Framework and details of any criteria that may be included to assess a major event.

2.3 Authorised persons

Schedule 2 of the Bill defines an authorised person as a police officer or a person who holds an appointment under clause 56.

Appointment

Clause 56 provides an event organiser may appoint an authorised person (in writing) who could include: a public service employee, a local government employee, an employee of the major event organiser, or other persons prescribed by regulation.

The authorised person provisions would be enlivened if a regulation prescribing a major event applied the provisions to the event.¹⁷

The major event organiser is required to be reasonably satisfied the person is qualified on the basis the person has the necessary experience, expertise or training, or, the person has the experience, expertise or training prescribed by regulation.¹⁸

The QLS did not support Clause 56 on the basis the ability of a major event organiser to appoint an authorised person is a broad, unfettered power and may not be an appropriate delegation of power.¹⁹

QTIC noted measures to appoint authorised persons with specific powers 'must be enacted with the highest level of training and procedural care.'²⁰

Committee comment

The committee does not have concerns with the process for appointment of authorised persons as such but notes this issue is intrinsically linked with the powers given to authorised persons which are discussed below.

¹⁷ Clause 55.

¹⁸ Clause 56(2).

¹⁹ Queensland Law Society, Submission No. 5.

²⁰ Queensland Tourism Industry Council, Submission No. 2.

Powers

The Bill provides the powers given to authorised persons can include:

- in relation to entering a major event area, power to ask a person to consent to:²¹
 - use of an electronic device including a metal detector on the person or the person's possessions
 - searching and examination of the person's possessions
 - asking a person to identify their possessions
 - removing a person's outer clothing, shoes, hat or other head gear, and
 - search of the vehicle (if entering the area in a vehicle).
- power to require name and address²²
- power to stop or move vehicles²³
- power to move or remove vehicles left in a major event area,²⁴ and
- power to seize evidence and other things.²⁵

Clause 57 provides that an authorised person's instrument of appointment, a signed notice or a regulation may limit their powers.

Entering and exiting a major event area

The intent of the search powers is to enable authorised persons to undertake basic searches. The powers are considered to be non-intrusive and not affecting the dignity of the person and necessary to ensure prohibited items are not brought into a major event area. Further, the department advised the committee that the Bill does not include a provision that would permit an authorised person to undertake a frisk search.²⁶

QLS was of the view that the powers in clause 18 should not be given to authorised persons as they are 'intrusive and require specialist training and should only be exercised by appropriately trained police officers.'²⁷

The Office of the Information Commissioner (OIC) was also concerned about Clause 18(5)(d), in particular, the ability of an authorised person to ask someone to consent to removing their outer clothing, shoes, hat or other head gear. The OIC was concerned that 'head gear' is not defined and that there are no requirements for an authorised person to consider the reasonableness of the request or gender sensibilities, akin to the current provision in the *Police Powers and Responsibilities Act 2000* (PPRA).

The OIC recommended Clause 18(5)(d) be amended to reflect the broader considerations and requirements in section 568(2)(b) of the PPRA.²⁸

²¹ Clause 18(5)(a)-(e).

²² Clause 63.

²³ Clause 64.

²⁴ Clause 65.

²⁵ Clauses 30, 32 & 54.

²⁶ Public hearing transcript, 29 September 2014, p 17; Explanatory notes, p 5.

²⁷ Queensland Law Society, Submission No. 5.

²⁸ Office of the Information Commissioner, Submission No. 4.

Section 568(2)(b) of the PPRA sets out the process a police officer or authorised person (assisting a police officer) applies when asking an entrant to a special event to remove an outer garment.

- (1) *The section applies if—*
 - (a) *a police officer or authorised person (security official) **reasonably considers it necessary to make a request under** subsection (2) in relation to an entrant or the entrant’s belongings, whether or not the entrant or belongings have been subjected to electronic screening; and*
 - (b) *the security official **tells the entrant the reason for making the request.***
- (2) *The security official may ask the person to do 1 or more of the following—*
 - (a) *allow the official person to inspect the entrant’s belongings;*
 - (b) *remove 1 or more outer garments worn by the entrant as specified by the official and allow the official to inspect the garments;*
 - (c) *remove all articles from the entrant’s clothing and allow the official to inspect them;*
 - (d) *open an article for inspection and allow the official to inspect it;*
 - (e) *open a vehicle or a part of it for inspection and allow the official to inspect it;*
 - (f) *remove an article from the vehicle as specified by the official and allow the official to inspect it.*
- (3) ***An official may touch a garment the entrant is wearing only if the official is the same sex as the entrant.***
- (4) *This section applies to an authorised person only if a condition of the person’s appointment states this section applies to the person.*
- (5) *In this section— inspect, an article, includes handle the article, open it and examine its contents.*

[Emphasis added]

The Queensland Police Service (QPS) advised the committee that an officer would have to consider if it is reasonable to ask a person to remove head gear before making the request. For example, if a person walked through a metal detector and activated it, that may give officers reason to further investigate.²⁹

The department advised that authorised persons other than police officers are not authorised to make any contact with patrons or their possessions and that cultural, religious and gender sensibility issues would be addressed in the training provided to such persons.³⁰

For example:³¹

In the context of the Commonwealth Games, where the search provisions under clause 18 would be used; a regulation would prescribe experience, expertise or training required for these powers. The Queensland Police Service Training Academy has previously delivered training in the provisions under Chapter 19 Part 2 of the Police Powers and Responsibilities Act 2000 to contract security used during the Sydney Olympics. All possible delivery options

²⁹ Public hearing transcript, 29 September 2014, p 16.

³⁰ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 24 September 2014.

³¹ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

will be considered before any decision is made in relation to training authorised persons for the Gold Coast 2018 Commonwealth Games.

In addition, the department advised authorised persons would perform these searches under police supervision.³²

Committee comment

The powers given to authorised persons were one of the most controversial aspects of the proposed legislation. The committee acknowledges the concerns raised by the QLS and the OIC.

The purpose of giving powers to authorised persons needs to be considered when making a determination whether they are appropriate. The overall intent is to ensure the safety of persons within a major event area by reducing the risk of persons bringing in prohibited items.

The powers are consistent with what is considered a basic, non-invasive search. The committee notes authorised persons are not provided with powers to frisk search persons. However, the committee finds it difficult to accept the assurances that authorised persons would not be permitted to touch a person or their possessions particularly when clause 18(5) enables a person's possessions to be searched and examined.

In order to balance the intent behind the search powers with the concerns of submitters, the committee recommends clause 18(5) be amended to:

- (a) include the element of reasonableness such as provided by section 568(2)(b) of the PPRA,
- (b) reflect a person can only be asked to consent to a search if they have been screened beforehand, such as electronic screening, and
- (c) clarify that the intent that an authorised person is not permitted to touch a person or their possessions.

Additionally, the committee recommends the Bill be amended to provide that a regulation declaring a major event must provide cultural and gender sensibility training for all authorised persons undertaking searches.

Recommendation 4

The committee recommends clause 18(5) of the Bill be amended to:

- (a) include an element of reasonableness such as provided by section 568(2)(b) of the *Police Powers and Responsibilities Act 2000*
- (b) reflect a person can only be asked to consent to a search if they have been screened beforehand, such as electronic screening, and
- (c) clarify that the intent that an authorised person is not permitted to touch a person or their possessions.

³² Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

Recommendation 5

The committee recommends the Bill be amended to provide that a regulation declaring a major event must provide cultural and gender sensibility training for all authorised persons undertaking searches.

