

Major Sports Facilities Amendment Bill 2004

Explanatory Notes

General Outline

Short Title of the Bill

The short title of the Bill is the *Major Sports Facilities Amendment Bill 2004*.

Policy Objectives of the Legislation

The primary objective of the Bill is to increase the penalties for pitch invasions, give the Major Sports Facilities Authority (the Authority) the statutory power to regulate traffic and parking at its facilities and to make other minor machinery amendments to the Act.

Reasons for the Bill

The Authority was established in 2001 to manage, own, operate and provide the State's major sports facilities. At the time it was established, the Authority managed the Brisbane Cricket Ground. Since then the Brisbane Entertainment Centre, Queensland Sport and Athletics Centre (QSAC – formerly ANZ Stadium), Willows Sports Complex, incorporating Dairy Farmers Stadium, the Sleeman Sports Centre and, following completion of the redevelopment, Suncorp Stadium have been declared major sports facilities and placed under the management of the Authority.

During early 2004, a review of the *Major Sports Facilities Act 2001* (the Act) was undertaken to ensure the legislative framework is operating effectively now that the Authority has six major venues under its control.

Achieving the Objectives

The review found that in the most part the Act provides a sufficient framework for the operation of the Authority. In addition to minor machinery amendments to the Act, the review identified the need to:

- amend the meeting requirements for the Board of the Authority;
- increase the penalties under the Act for pitch invasions; and
- give the Authority the power to regulate traffic and parking at its facilities.

Spectators who invade the pitch during sport or entertainment events can interrupt the event and cause harm to the participants and possibly themselves. This was demonstrated by the spectator who was knocked unconscious attempting to tackle a South African player during a penalty kick at the 2003 Rugby World Cup at Suncorp Stadium. Increasing the penalties for pitch invasion offences aims to:

- enhance the deterrent to people invading the Authority's grounds during a sporting or entertainment event to make a public protest or public statement or simply for fun;
- protect the safety of both participants and spectators; and
- support the Queensland Government's ability to attract major events by bringing the Act in line with the penalty regimes for such offences at major facilities in New South Wales and Victoria.

Insertion of provisions in the Act to regulate traffic and parking will assist the Authority to deal with inappropriate parking at its facilities. This has been a particular problem at the Sleeman Centre and QSAC. Inappropriate parking at these venues has caused traffic congestion, inconvenience for staff, visitors and athletes and in some instances damage to facilities. The Authority's attempts to control parking in these locations through administrative actions have not been successful.

The alternative to the Bill is to leave the legislation as it currently stands.

Administrative Costs

There are no direct Budgetary implications anticipated for Government in relation to implementation of the amendments proposed in the Bill. The Authority does not anticipate considerable costs in regulating parking and traffic at its facilities.

Fundamental Legislative Principles

The Bill has been drafted with regard to fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

While the Bill proposes to increase the maximum penalties for offences under sections 32(b) and (c) of the Act, these penalties can only be recovered by prosecution through the Courts. Offenders will therefore have the opportunity to dispute the charges in the Magistrates Court.

The Bill provides for the appointment by the Authority of authorised persons to enforce traffic and parking controls at Authority facilities. To protect the rights of people affected by these provisions, the Bill outlines how authorised officers are to be appointed and how they are to exercise their powers.

The traffic and parking offences will be enforced through the issue of infringement notices (on the spot fines) under the *State Penalties Enforcement Act 1999*. The *State Penalties Enforcement Act 1999* provides the procedures for disputing on the spot fines issued under the Act for traffic and parking offences.

Consultation

Consultation was undertaken with Griffith University, through Education Queensland and with other relevant Government agencies, including the Department of the Premier and Cabinet, Queensland Police Service, Department of Justice and the Attorney General, Treasury Department and the Department of Employment and Training. All agencies consulted support the Bill.

Notes on Provisions

Part 1 Preliminary

Short Title

Clause 1 sets out the short title as the *Major Sports Facilities Amendment Act 2004*.

Part 2 Amendment of Major Sports Facilities Act 2001

Act Amended

Clause 2 provides that the *Major Sports Facilities Amendment Act 2004* amends the *Major Sports Facilities Act 2001* (the Act).

Omission of s 2 (Commencement)

Clause 3 removes section 2 of the Act, which is no longer necessary.

Amendment of s 3 (Definitions)

Clause 4 amends section 3 of the Act to reflect that the Dictionary will now be in schedule 2 of the Act.

Amendment of s 14 (Qualifications for Appointment)

Clause 5 amends section 14(1)(a) of the Act to accord with modern drafting practice. Clause 5(1) replaces the reference to a person “affected by a bankruptcy action” with a person who is “an insolvent under administration”. The term “an insolvent under administration” will be defined in the dictionary to the Act. Clause 5(2) removes the definition of “affected by a bankruptcy action”, which is now superfluous.

