



Queensland

# **Commonwealth Games Arrangements Act 2011**

**Act No. 42 of 2011**





Queensland

# Commonwealth Games Arrangements Act 2011

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Queensland

## **Commonwealth Games Arrangements Act 2011**

**Act No. 42 of 2011**

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**An Act to establish the Gold Coast 2018 Commonwealth Games Corporation  
and for related purposes**

**[Assented to 6 December 2011]**

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**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Commonwealth Games Arrangements Act 2011*.

### **2 Commencement**

This Act commences on 1 January 2012.

### **3 Purpose of Act**

The purpose of this Act is to establish the Gold Coast 2018 Commonwealth Games Corporation to plan, organise and deliver the Commonwealth Games, in conjunction with ACGA and Commonwealth Games Federation.

### **4 Act binds all persons**

This Act binds all persons, including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.

### **5 Definitions**

The dictionary in the schedule defines particular words used in this Act.



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## Part 2                      Gold Coast 2018                                     Commonwealth Games                                     Corporation

### 6            Establishment

- (1) The Gold Coast 2018 Commonwealth Games Corporation is established.
- (2) The corporation—
  - (a) is a body corporate; and
  - (b) has a seal; and
  - (c) may sue and be sued in its corporate name.
- (3) The corporation does not represent the State.

### 7            Application of other Acts

- (1) The corporation is a public authority under the *Civil Liability Act 2003*.
- (2) The corporation is a statutory body under the *Financial Accountability Act 2009*.
- (3) The corporation is a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.
- (4) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B explains how that Act affects the corporation's powers.
- (5) The corporation is a relevant EEO agency under the *Public Service Act 2008*.

### 8            Functions

- (1) The functions of the corporation are as follows—
  - (a) to undertake and facilitate the organisation, conduct, promotion and commercial and financial management of the Commonwealth Games;

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- (b) to do all the things necessary for or in connection with a matter mentioned in paragraph (a).
- (2) The corporation's functions also include any other function given to the corporation under this Act.
- (3) In this section—  
*Commonwealth Games* includes events and programs associated with the Commonwealth Games.

## 9 Corporation's powers

- (1) The corporation has all the powers of an individual, and may, for example—
  - (a) enter into contracts; and
  - (b) acquire, hold, deal with and dispose of property; and
  - (c) appoint agents and attorneys; and
  - (d) engage consultants; and
  - (e) charge a fee for its services; and
  - (f) do anything else necessary or convenient to be done in the performance of its functions.
- (2) Without limiting subsection (1), the corporation has the powers given to it under this Act or another Act.
- (3) However, the powers of the corporation do not include the following—
  - (a) making a loan to a member, member's spouse, relative of a member or relative of a member's spouse;
  - (b) giving a guarantee, or providing security, in connection with a loan made, or to be made, by another person to a member, member's spouse, relative of a member or relative of a member's spouse;
  - (c) exempting, or indemnifying, a member from or against any liability for a breach of duty relating to the corporation.
- (4) Subsection (3)(c) is subject to section 29.

## 10 Ministerial direction

- (1) The Minister may give the corporation a written direction about the performance of its functions or the exercise of its powers if the Minister is satisfied it is reasonably necessary to give the direction.
- (2) Without limiting subsection (1), the Minister may give the corporation a written direction—
  - (a) to give the Minister a document or information held by or in the control of the corporation; or
  - (b) to submit to the Minister a document for the Minister's approval.
- (3) The corporation must ensure a direction given under this section is complied with.
- (4) The corporation—
  - (a) must include in its annual report, prepared under the *Financial Accountability Act 2009*, section 63, details of any direction given by the Minister under subsection (1) during the financial year to which the report relates; and
  - (b) may include in the report a comment about the effect on the corporation's activities of complying with the direction.

## 11 Delegation

- (1) The corporation may delegate its functions to—
  - (a) a member; or
  - (b) an appropriately qualified officer or employee of the corporation.
- (2) In this section—

***appropriately qualified*** includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing for an officer or employee of the corporation—*  
the classification level in the corporation of the officer or employee

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*function* includes power.