Power to move or remove vehicles left in a major event area

Clause 65 provides the power for an authorised person to take reasonable and necessary steps to move and remove vehicles from a major event area. As provided by clauses 16 and 28 of the Bill, this power may be necessary in order for a major event organiser to carry out works or maintenance on public land inside the major event area, or if a vehicle has been parked or left in the major event area without authorisation.

Clause 65 outlines the process for moving or removing a vehicle which includes the requirement for a major event organiser to notify the registered operator within 14 days. A notice may not necessarily be given if the major event organiser deems the vehicle is of insufficient value to justify giving the notice or if it is impracticable to give the notice.

Clause 66 provides the major event organiser (the police commissioner if the vehicle is moved by a police officer) can recover moving expenses. Clause 67 provides that a major event organiser may dispose of a vehicle considered to be abandoned.

The QLS did not support Clause 65, on the basis it would have ‘substantial and inequitable impacts on security interest holders and owners (as opposed to operators of vehicles).’ The QLS also noted there is no guidance as to how ‘insufficient value’ would be determined, and when it would be ‘impracticable’ to give notice.³³

The QLS was also concerned about an ‘absence of checks and balances’ and that ordinarily a vehicle would only be ‘impounded’ after a number of offences had occurred.³⁴

The department advised:³⁵

The Bill uses the definition of ‘registered operator’ under the Transport Operations (Road Use Management) Act 1995 (TORUMS Act). The TORUMS Act definition of owner in relation to a vehicle also includes the person in whose name the vehicle is registered under a transport Act or a correspondence law.

The Department of Transport and Main Roads (DTMR) does not keep details of vehicle owners. Clause 65(6) of the Bill authorises the chief executive of transport to disclose information about the registered operator of the vehicle to the major events organiser so that they may be contacted. This will help facilitate the early notification of the removal of the vehicle.

The department further advised the proposal is consistent with the existing provisions contained in the Transport Infrastructure (Rail) Regulation 2006, Transport Infrastructure (Busway) Regulation 2002 and Division 3 of the *Transport Operations (Road Use Management) Act 2005* (TORUM).

³³ Queensland Law Society, Submission No. 5.

³⁴ Public hearing transcript, 29 September 2014, p 5.

³⁵ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 24 September 2014.

Division 3 of the TORUM provides the chief executive does not need to give notice for moving a vehicle if the proceeds of the vehicle's sale are not likely to cover moving expenses or expenses incurred by the chief executive in selling the vehicle or it is otherwise impracticable to do so.³⁶

The QLS identified that there may be issues in relation to the *Personal Property Securities Act 2009* (Cth) that require further consideration.³⁷

The committee notes the Transport Infrastructure (Rail) Regulation 2006 provides that, if a person's property is sold, the payments from the sale are first made to the moving entity to recover the expenses reasonably incurred in selling the property, then the moving expenses, and then any amount owing to an entity under a security interest registered over the property under the *Personal Property Securities Act 2009* (Cth).³⁸

Committee comment

Based on the further information provided by the department, the committee is satisfied the powers to move or remove a vehicle left in a major event area are appropriate in situations where a major event organiser would need to carry out works (clause 16) or a vehicle is parked or left in a major event area (clause 28).

The committee is satisfied the power to then dispose of a vehicle (clause 67) only applies if the major events organiser, on reasonable grounds, considers the vehicle has been abandoned and is consistent with current legislation.

The committee does not have any information before it so as to be able to consider or determine whether there may be issues with the provisions of the Bill and the application of the *Personal Property Securities Act 2009* (Cth).

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games clarify in her second reading speech, whether there are any issues relating to the application of the *Personal Property Securities Act 2009* (Cth) and the provisions of the Bill relating to the moving and removal of vehicles.

Point for clarification 2

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games clarifies in her second reading speech, whether there are any issues relating to the application of the *Personal Property Securities Act 2009* (Cth) and the provisions of the Bill relating to the moving and removal of vehicles.

Identity card

Clause 60 provides the major event organiser must issue an identity card to an authorised person (unless the authorised person is a police officer). The identity card must, among other things, contain a recent photo of the person, identify them as an authorised person under the Act and generally describe their powers under the Act.

The authorised person must produce their identity card before exercising the particular power, or have it clearly displayed when exercising the particular power.

³⁶ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 24 September 2014.

³⁷ Queensland Law Society, answer to question taken on notice.

³⁸ Clause 23, Transport Infrastructure (Rail) Regulation 2006.

Committee comment

The committee was advised 'one of the requirements in the bill is that an authorised officer wears photo ID that clearly states what they can do.'³⁹

The committee notes clause 60(2)(c) provides the identity card must generally describe the powers of an authorised person under the Act. The committee is concerned that different powers given to authorised persons (in accordance with their instrument of appointment) would not be distinguished on their identity card.

The committee notes an identity card could not list every single power given to an authorised person as a matter of practicality. However, if the intent of the provision is to state exactly what an authorised person can do, the committee considers an identity card should differentiate between powers given to authorised persons (for example, by colour or symbol).

The committee recommends clause 60 be amended to provide an authorised person's identity card must differentiate between the powers specified in their instrument of appointment.

Recommendation 6

The committee recommends clause 60 be amended to provide an authorised person's identity card must differentiate between the powers specified in their instrument of appointment.

2.4 Resale of tickets

Background

Currently, section 30C of the *Major Sports Facilities Act 2001* (MSFA) provides prohibitions on ticket scalping at certain event venues. The MSFA was amended in 2006 to include the ticket scalping provisions in response to growing incidents of tickets being scalped for sporting events. The *Motor Racing Events Act 1990* also provides similar provisions.⁴⁰

The department advised that from 2007 to 2012 there were 53 ticket scalping offences under the MSFA.⁴¹

The Bill carries over the provision from the MSFA to enable a broader application to events prescribed as major events.⁴²

Clause 31 of the Bill provides a person must not sell, or offer for sale a ticket to a major event—

- (a) in a controlled area or major event area; or
- (b) at a price that is at least 10% more than the original sale price of the ticket.⁴³

The restriction in Clause 31 does not prohibit ticket reselling at face value. The intent is to prohibit a person from profiting unreasonably from the resale of tickets.⁴⁴

³⁹ Public briefing transcript, 8 September 2014, p 5.

⁴⁰ Major Sports Facilities Amendment Bill 2006, Explanatory notes, p 1.

⁴¹ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 3 October 2014. Figure provided from QPrime records.

⁴² Public briefing transcript, 8 September 2014, p 2.

⁴³ The 'original sale price' is defined as the price of the ticket when it was originally bought from the major event organiser or an agent authorised by the major event organiser together with any fee or commission charged for the ticket.

⁴⁴ Public hearing transcript, 29 September 2014, p 15.

The department further advised the Bill 'prohibits a person selling or offering a ticket for sale on any medium, including over the internet or in a newspaper, to a major event at a price that exceeds the original ticket price by more than 10 per cent.'⁴⁵ The 10% margin incorporates the costs associated with the sale and purchase of the ticket, for example booking fees or credit card charges.⁴⁶

Concerns raised by submitters

Both eBay and Ticketmaster were not supportive of legislative intervention in relation to ticket resale.

eBay was of the view that the Australian Consumer Law provided adequate protection for consumers.⁴⁷

Ticketmaster was of the view that the proposed legislation 'does not distinguish between consumers trying to sell unwanted tickets and scalpers.'⁴⁸ Ticketmaster considered the proposed legislation is 'unnecessary' and 'unenforceable' and would encourage the use of offshore websites.