Amendment of s 19 (Times and places of meetings)

Clause 6 amends section 19(1) of the Act to require the Board of Directors of the Authority to meet at least 12 times a year, rather than once a month. This amendment is for operational purposes and provides the Authority with greater flexibility in managing the timing of its Board meetings.

Omission of pt 3A (Declaratory provisions for redeveloped Suncorp Stadium)

Clause 7 removes Part 3A of the Act, which is no longer necessary for the operation of the Act. Suncorp Stadium is now under the ownership and control of the Authority.

Amendment of s 32 (Offences)

Clause 8 amends section 32 of the Act to increase the penalties for pitch invasions (section 32(b)) and interfering with a person engaged in sport or entertainment on facility land (section 32(c)) from 20 penalty units (\$1,500) to 40 penalty units (\$3,000) and 80 penalty units (\$6,000) respectively.

Insertion of new s 32A

Clause 9 inserts section 32A in the Act, establishing the power to control traffic at facility land. “Facility land” is defined in the Act to be land on which there is a facility declared to be a major sport facility under section 4 of the Act.

Section 32A provides that schedule 1 has effect. Schedule 1 establishes the Authority’s traffic control powers.

Insertion of new pt 6, div 3

Clause 10 inserts a new division 3 into part 6 of the Act.

The new division 3 clarifies that the amendment of the *State Penalties Enforcement Regulation 2000* by this Bill does not affect the power of the Governor in Council to further amend that Regulation or to repeal it.

Amendment of schedule (Dictionary)

Clause 11(1) amends the dictionary in the schedule to the Act to include a definition of the terms “authorised person”, “insolvent under administration”, “official traffic sign”, “owner”, “regulatory notice” and “vehicle”.

Clause 11(2) renumbers the schedule (Dictionary) as schedule 2.

Insertion of new sch 1

Clause 12 inserts schedule 1 into the Act relating to the appointment of authorised persons and control of traffic and parking on facility land

Schedule 1 Control of traffic on facility land

Part 1 Authorised persons

Section 1 enables the Authority to appoint, in writing, a person to be an authorised person under the Act, provided they have the necessary training, knowledge and experience.

Section 2(1) enables the powers of an authorised person to be limited by a condition of appointment or written notice by the Authority. Section 2(2) enables the notice to be given orally provided it is confirmed in writing as soon as possible.

Section 3(1) provides that an authorised person holds office on the conditions stated in their instrument of appointment. Section 3(2) provides that an authorised person's term of appointment ends at the expiration of the term in the instrument of appointment or upon resignation, by signed notice given to the Authority.

Section 4(1) provides that the Authority must issue an identity card to each authorised person. Section 4(2) specifies that the identity card must contain a recent photograph, be in a form approved by the Authority and be signed by the authorised person. Section 4(3) provides that the identity card must be returned to the Authority as soon as practicable after the person ceases to be an authorised person, unless the person has a reasonable excuse. The maximum penalty for failing to comply with this section is ten penalty units (\$750).

Section 5 seeks to ensure an authorised person shows proof of identification when exercising their powers. Section 5(1) provides that the authorised person may only exercise their powers if they first produce their identity card for inspection or have their identity card on display in a clearly visible position. Section 5(2) provides that if it is impractical to comply with section 5(1), the authorised person must produce their identify card for inspection at the first reasonable opportunity. Section 5(3) ensures that failure to provide proof of identification in accordance with section 5(2) does not invalidate the power exercised by the authorised person.

Part 2 Traffic Control

Section 6(1) provides that an authorised person may control traffic at the facility land and give directions to persons on facility land in order to control such traffic. Section 6(2) provides that failure to comply with a direction of an authorised person regarding the control of traffic constitutes

an offence under the Act, with a maximum penalty of ten penalty units (\$750).

Section 7(1) provides for the Authority to erect or display a “regulatory notice” at or near a vehicular entrance to facility land to control the driving, parking or standing of vehicles on the land. The regulatory notice may fix speed limits, indicate a pedestrian crossing or restrict the driving, parking or standing of vehicles. Section 7(2) makes it an offence for a person to fail to comply with a regulatory notice without reasonable excuse, attracting a maximum penalty of ten penalty units (\$750).

Section 7(3) requires a regulatory notice to state the limits of the area to which the notice relates. This section also enables the Authority to include a statement on the regulatory notice that the contravention of a requirement on the notice is an offence under the Act and the penalty for the offence. If the Authority does not include such a statement, it must erect an information notice to this effect. Information notices are provided for under section 8 of schedule 1.