## **Part 3                      The board**

### **Division 1                      Establishment, role and membership**

#### **12                      The board**

The corporation has a board of members.

#### **13                      Role of the board**

- (1) The board is responsible for the way the corporation performs its functions and exercises its powers.
- (2) Without limiting subsection (1), it is the board's role to ensure the corporation performs its functions in an appropriate, effective and efficient way.

#### **14                      Composition of board**

- (1) The board consists of at least 8 members.
- (2) The Minister must consult with ACGA about the appointment of each member.
- (3) Each member must be appointed by the Governor in Council.

#### **15                      Duration of appointment**

- (1) Subject to this division, a member holds office for the period stated in the member's instrument of appointment.
- (2) The period of appointment can be a period ending no later than the dissolution day.

- (3) If otherwise qualified, a member who completes a period of office may be reappointed.

## **16 Terms and conditions of appointment**

- (1) A member may be paid the remuneration and allowances decided by the Governor in Council.
- (2) A member holds office on the terms and conditions, not provided by this Act, that are decided by the Governor in Council.

## **17 Vacancy in office**

- (1) The office of a member becomes vacant if the member—
- (a) completes a period of office; or
  - (b) resigns office by signed notice given to the Minister; or
  - (c) is removed from office by the Governor in Council under subsection (2); or
  - (d) is convicted of an indictable offence; or
  - (e) is a person who is an insolvent under administration under the Corporations Act, section 9; or
  - (f) becomes employed by, or becomes a contractor of, the corporation.
- (2) The Governor in Council may at any time remove a member from office for any reason or none.

## **18 Ineligibility of member of Parliament or councillor**

A member of the Commonwealth Parliament or a State Parliament or a councillor of a local government is not eligible for appointment as a member.

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## **19 Chairperson**

The chairperson is a member nominated by the Minister after consultation with ACGA.

## **20 Deputy chairperson**

- (1) There is to be a deputy chairperson of the board.
- (2) If the president of ACGA is a member, the president is the deputy chairperson.
- (3) If the president stops being the president of ACGA—
  - (a) the president ceases to be the deputy chairperson; and
  - (b) the deputy chairperson is a member nominated by the Minister after consultation with ACGA.

## **Division 2 Proceedings**

### **21 Time and place of meetings**

- (1) The board may hold its meetings when and where it decides.
- (2) However, the board must meet at least twice each year.
- (3) The chairperson—
  - (a) may at any time call a meeting of the board; and
  - (b) must call a meeting if asked by at least 4 other members.

### **22 Quorum**

A quorum for a meeting of the board is at least half of the members.

### **23 Presiding at meetings**

- (1) The chairperson presides at all meetings of the board at which the chairperson is present.
- (2) If the chairperson is absent, the deputy chairperson presides.

- (3) If the chairperson and deputy chairperson are absent, a member chosen by the members present presides.

## **24 Conduct of meetings**

- (1) Subject to this division, the board may conduct its proceedings, including its meetings, as it considers appropriate.
- (2) The board may conduct its proceedings by using any technology allowing reasonably contemporaneous and continuous communication between persons taking part in the proceedings.
- (3) A member who takes part in a meeting of the board under subsection (2) is taken to be present at the meeting.
- (4) A question at a meeting of the board is to be decided by a majority of the votes of the members present at the meeting.
- (5) If the votes are equal, the chairperson has a casting vote.
- (6) A resolution is a valid resolution of the board, even though it is not passed at a meeting of the board, if—
  - (a) at least half the members give written agreement to the resolution; and
  - (b) notice of the resolution is given in accordance with procedures approved by the board.

## **25 Minutes and other records**

The board must keep—

- (a) minutes of its meetings; and
- (b) a record of any of its decisions and resolutions.