Ticketmaster stated consumers prefer to sell tickets at a fair market price which at times is below, and at other times above, the face value, and legislative intervention undermines a consumer's right to choose. Additionally:⁴⁹

Ticketmaster inherently believes that the best way to protect consumers, stop scalpers and curb the growth of unscrupulous secondary sites is to lead the ticketing stakeholders in a united approach on this issue by providing a safe and reliable resale service and implement industry-wide self-regulation measures.

eBay also expressed concerns about legislative intervention having the effect of pushing ticket sales underground which would deprive consumers of the protection and visibility offered by transparent mechanisms such as some online marketplaces.⁵⁰

In relation to the secondary ticket market, eBay stated:⁵¹

Attempts to regulate the secondary tickets market have not been effective in reducing scalping and protecting consumer's interests... The primary ticket market should be the focus of any review and reform, as improving primary distribution practices is the only practical way to minimise or eliminate opportunities for scalping to occur in the first place.

The department advised ticket scalping provisions are often required by governing bodies of major events as a pre-condition of hosting such events. Such legislation was in place for the Glasgow 2014 Commonwealth Games, the London 2012 Olympic Games, and the 2006 Melbourne Commonwealth Games and is a requirement to host the Gold Coast 2018 Commonwealth Games.⁵²

In relation to enforcement, the department advised that it is often the major event organisers themselves who monitor ticket resales over the internet. The department also envisaged that tickets for major events would include notice of the ticket scalping provisions.⁵³

⁴⁵ Public briefing transcript, 8 September 2014, p 2.

⁴⁶ Major Sports Facilities Amendment Bill 2006, Explanatory notes, p 2.

⁴⁷ eBay, Submission No. 1.

⁴⁸ Ticketmaster, Submission No. 3.

⁴⁹ Ticketmaster, Submission No. 3.

⁵⁰ eBay, Submission No. 1.

⁵¹ eBay, Submission No. 1.

⁵² Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 24 September 2014.

⁵³ Public hearing transcript, 29 September 2014, pp 13-14.

Effectiveness of legislation

Both Ticketmaster and eBay referred to the recent Senate Economics References Committee (Senate Committee) report on its inquiry into ticket scalping in Australia and to the report of the Commonwealth Consumer Affairs Advisory Council (CCAAC) on ticket onselling in the Australian market.⁵⁴

The Senate Committee found ‘on the whole, evidence before the committee indicated that, despite media accounts, the reports of ticket scalping were quite low and the effects not substantial.’⁵⁵

The Senate Committee’s recommendations were focused on the Australian Competition and Consumer Commission in relation to undertaking further research to better understand and monitor the prevalence of ticket scalping in Australian jurisdictions and to enhance consumer education.

The CCAAC had found:⁵⁶

The level of unauthorised onselling in Australia is low, due to:

- *few sold out events in Australia each year, where sell out events and sell out ticket category or seating type are a precondition for a strong secondary market;*
- *the number of onsold tickets for popular events being low compared to the total number of tickets sold; and*
- *ticket onselling being less common in Australia than in some other markets, such as the United States and the United Kingdom.*

...

The broad issue of ticket onselling does not cause significant consumer detriment, however, there are concerns about specific issues related to onselling. These include issues such as the transferability of tickets, transparency in ticket allocation and fair access to tickets.

In addition:⁵⁷

CCAAC considers that the existing consumer protection regulatory framework in Australia, which will be further enhanced by the Australian Consumer Law, is adequate to protect consumers from unfair trading practices. As such, CCAAC believes that industry can respond to the specific consumer concerns.

The Senate Committee stated that a ‘... low number of reported complaints about activities associated with the re-sale of tickets does not marry with media accounts nor with the level of concern raised by sporting organisations. It is clear that more work is required to determine the exact extent of the problem created in Australia by ticket scalpers and fraudsters.’⁵⁸

⁵⁴ The Senate Economics References Committee, ‘Ticket scalping in Australia’, March 2014; Commonwealth Consumer Affairs Advisory Council, ‘Consumers and the ticket market: Ticket onselling in the Australian market, Final Report’, November 2010.

⁵⁵ The Senate Economics References Committee, ‘Ticket scalping in Australia’, March 2014, p 57.

⁵⁶ Commonwealth Consumer Affairs Advisory Council, ‘Consumers and the ticket market: Ticket onselling in the Australian market, Final Report’, November 2010, p v.

⁵⁷ Commonwealth Consumer Affairs Advisory Council, ‘Consumers and the ticket market: Ticket onselling in the Australian market, Final Report’, November 2010, p iv.

⁵⁸ The Senate Economics References Committee, ‘Ticket scalping in Australia’, March 2014, p 58.

The department advised that it had noted the Senate Committee report, however the department did not advise of any particular considerations in relation to the provisions contained in the Bill as a result.⁵⁹

Committee comment

The committee acknowledges that there is limited evidence to suggest that there is a widespread problem associated with ticket scalping in Queensland and other jurisdictions. The committee was not presented with any overwhelming evidence to suggest that legislation would shift ticket sales underground.

The committee is satisfied with the proposal on the basis that it presents a balance between not preventing a person from legitimately reselling tickets at the original ticket price and prohibiting a person from unfairly profiting from a ticket resale.

Under the proposed framework, the ticket scalping provisions would only be applied if specifically applied by the regulation for a major event.⁶⁰ The committee encourages the Minister to only consider applying the provisions relating to ticket scalping if they are a crucial precondition to hosting a major event, such as is required for the Gold Coast 2018 Commonwealth Games. The committee seeks additional information from the Minister in relation to the types of considerations that would be preconditions for enlivening the ticket scalping provisions for a major event.

The committee's consideration of the Bill has reinvigorated the debate on ticket scalping. The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games consult with the Minister for National Parks, Recreation, Sport and Racing to review the merits of the ticket scalping provisions contained in the MSFA in light of the recent reports of the Senate Committee and the CCAAC.

Further, the committee considers the use of the phrase 'at least 10% more than' would mean a person who sold a ticket for a price at 10% above the original sale price, would be committing an offence. The committee does not believe that is the intent, rather the intent is to provide an offence for tickets sold greater than 10% above the sale price. The committee recommends clause 31 be amended to provide an offence for tickets sold at greater than 10% above the original sale price.

Lastly, the committee is unclear about the prohibition on selling tickets within a major event area or controlled area in subsection (1)(a). If the intent of the provision is to prohibit people from unfairly profiting from selling tickets presumably tickets should be allowed to be sold from within a major events area if they are sold below the 10% threshold. In the absence of any clarifying information, the committee raises this point for the Minister's clarification in her second reading speech.

Point for clarification 3

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games provides further information about the types of considerations that would be preconditions for enlivening the ticket scalping provisions for a major event.

⁵⁹ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 24 September 2014.

⁶⁰ Clause 12(2)(d) provides the regulation must prescribe the provisions of the Act that apply to the major event.

Point for clarification 4

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games consults with the Minister for National Parks, Recreation, Sport and Racing to review the merits of ticket scalping provisions contained in the *Major Sports Facilities Act 2001* in light of the recent reports of the Senate Economics References Committee and Commonwealth Consumer Affairs Advisory Council.

Recommendation 7

The committee recommends clause 31 be amended to provide an offence for tickets sold at greater than 10% above the original sale price.

Point for clarification 5

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games clarifies the intent of clause 31(1)(a) in her second reading speech.

2.5 Repeal of the *Motor Racing Events Act 1990*

Clause 84 would repeal the *Motor Racing Events Act 1990*. The relevant provisions have been incorporated into the Bill in order to consolidate the legislation relating to major events.

The committee did not receive any comments from submitters in relation to the repeal of the *Motor Racing Events Act 1990*.