Section 7(4) allows for the regulatory notices to be erected in the form of official traffic signs, similar to stop, give way and speed limit signs.

For evidentiary purposes, section 7(5) provides that evidence that a regulatory notice is erected or displayed in accordance with section 7(1) is evidence that the notice was erected and displayed by the Authority.

Section 7(6) ensures that the regulatory notices are clearly visible to passers-by.

Section 8(1) provides that section 8 applies when a “regulatory notice” does not state that a breach of a requirement of the notice is an offence and specify the penalty for the offence. Section 8(2) provides that in that situation, the Authority must erect or display an information notice stating that a breach of a requirement of a regulatory notice is an offence and stating the penalty for the offence.

Section 8(2) provides that an information notice must be erected or displayed at or near each vehicular entrance to the facility land to which the regulatory notice relates and any other place considered appropriate by the Authority. Section 8(3) clarifies that in addition to information about regulatory notice offences, required by section 8(2), information notices may contain any information the Authority considers appropriate.

Section 8(4) ensures that an information notices are clearly visible to passers-by.

Section 8(5) prescribes that for the purpose of section 8, a regulatory notice does not include an official traffic sign. This means that if a regulatory notice, which does not contain a statement that contravention of that notice is an offence, is in the form of an official traffic sign, the Authority does not need to erect or display an information notice in accordance with section 8.

Clause 9(1) provides that an authorised person may seize, remove and hold a vehicle if the authorised person believes, on reasonable grounds, that the vehicle is parked in breach of a ‘regulatory notice’ or is abandoned. Section 9(2) ensures that if this power is exercised, vehicles are held in a safe place. Section 9(3) ensures that an authorised person only exercises the power to seize, remove and hold a vehicle if:

- (a) the authorised person believes on reasonable grounds that it is necessary having regard to the safety and convenience of traffic on the facility land; and
- (b) the authorised person cannot immediately locate the driver, or believes on reasonable grounds that the driver is not willing to remove the vehicle.

Section 9(4) requires the authorised person to inform the owner of a seized vehicle in writing of where the vehicle is held and how it can be recovered. The notice must be given as soon as practicable, but no later than 14 days after the vehicle is seized. Section 9(5) provides that if the owner cannot be identified or located, the authorised person, within 14 days of the seizure of the vehicle, must publish a notice about the seizure of the vehicle in a newspaper circulated generally in Queensland.

Section 9(6) enables the Authority to demand payment from the owner of a vehicle parked in contravention of a regulatory notice, for the cost of seizing, removing, holding and returning the vehicle.

Section 9(7) defines “vehicle” to include a part of a vehicle or anything attached to, or contained in, a vehicle.

Clause 10(1) provides that section 10 relates to the situation where the owner of a vehicle, seized in accordance with section 9, does not recover the vehicle within two months after a notice is given in accordance with sections 9(4) or (5). In that situation, section 10(2) enables the Authority, after publishing a notice in a newspaper circulating throughout Queensland, to sell the vehicle by public auction. Section 10(3) provides that the notice referred to in section 10(2) must:

- (a) identify the vehicle;
- (b) state the vehicle is to be sold by auction;

- (c) state how the owner of the vehicle may recover the vehicle before the public auction; and
- (d) state the time and place of the auction.

Section 10(4) confirms that compensation is not recoverable against the Authority for the sale of the vehicle under section 10.

Section 10(5) confirms that for the purposes of section 10, vehicle also includes a part of a vehicle or anything attached to, or contained in, a vehicle.

Clause 11(1) specifies how and in what order the proceeds of the sale of the vehicle must be applied. These are:

- (a) in payment of the reasonable expenses incurred in the sale;
- (b) in payment of the reasonable cost of seizing, removing and holding the vehicle;
- (c) if there is an amount owing to a person under a security interest registered for the vehicle under the *Motor Vehicles and Boats Securities Act 1986*—in payment of the amount owing to the holder of the security interest; and then
- (d) in payment of any balance to the owner.

Section 11(2) confirms compensation for payments made by the Authority under section 11(1) is not recoverable from the Authority.

Part 3 Amendment of State Penalties Enforcement Regulation 2000

Regulation amended in pt 3

Clause 13 provides that this part amends the *State Penalties Enforcement Regulation 2000*.

Amendment of sch 5 (Other legislation)

Clause 14 amends schedule 5 of the *State Penalties Enforcement Regulation 2000* to establish the offences under sections 6(2) and 7(2) of schedule 1 of the Act as infringement notice offences under the *State Penalties Enforcement Act 1999*. The fine for the infringement notice

offences will be \$37.50 (1/2 of a penalty unit). Authorised persons, appointed by the Authority under section 1 of schedule 1 of the Act, will be empowered to issue the infringement notices.