## **Division 3                      Duties of members**

### **26            Duty to act honestly and exercise care and diligence**

- (1) A member must act honestly, and must exercise a reasonable degree of care and diligence, when performing the member's functions and exercising the member's powers.
- (2) A member or former member must not make improper use of information acquired because of the member's position as a member—
  - (a) to gain, directly or indirectly, an advantage for the member or for any other person; or
  - (b) to cause detriment to the corporation.
- (3) A member must not make improper use of the member's position as a member—
  - (a) to gain, directly or indirectly, an advantage for the member or for any other person; or
  - (b) to cause detriment to the corporation.
- (4) This section—
  - (a) has effect in addition to, and not in derogation of, any law relating to the civil or criminal liability of a member of the governing body of a corporation; and
  - (b) does not prevent the starting of a civil or criminal proceeding in respect of civil or criminal liability.

### **27            Corporation or Minister may bring proceedings**

- (1) If a member contravenes section 26, the corporation or the Minister may recover from the member as a debt due to the corporation either or both of the following—
  - (a) if the member or any other person made a profit as a result of the contravention—an amount equal to the profit;



- 
- (b) if the corporation has suffered loss or damage as a result of the contravention—an amount equal to the loss or damage.
  - (2) A proceeding mentioned in subsection (1) may be—
    - (a) brought in the name of the corporation; and
    - (b) started in a court of competent jurisdiction.

## **28 Duty of disclosure**

- (1) If—
  - (a) a member has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered at a meeting of the board; and
  - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter;

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the board.
- (2) Particulars of any disclosure made under this section must be recorded by the board in a register of interests kept for the purpose.
- (3) After a member has disclosed the nature of an interest in any matter, the member must not—
  - (a) be present during any deliberation of the board about the matter; or
  - (b) take part in any decision of the board about the matter.
- (4) For the making of a decision by the board under subsection (3), a member who has a direct or indirect pecuniary or other interest in a matter to which the disclosure relates must not—
  - (a) be present during any deliberation of the board for the purpose of making the decision; or
  - (b) take part in the making of the decision by the board.

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- (5) A contravention of this section does not invalidate any decision of the board.
- (6) However, if the board becomes aware a member contravened this section, the board must reconsider any decision made by the board in which the member took part in contravention of this section.
- (7) A member may have regard to, or may act in, the interests of the entity that nominated the member for section 14.
- (8) However, a member may not act in a way that is contrary to the interests of the corporation.
- (9) A reference to an interest or to a conflict of interest is a reference to a matter within its ordinary meaning under the general law, and, in relation to an interest, the definition in the *Acts Interpretation Act 1954*, section 36 does not apply.

## **Division 4            Immunity from proceeding**

### **29            Protection from liability**

- (1) A member does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to a member, the liability attaches instead to the corporation.

## **Division 5            Committees**

### **30            Establishment**

- (1) The board may establish committees to assist it in performing its functions.
- (2) The board may decide on the membership and functions of a committee established under subsection (1).

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- (3) Unless the board decides otherwise, a committee established under subsection (1) may conduct its proceedings, including its meetings, as it considers appropriate.

## **Division 6            Staff of the corporation**

### **Subdivision 1        Chief executive officer**

#### **31            Chief executive officer**

The Governor in Council may appoint a chief executive officer for the corporation who is nominated by the Minister and approved by ACGA.

#### **32            Restriction on appointment**

A member of the board must not be appointed as chief executive officer.

#### **33            Chief executive officer employed under this Act**

The chief executive officer is employed under this Act and not under the *Public Service Act 2008*.

#### **34            Duration of office**

- (1) Subject to this subdivision, the chief executive officer holds office for the period stated in the officer's instrument of appointment.
- (2) The period of office can be a period ending no later than the dissolution day.

#### **35            Functions**

The functions of the chief executive officer are to ensure—

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- (a) the corporation is managed as required by the priorities of the board; and
- (b) the efficient and effective administration and operation of the corporation.

### **36 Terms and conditions of appointment**

- (1) The chief executive officer is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) The chief executive officer holds office on the terms and conditions, not provided by this Act, that are decided by the Governor in Council.