2.6 Repeal of the *Health Practitioners (Special Events Exemption) Act 1998*

Clause 84 would repeal the *Health Practitioners (Special Events Exemption) Act 1998*. Clauses 41 to 49 of the Bill place the provisions in the Bill to allow visiting health practitioners to be exempted from having to register under State law when practising a health profession for a visitor.⁶¹

The Chief Health Officer advised the committee:⁶²

Essentially the act that we have in place will be repealed and replaced by this act. It is just providing ease of access, so that all of the information is in the one act. ... My understanding is we have actually enacted that [the provisions of the Act] eight times during the last 10 years. ...

There has been no change to what people need to do or how it is enacted. There are some very subtle changes. I notice that instead of the chief executive having to keep track of scripts that are written by health professionals from overseas, it is now the chief health officer who needs to do that. I used to do it, delegated from him; I did it before and now I do it in my own right. They are very minor changes, but there is no change to the intent of when it is used, how it is used.

The committee did not receive any comments from submitters in relation to the repeal of the *Health Practitioners (Special Events Exemption) Act 1998*.

⁶¹ Explanatory notes, p 14. Clause 44 provides that a visiting health practitioner is authorised to practise a health profession for a visitor who is a member of the class of visitors authorised by the Health Minister under a registration exemption notice.

⁶² Public departmental briefing, 8 September 2014, p 12.

3 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) states that ‘fundamental legislative principles’ (FLPs) are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

The committee has examined the application of FLPs to the Bill and considers Clauses 7-12, 16, 17, 18, 19, 20, 25, 26, 30, 32, 33, 34, 39, 41, 54, 56, 57, 65, 71, 72, 77 and 82 all raise issues of varying degrees of concern regarding FLPs. The committee has also examined the proposed penalty provisions. The department responded to the committee’s concerns and the committee thanks the department for its comprehensive response.

3.1 Rights and liberties of individuals

Section 4(2)(a) LSA provides that legislation must have sufficient regard to the rights and liberties of individuals.

Rights and liberties generally

Clause 18

The search powers of authorised persons outlined in clause 18 may be considered, to varying degrees, to be intrusive and have the potential to impact on the rights and liberties of individuals.

Whilst a person is asked for their consent, failure to give consent under section 18(5) is a ground (under section 26(1)(c)) under which the person may be asked to leave the major event area and not return for a period of up to 24 hours.

It is also possible that asking a person to remove their head gear may infringe on their religious beliefs if there is no explicit provision made for the removal to be conducted in private.

The explanatory notes state:⁶³

A search of a person would be similar to a search conducted prior to a person being permitted to enter a departure area at an airport. It is non-intrusive and does not affect the dignity of a person. Searches are necessary to ensure that prohibited items are not brought into a major event area.

Regarding police officers carrying out these searches, the department advised:⁶⁴

The Queensland Police Service (QPS) has extensive policy and practices concerning the searching of persons by police officers, which are outlined in the QPS Service Operational Procedures.

In relation to authorised persons other than police officers carrying out searches under clause 18, the department stated:⁶⁵

⁶³ Explanatory notes, p 5.

⁶⁴ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

⁶⁵ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

... cultural/religious/gender sensibility issues can be addressed in training. In addition, authorised persons will be performing these searches under police supervision. There is also the ability to limit the authorised persons powers under clause 57 of the Bill. This could include, for example, a specific condition that an authorised person follow a reasonable direction of a police officer.

Committee comment

The committee has made a number of recommendations in relation to clause 18 Part 2 of this report.

Clause 19

Clause 19 provides that a person who lives works or has a business in a major event area may apply to the major event organiser for a pass (an occupant's pass) that authorises the person to enter and remain in the major event area during the period.

The major event organiser is required to grant the application on the basis an applicant needs access to the area to travel to or from the place where an applicant lives or works, or for the ordinary enjoyment of those places. Such a pass may be granted subject to conditions. The conditions could include limiting the period for which the pass is valid to the days and times stated on the pass.

The committee requested the department provide more information as to why it would be necessary to grant an application subject to conditions and why it would be necessary to fetter the movements of people in and around their residence merely because they happen to live or work in a major event area.

The department advised the provisions were modelled on the current provisions of the *Motor Racing Events Act 1990*.⁶⁶

[In context of the Gold Coast motor racing event] Terms and conditions have been used for the event for example for people who work on the Friday of the event, but not over the weekend, which enables these persons to use the occupant's pass to attend their workplace during this time.

Committee comment

The committee did not receive any comments from submitters in relation to the occupant's pass provisions. The committee is satisfied the occupant's pass would not be granted with unreasonable conditions.

Clause 20

Clause 20 prohibits taking certain possessions into a major event area, such as a weapon or flare. The committee considers this clause to be essential for ensuring the safety of persons within major event areas. The committee questioned whether a person living in a major event area who may possess a prohibited item (legitimately) at their home could be committing an offence.

The department advised 'the reasonable excuse defence provided by clause 20(7)(b) would apply' to the scenario identified by the committee.

Clause 20(6)

Clause 20(6) prohibits a person from offering a service for a fee, gain or reward, in a major event area. The committee considers this to be an appropriate restriction if it is limited to a particular stadium or race-track for example, but questions whether the provision would (if extended to an

⁶⁶ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

entire major event area which may include residences) negatively impact people who live or own businesses in the major event area.

Clause 20(7) provides that a person does not contravene clause 20 if they have the written approval of the major event organiser to do or possess the thing in the major event area, or if they have a reasonable excuse.

The department advised:⁶⁷

Under clause 9 of the Bill, a major event area is the area where a prescribed major event is to be held. It would generally include, for example, stadiums, the circuits for the V8 Supercars in Townsville and the Gold Coast, and the course for the Commonwealth Games marathon. The major event area is limited to where the event is being held. It differs to areas prescribed under other pieces of legislation such as the G20 (Safety and Security) Act 2013, where much larger areas are declared.

While clause 20 (6) of the Bill could have potential impacts on persons who may live or work in prescribed major event areas, this is balanced with the "reasonable excuse" provision. This provision was drafted following the normal Parliamentary Counsel conventions, including following the OQPC FLP Notebook.

Committee comment

Given the advice from the department that a major event area would generally be an area limited to where an event is being held (for example, a stadium) and given that a person would have a defence of reasonable excuse available, the committee does not consider the potential impact of clause 20 on a person's rights and liberties to be significant.

Clause 25 and Clause 26

Clause 25 allows an authorised person to ask a person inside a major event area to consent to opening a bag, container or other thing in the possession of the person and allow the authorised person to inspect the bag, container or other thing.

Clause 26 allows an authorised person to direct a person who is committing an offence, apparently drunk, or adversely affected by a drug, or who does not consent to the matters in clause 18(5) or clause 25, to leave and not re-enter the major event area for a period up to 24 hours. Where the person is committing an offence or appears to be drunk or adversely affected by a drug, the ban can be extended, at the major event organiser's discretion, for the remainder of the major event period.

The committee requested the department provide more information in relation to how this may work in practice in respect of people who live or own a business in the major event area.

The department advised:⁶⁸

Under clause 26 (1) (d), the person has an opportunity to produce a ticket or other evidence of the person's right to be in the major event area under clause 24 in the Bill. The examples provided in clause 24 of evidence of right to be in a major event area specifically include an occupant's pass.

This clause is intended to provide the capacity for persons who are a nuisance or committing offences to be directed to leave the major event areas to prevent further disruption to the event and impact on other patron's safety or ability to enjoy the event. It is not intended to

⁶⁷ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

⁶⁸ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

impact on or prevent people who live or work in the major event area from accessing their homes or workplaces.

Committee comment

The committee understands the provision is intended to deal with persons who may become a nuisance at a particular event and considers it is necessary to maintain the safety of patrons and their enjoyment of the event and that it is not intended to impact on people who live or work in the major event area.

The committee finds it difficult to reconcile the intent behind clause 25 and clause 26(1)(e). Clause 25 does not provide an offence for failure to comply with a bag inspection, however the penalty is the person could be asked to leave a major event area under clause 26(1)(e) if they do not consent.

Given the powers to search people upon entry to a major event area in clause 18(5), the committee questions whether clause 25 is necessary.

Point for clarification 6

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games clarifies the necessity for clause 25 given the search powers contained in clause 18(5) of the Bill.

Clauses 30, 32 and 54

Clauses 30, 32 and 54 provide that certain personal property can be seized if a person has failed to comply with a direction requiring their removal.

The department advised:⁶⁹

The Bill provides for an authorised person to seize items. These provisions are not open-ended and specifically apply to the following:

- *Unauthorised items being sold or distributed in a major event area or a controlled area during a prescribed period (i.e unauthorised street trading outside venues);*
- *Ambush marketing in a major event area or a controlled area during a prescribed period (i.e. publicity stunts from third parties outside venues); and*
- *Items displaying an unauthorised official logo or title.*

... These seizure powers protect commercial arrangements surrounding a major event and/or the major event organiser's intellectual property in relation to the event. As noted by the Committee, this would include circumstances where unauthorised (non-official) merchandise is being 'passed-off' as officially endorsed merchandise.

Committee comment

Any seizure of items would be an interference with the property rights of the person who owns the items. However, the committee considers the clauses are necessary to prohibit persons from taking advantage of the publicity generated by a major event without being an official sponsor – particularly by engaging in ambush marketing.

The committee notes that the seizing of any property would only occur in limited circumstances and only when a person did not first comply with a direction to remove the item.

⁶⁹ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

Clause 65(6)

Clause 65(6) allows the chief executive of the Department of Transport to provide the name, address and telephone number of the registered operator of a vehicle (left in a major event area) to the major event organiser. This has impacts on the operator's privacy, given the major event organiser is unlikely to have arrangements in place to secure the information to the same standards as a government agency such as the QPS or Queensland Transport.

Similar personal information privacy concerns arise from clause 26(7), which allows the major event organiser to take a photograph or other image of a person removed from the major event area under section 26(4). The safeguard for this power is that the photograph or other image may only be used for the purposes of the Act (if passed). However, the clause does not include any specific requirements regarding safe storage of, or ultimate destruction of, photos obtained under this section.

The department advised that major event organisers would be bound by the national privacy principles set out in the *Privacy Act 1988* (Cth).⁷⁰

Committee comment

The committee is satisfied there are no significant privacy concerns and that most major event organisers would be required to follow the National Privacy Principles set out in the *Privacy Act 1988* (Cth).

Delegation of administrative power

Clause 56

Section 4(3)(c) of the LSA provides whether legislation has sufficient regard to rights and liberties of individuals depends on whether the legislation allows the delegation of administrative power only in appropriate cases and to appropriate persons.

Clause 56(2) requires persons appointed as authorised persons to have the experience, expertise or training prescribed by regulation or that the major event organiser be reasonably satisfied that the person is qualified for appointment because they have the necessary experience, expertise or training.

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined. The OQPC Notebook states, 'Depending on the seriousness of a decision made in the exercise of administrative power and the consequences that follow, it is generally inappropriate to provide for administrative decision-making in legislation without providing criteria for making the decision'.⁷¹

The former Scrutiny of Legislation Committee (SLC) took issue with provisions that did not sufficiently express the matters to which a decision-maker must have regard in exercising a statutory administrative power.⁷²

⁷⁰ Public departmental briefing, 8 September 2014, p 9. The ten National Privacy Principles (NPPs) contained in schedule 3 of the *Privacy Act 1988* regulate how large businesses, all health service providers and some small businesses and non-government organisations handle individuals' personal information. The NPPs cover the collection, use, disclosure and storage of personal information. They also allow individuals to access that information and have it corrected if it is wrong.

⁷¹ Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 15.

⁷² Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 15; citing Scrutiny Committee *Annual Report 1998-1999*, para. 3.10.

Legislation should make rights, liberties and obligations dependent on administrative power only if subject to appropriate review. The OQPC Notebook states, 'Depending on the seriousness of a decision and its consequences, it is generally inappropriate to provide for administrative decision-making in legislation without providing for a review process. If individual rights and liberties are in jeopardy, a merits-based review is the most appropriate type of review'.⁷³

In relation to the delegation of power, the department advised the committee the Minister would consult with the Police Minister to determine whether authorised persons would be appointed for a major event and then determine any appropriate training or qualifications to be included in the regulation for the major event. Further:⁷⁴

A major event organiser will only be able to appoint authorised persons where Government makes a conscious decision that it is appropriate to do so. The major event organiser will then need to be reasonably satisfied that the person is qualified for appointment ("Reasonably satisfied" is comparable to the current provisions under section 16(2) of the Motor Racing Events Act).

Regarding the committee's concerns that the powers given to authorised persons are not subject to review the department advised:⁷⁵

... in practice authorised persons exercise search provisions under the supervision of police. The police are present to ensure that authorised persons are carrying out their duties at an acceptable level and particular issues can be escalated to police as required, including if a patron felt aggrieved. The police command and control structure at major events provides further safeguards for the public by ensuring that senior police managers are providing necessary oversight of the conduct of both operational police and authorised persons.

Operational issues such as handling complaints can also be addressed through the policy and procedures of the major event organiser in relation to the major event.

Committee comment

The committee has carefully considered this issue which is also discussed in Part 2 of this report. Whilst it is within the Minister's discretion to enable the authorised persons provisions after consultation with the Police Minister, and it is within the Government's power to mandate any necessary training or qualifications of authorised persons, the committee seeks the Minister's advice as to how a major events organiser would communicate to the public that it is 'reasonably satisfied' that the appointed authorised persons have the appropriate level of training, experience or qualifications.

⁷³ Office of the Queensland Parliamentary Counsel, Fundamental Legislative Principles: *The OQPC Notebook*, p 18.

⁷⁴ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

⁷⁵ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

Point for clarification 7

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games advises how a major events organiser would communicate to the public that it is 'reasonably satisfied' that the appointed authorised persons have the appropriate level of training, experience or qualifications.

Immunity from proceedings*Clause 82*

Section 4(3)(h) of the LSA provides whether legislation has sufficient regard to rights and liberties of individuals depends on whether the legislation does not confer immunity from proceeding or prosecution without adequate justification.

Clause 82(1) provides that compensation is not payable by or for the State for an act or omission that is a major event-related matter (including the conduct of the event, related works, administration of the Act or the exercise of functions under the Act), or that arises directly or indirectly from such a matter, and for which the state or a state employee would otherwise be civilly liable, where such act was done or omitted to be done in good faith and without negligence. It does not apply to acts or omissions that cause personal injury or death.

Clause 82(3) provides that subsection (1) does not affect the civil liability of the state for an act or omission to perform an act as part of, or otherwise in connection with, a state employee's role as an authorised person, or compensation payable under any indemnity given, or other agreement made, by the major event organiser or the state, that expressly relates to a major event-related matter.

Legislation should not confer immunity from proceeding or prosecution without adequate justification.⁷⁶ The OQPC Notebook states "a person who commits a wrong when acting without authority should not be granted immunity. Generally a provision to protect an entity from liability should not extend to liability for dishonesty or negligence. The entity should remain liable for damage caused by the dishonesty or negligence of itself, its officers and employees.