### **37 Vacancy in office**

- (1) The office of the chief executive officer becomes vacant if the chief executive officer—
  - (a) completes a term of office; or
  - (b) resigns office by signed notice given to the Minister; or
  - (c) is removed from office by the Governor in Council under subsection (2); or
  - (d) is convicted of an indictable offence; or
  - (e) is a person who is an insolvent under administration under the Corporations Act, section 9.
- (2) The Governor in Council may at any time remove the chief executive officer from office for any reason or none.

## **Subdivision 2 Other staff members**

### **38 Employment**

- (1) The corporation may employ other staff it considers appropriate to perform its functions.

- 
- (2) The other staff are to be employed under this Act and not the *Public Service Act 2008*.

## **Division 7                      Budget and funding agreement**

### **39            Minister to approve budget**

- (1) The corporation must, for each financial year, develop, adopt and submit to the Minister a budget by the day the Minister directs.
- (2) A budget has no effect until approved by the Minister.
- (3) During a financial year, the corporation may develop, adopt and submit to the Minister amendments to its approved budget for the financial year.
- (4) An amendment has no effect until approved by the Minister.
- (5) The Minister's approval under this section may only be given with the consent of the Minister administering the *Financial Accountability Act 2009*.
- (6) A budget, or amendment of a budget, that has not received the approval of the Minister under this section must not be made available to the public.

### **40            Corporation to enter into funding agreement**

- (1) The corporation must, for each financial year, enter into an agreement (the *funding agreement*) with the department.
- (2) The funding agreement for a financial year must provide for the way funding for the financial year is to be expended.

### **41            Corporation to act in accordance with budget and funding agreement**

The corporation must, for a financial year, act in accordance with—

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- (a) the budget, and any amendment of the budget, for the financial year approved by the Minister under section 39(2) or (4); and
- (b) the funding agreement for the financial year.

## **Part 4                      Legal proceedings**

### **42        Application of pt 4**

This part applies to a proceeding under this Act.

### **43        Appointments and authority**

The following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment of the chairperson;
- (b) the appointment of the deputy chairperson;
- (c) the authority of a person to do anything under this Act.

### **44        Signatures**

A signature purporting to be the signature of the chairperson or the chief executive officer is evidence of the signature it purports to be.

### **45        Other evidentiary aids**

- (1) In a proceeding, a certificate purporting to be that of the chief executive officer stating any of the following matters is evidence of the matter—
  - (a) a stated document is an appointment or direction made or given under this Act;

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- (b) a stated document is a document given to the corporation or chief executive officer;
  - (c) a stated document is a copy of a document mentioned in paragraph (a) or (b).
- (2) A statement in a complaint for a breach of duty under this Act that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of when the matter came to the complainant's knowledge.

## **Part 5                      Winding-up of corporation**

### **46            Dissolution day**

- (1) A regulation may prescribe a day, not later than 18 months after the end of the closing ceremony of the Commonwealth Games, as the dissolution day.
- (2) If, on the day that is 18 months after the end of the closing ceremony of the Commonwealth Games, no day has been prescribed under subsection (1), that day is the dissolution day.

### **47            Dealing with assets and liabilities on winding-up**

- (1) On the dissolution day the State is the successor in law of the corporation.
- (2) Without limiting subsection (1)—
  - (a) all assets vested in, or held by, the corporation vest in the State; and
  - (b) all liabilities of the corporation become liabilities of the State; and
  - (c) the State is substituted for the corporation as a party to—

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- (i) any contract, lease or other instrument to which the corporation is a party; or
- (ii) any current legal proceeding to which the corporation is a party.

## **Part 6                      Miscellaneous**

### **48      Regulation-making power**

The Governor in Council may make regulations under this Act.



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## Schedule Dictionary

### section 5

**ACGA** means Australian Commonwealth Games Association Inc. A01596.

**board** means the board of the corporation.

**chief executive officer** means the chief executive officer of the corporation.

**closing ceremony** means the last day of the official sports program for the Commonwealth Games.

**Commonwealth Games** means the XXI Commonwealth Games to be held at the Gold Coast in 2018.

**corporation** means Gold Coast 2018 Commonwealth Games Corporation.

**dissolution day** means the dissolution day under section 46.

**funding agreement** see section 40.

**member** means a member of the board appointed under section 14(3).