The preferred provision provides immunity for action done honestly and without negligence ... and if liability is removed it is usually shifted to the state.⁷⁷ The SLC stated that one of the fundamental principles of law is that everyone is equal before the law, and each person should therefore be fully liable for their acts or omissions. Notwithstanding that position, the SLC also recognised that conferral of immunity is appropriate in certain situations.⁷⁸

The explanatory notes state:⁷⁹

As the state is usually not the entity staging the event, it is considered appropriate that liability remain with a major event organiser, except for the above cases. The proposal is considered to be justified in this regard.

It should be noted that when a state employee is performing the duties of an authorised person as part of their public service or police service employment, they will be covered by the civil liability provisions in the Public Service Act 2008 or the Police Service Administration Act 1990 respectively.

⁷⁶ *Legislative Standards Act 1992*, section 4(3)(h).

⁷⁷ Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 64.

⁷⁸ Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 64; *Alert Digest 1998/1*, p 5.

⁷⁹ Explanatory notes, p 6.

In relation to the anticipated boundaries of the conferral of immunity the department advised:⁸⁰

In the context of the Gold Coast 2018 Commonwealth Games, the State has entered into an agreement where the State will take liability. Therefore, clause 82 will not apply to the Gold Coast 2018 Commonwealth Games.

Committee comment

The committee is satisfied with clause 82 on the basis the conferral of immunity would be dependent on the type of event and would be appropriate in certain situations.

Compulsory acquisition of property

Clauses 71 and 72

Section 4(3)(i) of the LSA provides whether legislation has sufficient regard to rights and liberties of individuals depends on whether the legislation provides for the compulsory acquisition of property only with fair compensation.

Clause 71 applies to lawfully possessed, seized items with intrinsic value. The major event organiser must return the seized thing to the owner 'generally, at the end of six months after the seizure'.⁸¹

Where a seized thing has been destroyed, the major event organiser must pay compensation to the thing's owner of an amount equal to the market value of the thing when it was seized, and any other loss or damage incurred by the owner as a result of the seizure.

Clause 72 allows the chief executive to decide a seized thing is forfeited to the State if the thing has no intrinsic value, it is not lawful for the owner to possess the thing, or after reasonable enquiries and efforts, the owner cannot be found or the thing cannot be returned. There is no specific provision for compensation in clause 72.

Legislation should provide for the compulsory acquisition of property only with fair compensation.⁸² The OQPC states, 'A legislatively authorised act of interference with a person's property must be accompanied by a right of compensation, unless there is a good reason'.⁸³

The department advised:⁸⁴

This particular provision was drafted following standard drafting practice and having regard to the Queensland Statute Book, where a range of other statutes also provide for items to be returned six months after their seizure. They include the Transport (Rail Safety) Act 2010, the Education and Care Services Act 2014, the Building Boost Grant Act 2011, the Biosecurity Act 2014 and the Hospital and Health Boards Act 2011.

Committee comment

The committee is satisfied with clause 71 on the basis it includes an element of compensation. Clause 72 does not include an element of compensation but this would be on the basis the owner could not be identified or the thing could not be returned after reasonable enquiries.

⁸⁰ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

⁸¹ Clause 71(2)(a).

⁸² *Legislative Standards Act 1992*, section 4(3)(i).

⁸³ Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 73.

⁸⁴ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

In relation to returning an item after six months, the committee noted that it is a timeframe commonly contained in current Acts, however, the committee does not have any information in relation to the genesis of the six month timeframe.

Clear and precise

Section 4(3)(k) of the LSA provides that whether legislation has sufficient regard to rights and liberties of individuals depends on whether the legislation is unambiguous and drafted in a sufficiently clear and precise way.

Clause 33

Clause 33 provides for limits on advertising in a controlled area or a major event area as follows—

- (1) This section applies to a property inside a controlled area or major event area during the control period.*
- (2) A person must not display, or permit to be displayed, an advertisement on the property, including on the outside of a building or structure on the property.*

Maximum penalty—700 penalty units.

- (3) However, subsection (2) does not apply if—*
 - (a) the person covers the advertisement during the control period; or*
 - (b) the person has the written approval of the major event organiser to display the advertisement; or*
 - (c) the advertisement is a type of advertisement prescribed by regulation; or*
 - (d) the advertisement—*
 - (i) was displayed before the major event period; and*
 - (ii) was displayed in the course of the person’s ordinary activities; and*
 - (iii) does not imply that the advertiser is a sponsor of the major event.*
- (4) An authorised person may enter on the property to cover or remove an advertisement—*
 - (a) that contravenes this section; or*
 - (b) if subsection (3)(d) applies to the advertisement.*
- (5) However, an authorised person must not enter onto land where a person lives without the person’s consent.*
- (6) An authorised person must take reasonable steps to prevent damage happening when removing an advertisement.*

Committee comment

It is not clear why a major event organiser would be given power under subsection (4)(b) to enter onto premises to cover authorised advertising under subsection (3)(d) when:

- the advertisement was displayed before the major event period,
- the advertisement was displayed in the course of the person’s ordinary activities, and
- the advertisement does not imply that the advertiser is a sponsor of the major event.

The department advised:⁸⁵

The Bill seeks to provide a capacity for authorised persons to cover advertisements in major event areas and controlled areas, as required. This includes pre-existing advertisements and advertisements that are not intended to imply association with a prescribed major event, which are not offences under the Bill. This helps protect the commercial arrangements of prescribed major events such as the Commonwealth Games where Government has made specific commitments in regard to ensuring venues and areas are “clean” of unauthorised advertising. This also helps protect the commercial arrangements for a major event and limits the capacity for unauthorised advertisements from detracting from the sponsorship pool for the event and the official sponsors.

It is important to note that this provision also contains a range of additional safeguards. For example, an authorised person cannot enter onto land where a person lives without their consent, and must take reasonable steps to prevent damage arising from covering or removing an advertisement.

Based on the department’s response the committee considers the provision is clear in the sense that certain advertising is permitted by subsection (3)(d) but such advertising could be covered or removed by an authorised person if it affects commercial arrangements. The committee is satisfied with the provision on the basis that this would only occur if a person gives their consent.

However, the committee seeks clarification as to whether entering a property to cover or remove pre-existing advertising could include a commercial building in a major event area and whether the consent element provided in subsection (5) would apply to a business owner.

Lastly, the committee notes an apparent anomaly in clause 33(6) and recommends it be amended to reflect that an authorised person is to take reasonable steps to prevent damage happening when covering or removing an advertisement.

Point for clarification 8

The committee requests the Minister for Tourism, Major Events, Small Business and the Commonwealth Games clarifies whether entering a property to cover or remove advertising would include a commercial building in a major event area, and whether the consent element provided in subsection (5) would also apply to a business owner.

Recommendation 8

The committee recommends clause 33(6) be amended to provide that an authorised person is required to take reasonable steps to prevent damage happening when covering or removing an advertisement.

Clause 34

Clause 34 prohibits the display of advertising on a vessel that is inside the major event area or visible from a major event area or controlled area, unless the person has the written approval of the major event organiser. Breach of the provision attracts a significant penalty (maximum 400 penalty units).

The committee considers that advertising being ‘visible’ from a major events area is potentially uncertain. Further, it is difficult to consider how a person could be held liable merely because

⁸⁵ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

something is visible from a particular vantage point within a major event area or a controlled area. The committee sought clarification from the department as to how this clause would be applied.

The department advised:⁸⁶

In the event that an unauthorised advertisement was perceptible by the eye from a major event area or a controlled area, clause 34 of the Bill would be breached. ...

Clause 34 is required for the Gold Coast 2018 Commonwealth Games, where Government has made specific commitments in relation to protections in legislation for unauthorised advertising. It will help prevent unauthorised advertising in and around the Gold Coast Aquatic Centre, for example. ...

Section 30F of the Major Sports Facilities Act 2001 contains a similar provision where a person must not display an advertisement in airspace, or on a building or other structure that is within sight of a major sports facility during a declared period for the facility unless the display is authorised. Contravening this provision of the Major Sports Facilities Act attracts a maximum penalty of 700 penalty units.

Committee comment

The committee notes clause 34 is intended to prohibit unauthorised advertising, particularly for the Gold Coast 2018 Commonwealth Games where advertising could be seen from a vessel around the Gold Coast Aquatic Centre.

However, there may be a situation where, for example, a vessel such as tourist boat displaying general advertising may be visible from a major event area but the operator has no intention of taking advantage of the visibility from a major event area.

As a breach of the provision would attract a significant penalty (maximum of 400 penalty units), the committee considers clause 34 ought to be amended to include an element of intent.

Recommendation 9

The committee recommends clause 34 be amended to include an element of intent.

3.2 Institution of Parliament

Section 4(2)(b) of the LSA provides legislation must have sufficient regard to the institution of Parliament.

Delegation of legislative power

Whether a Bill has sufficient regard to the institution of Parliament depends on whether the Bill allows the delegation of legislative power only in appropriate cases and to appropriate persons.

A number of provisions in this Bill leave matters to be 'prescribed by regulation', or refer to matters 'prescribed by regulation'. This includes clauses 12, 16, 17, 20, 30, 33, 39, 41, 56, 57 and 77.

As noted in the Office of the Queensland Parliamentary Counsel FLP Notebook, this matter is concerned with the level at which delegated legislative power is used.

⁸⁶ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

The threshold for determining whether power should be prescribed in an Act of Parliament as opposed to in a regulation generally depends on the risk of interference with individual rights and liberties. The greater the risk of interference, the greater the reason for the power to be included in an Act of Parliament. It also needs to be noted that delegated power in the form of a regulation would come before the Parliament and be subject to disallowance.

The gravity of leaving matters to be prescribed by regulation is of course dependent on the particular matter being covered by delegated (as opposed to primary) legislation, and will vary in consequence on a case by case basis. For example, the power to prescribe by regulation ‘another thing’ which a person must not possess while entering or within a major event area under clause 20(1)(f) may on one hand be considered useful for its attribute of flexibility and responsiveness to innovations in crime methods. Conversely, such flexibility could also result in an otherwise innocuous item being banned if for example, it had been found to cause problems at other venues.

Committee comment

The committee has examined the application of a regulation prescribing a major event and the provisions applicable to each major event in the above section. Generally, the committee does not have concerns in relation to the matters to be prescribed by regulation.

Amendment of an Act only by another Act

Clause 17

Section 4(4)(c) of the LSA provides that whether a Bill has sufficient regard to the institution of Parliament depends on whether the Bill authorises the amendment of an Act only by another Act.

A clause in an Act which enables the Act to be expressly or impliedly amended by subordinate legislation or executive action is known as a Henry VIII clause.

Clause 17 is a Henry VIII clause in that it allows a ‘shorter period prescribed by regulation’ to override the default position under that section of ‘the major event period’.

The SLC’s approach to Henry VIII clauses was that if an Act is purported to be amended by a statutory instrument in circumstances that are not justified, the SLC would voice its opposition by requesting that Parliament disallow the part of the instrument that breaches the FLP requiring legislation to have sufficient regard for the institution of Parliament.⁸⁷

The SLC considered the possible use of Henry VIII clauses in the following limited circumstances to facilitate:

- immediate executive action
- the effective application of innovative legislation
- transitional arrangements, or
- the application of national scheme legislation.⁸⁸

⁸⁷ Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 159.

⁸⁸ Office of the Queensland Parliamentary Counsel, *Fundamental Legislative Principles: The OQPC Notebook*, p 159.

The department advised:⁸⁹

Clause 17 of the Bill provides that clauses within Part 5 of the Bill may be prescribed for a major event for the major event period, or for a shorter period as prescribed by regulation. This is central to the legislative framework of the Bill and how it is intended to operate, with particular provisions to be prescribed as they are required for a major event.

Committee comment

The committee considers allowing shorter periods to be prescribed by regulation, in place of the default position of the (entire) major event period, is acceptable in this instance. This would provide flexibility to adjust to the particular need covered by the regulation. Where no shorter period is set by the regulation, the default position of the 'major event period' provides certainty of timeframes when the regulation would apply.

3.3 Proposed penalty provisions

The Bill proposes 34 offence provisions (set out in the table below). The department advised the committee the provisions are consistent with the corresponding provisions in the *Motor Racing Events Act 1990*, *Major Sports Facilities Act 2001* and the *Police Powers and Responsibilities Act 2000*, and in comparable events legislation in other Australian jurisdictions.

Clause	Offence	Maximum penalty
18(1)	A person must not enter or exit a major event area except through an entrance or exit designated by the major event organiser.	20 penalty units
18(2)	A person must not enter, or remain in, a major event area unless— (a) if the major event organiser is charging an entry fee for the period the person remains in the major event area—the person pays the entry fee; or (b) the person is authorised, in writing, by the major event organiser, whether under an occupant's pass or otherwise; or (c) the person is authorised, in writing, by Stadiums Queensland, but only to extent the major event area is major sports facility land.	20 penalty units
18(3)	A person who appears to be drunk or adversely affected by a drug must not enter a major event area.	20 penalty units

⁸⁹ Department of Tourism, Major Events, Small Business and the Commonwealth Games, correspondence dated 11 October 2014.

Clause	Offence	Maximum penalty
20(1)	<p>A person must not possess any of the following while entering or within a major event area—</p> <ul style="list-style-type: none"> (a) a weapon; (b) an explosive; (c) a flare or other distress signal; (d) a laser pointer; (e) an animal, other than— <ul style="list-style-type: none"> (i) for a person with a disability who relies on a guide, hearing or assistance dog—the guide, hearing or assistance dog; or (ii) for a person who lives in a major event area—the person’s pet; (f) another thing prescribed by regulation. 	20 penalty units
20(3)	<p>A person must not light any of the following while entering or within a major event area—</p> <ul style="list-style-type: none"> (a) an explosive; (b) a flare or other distress signal. 	30 penalty units
20(4)	<p>A person must not throw or propel any of the following while entering or within a major event area—</p> <ul style="list-style-type: none"> (a) anything that may injure a person or damage property, including— <ul style="list-style-type: none"> (i) an explosive; or (ii) a flare or other distress signal; (b) anything that may disrupt the major event. 	for paragraph (a)— 40 penalty units; or for paragraph (b)— 10 penalty units
20(6)	<p>A person must not do any of the following in a major event area—</p> <ul style="list-style-type: none"> (a) offer a service for a fee, gain or reward; (b) solicit, or attempt to solicit, money from another person; (c) erect a tent or another temporary structure; (d) erect or affix a decoration or equipment; (e) tout for business; (f) distribute a document; (g) busk; (h) another thing prescribed by regulation. 	20 penalty units
21(2)	<p>A person must not enter the restricted area unless the person—</p> <ul style="list-style-type: none"> (a) is a performer or participant in the major event; or (b) is involved in the preparation or holding of the major event; or (c) is authorised, in writing, to enter the restricted area by— <ul style="list-style-type: none"> (i) the major event organiser; or (ii) Stadiums Queensland, but only to the extent the major event area is major sports facility land; or (d) a reasonable excuse. 	20 penalty units

Clause	Offence	Maximum penalty
22(1)	A person must not— (a) enter on a playing field, or a competition or performance area; or (b) obstruct a performer or participant who is participating in the major event.	for paragraph (a)— 40 penalty units; or for paragraph (b)— 80 penalty units
23(1)	A person must not bring liquor into a major event area unless the person is bringing in the liquor— (a) for sale or supply under subsection (2); or (b) for— (i) the person who is permitted to sell or supply liquor in the major event under subsection (2); and (ii) sale or supply under subsection (2); or (c) to supply or consume the liquor under subsection (3).	20 penalty units
23(2)	A person must not sell, supply or consume liquor in the major event area other than in— (a) a licensed premises or another place that is authorised to supply liquor under the Liquor Act 1992; or (b) a place exempted from complying with the Liquor Act 1992 under that Act; or (c) an area designated by the major event organiser as a place if liquor can be sold, supplied or consumed at the place under the Liquor Act 1992.	20 penalty units
26(3)	The person must comply with the direction.	20 penalty units
20(5)	The person must comply with the direction.	60 penalty units
27	A person must not bring a vehicle into a major event area unless— (a) the vehicle is— (i) on a road that is open to the public; or (ii) a police or emergency vehicle; or (b) the person is authorised, in writing, by the major event organiser; or (c) the person is authorised, in writing, by Stadiums Queensland, but only to the extent the major event area is major sports facility land; or (d) the person has a reasonable excuse.	20 penalty units

Clause	Offence	Maximum penalty
28(1)	<p>A person must not park or leave a vehicle in a major event area unless—</p> <ul style="list-style-type: none"> (a) the vehicle is in a place authorised for parking or leaving a vehicle; or (b) the vehicle is a police or emergency vehicle; or (c) the person is authorised, in writing, by the major event organiser; or (d) the person is authorised, in writing, by Stadiums Queensland, but only to the extent the major event area is major sports facility land; or (e) the person has a reasonable excuse. 	20 penalty units
29(1)	A person must not operate an aircraft, or cause an aircraft to be operated, over or in a restricted area that relates to a major event area during the major event period.	2000 penalty units
30(1)	<p>A person must not sell or distribute a thing on a road or public land in a controlled area during the control period, or a major event area during the major event period, unless—</p> <ul style="list-style-type: none"> (a) the sale or distribution is a type prescribed by regulation; or (b) the person has the written approval of the major event organiser. 	50 penalty units
30(3)	The person must comply with the direction.	20 penalty units
31(1)	<p>A person must not sell, or offer for sale, a ticket to a major event—</p> <ul style="list-style-type: none"> (a) in a controlled area or major event area; or (b) at a price that is at least 10% more than the original sale price of the ticket. 	20 penalty units
32(2)	<p>A person must not, unless the person has the written approval of the major event organiser—</p> <ul style="list-style-type: none"> (a) promote a person, a thing or service; or (b) do something that suggests the person, thing or service is a sponsor or affiliate or has the approval of— <ul style="list-style-type: none"> (i) the major event; or (ii) an event associated with the major event; or (iii) the major event organiser. 	100 penalty units
32(4)	The person must comply with the direction.	20 penalty units
33(2)	A person must not display, or permit to be displayed, an advertisement on the property, including on the outside of a building or structure on the property.	700 penalty units

Clause	Offence	Maximum penalty
34	A person must not display advertising on a vessel that is— (a) inside the major event area; or (b) visible from a major event area or controlled area; unless the person has the written approval of the major event organiser.	400 penalty units
35(1)	A person must not display an advertisement in airspace above, or visible from, a major event area or controlled area by— (a) skywriting; or (b) attaching or displaying an advertisement on a person or on an aircraft; or (c) towing an advertisement behind a person or an aircraft.	700 penalty units
36(1)	A person must not broadcast or record a major event unless— (a) the person has the written approval of the major event organiser; or (b) the person broadcasts or records the major event— (i) on a personal electronic device; and (ii) for personal use; and (iii) for a purpose other than for profit or gain.	400 penalty units
39(2)	A person must not drive a vehicle in a major event lane unless— (a) a major event lane permit is displayed on the vehicle in a way that is clearly visible from outside the vehicle; or (b) the person is driving— (i) a police or emergency vehicle; or (ii) another type of vehicle prescribed by regulation, such as a bus or taxi.	20 penalty units
39(7)	A person must comply with a requirement made of the person under subsection (4) or (5).	20 penalty units
47(2)	The dispenser must, within 14 days of dispensing the drug, give a copy of the prescription to the chief health officer.	40 penalty units
52(3)	A person must not use an official logo or official title, or a logo or title that is deceptively similar, or substantially identical, to an official logo or official title— (a) for a commercial purpose; or (b) to promote, advertise or market a thing or service; or (c) to suggest that the person has a connection with the major event.	100 penalty units
62	If the office of a person as an authorised person ends, the person must return the person's identity card to the major event organiser within 21 days after the office ends unless the person has a reasonable excuse.	20 penalty units
63(4)	The person must comply with the requirement.	5 penalty units

Clause	Offence	Maximum penalty
64(6)	The person in control of the vehicle must comply with a direction under subsection (4).	20 penalty units
75	A person must not impersonate an authorised person.	60 penalty units
76	A person must not obstruct an authorised person from carrying out his or her duties under this Act.	20 penalty units

3.4 Explanatory notes

Part 4 of the LSA requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by Part 4 and a reasonable level of background information and commentary to facilitate understanding of the Bill's aims and origins.

The committee considers it would be helpful if the explanatory notes identified the specific clause(s) being discussed when identifying potential breaches of FLPs.

The explanatory notes identified the stakeholders consulted. The committee considers the explanatory notes could have been improved by providing more details on how the consultation was undertaken, a summary of the views expressed by stakeholders and any amendments made to the Bill as a result.⁹⁰

⁹⁰ Queensland Government, Department of Premier and Cabinet, *Guidelines for the preparation of explanatory notes*, pp 5-6, December 2011.

Appendices

Appendix A – List of submitters

Sub #	Name
1	eBay
2	Queensland Tourism Industry Council
3	Ticketmaster
4	Office of the Information Commissioner
5	Queensland Law Society

Appendix B – List of witnesses at the public hearing held 29 September 2014

Witnesses	
1	Ms Binari De Saram – Senior Policy Solicitor, Queensland Law Society
2	Mr Kurt Fowler – Member of Queensland Law Society’s Criminal Law Committee
3	Mr Christoph Homann – Managing Director Resales, Ticketmaster International
4	Ms Maria O’Connor – Managing Director, Ticketmaster International
5	Inspector Peter Aitken – North Brisbane Patrol Services, Brisbane region, Queensland Police Service
6	Inspector Tony Crimmins – Intelligence, Counter-Terrorism and Major Events Command, Queensland Police Service
7	Mr Nick Elliott – Assistant-Director General, Commonwealth Games, Department of Tourism, Major Events, Small Business and the Commonwealth Games
8	Senior Sergeant David Flynn – Legislation Branch, Queensland Police Service
9	Ms Filly Morgan – Office of Commonwealth Games Coordination, Department of Tourism, Major Events, Small Business and the Commonwealth Games
10	Ms Sarah Vortman – Senior Strategy Officer, Strategy Division, Public Safety Business Agency, Department of Tourism, Major Events, Small Business and the Commonwealth Games
11	Mr Jordan Watts – Manager, Policy and Legislation, Department of Tourism, Major Events, Small Business and the Commonwealth Games