

Brisbane Olympic and Paralympic Games Arrangements Bill 2021

Explanatory Notes

Short title

The short title of the Bill is the Brisbane Olympic and Paralympic Games Arrangements Bill 2021.

Policy objectives and the reasons for them

The primary objectives of the Bill are to:

- establish the Brisbane Organising Committee for the 2032 Olympic and Paralympic Games (the Corporation) to undertake and facilitate the organisation, conduct, promotion and commercial and financial management of the 2032 Olympic and Paralympic Games; and
- establish a board of directors of the Corporation (the Board) to ensure the Corporation performs its functions in a proper, effective and efficient way.

Brisbane was elected as host of the 2032 Olympic and Paralympic Games (Brisbane 2032) by the International Olympic Committee (IOC) on 21 July 2021, following a majority vote of IOC Members at the 138th IOC Session. On the same day, the Premier, Lord Mayor of Brisbane City Council and the President of the Australian Olympic Committee executed the Olympic Host Contract with the IOC.

Under the Olympic Host Contract, the IOC entrusts the State of Queensland, Brisbane City Council, and the Australian Olympic Committee (the Hosts) with the planning, organising, financing and staging of Brisbane 2032, in accordance with the terms of the Olympic Host Contract and the IOC's Olympic Charter.

The Olympic Host Contract requires that, within five months following the execution of the Olympic Host Contract (by 21 December 2021), or at a later date agreed to by all signatories of the Olympic Host Contract, Hosts form an organising committee as an entity endowed with legal personality under the laws of the Hosts' country and in a manner providing for maximum efficiency with respect to its operations and its rights and obligations under the Olympic Host Contract. The Olympic Host Contract also requires that certain persons be members of the organising committee's highest executive body with full voting rights.

Achievement of policy objectives

The Bill will achieve its policy objectives and meet the aforementioned requirements of the Olympic Host Contract by establishing the Corporation as an independent statutory body and establishing the Board to oversee the operations of the Corporation.

The Bill provides that the Corporation will be a statutory body for the purposes of the *Statutory Bodies Financial Arrangements Act 1982* and the *Financial Accountability Act 2009*, and a unit of public administration under the *Crime and Corruption Act 2001*. Establishing the Corporation as a statutory body under Queensland legislation was chosen for reasons including:

- it enables the Corporation to operate at arms-length from the State with control over its own funds, providing the necessary operational and financial independence to achieve its objectives;
- the structure being flexible to accommodate the bespoke design of the Corporation, with objects and a finite life, and the ability to set out defined functions in its enabling legislation and require observance with the key requirements of the Olympic Host Contract;
- it being subject to the public sector accountability regime rather than the *Corporations Act 2001* (Cwlth), which is considered appropriate given the public money and public interest involved in successfully delivering Brisbane 2032; and
- it allows for the establishment of the Board.

The Bill provides that the main function of the Corporation is to undertake and facilitate the organisation, conduct, promotion and commercial and financial management of Brisbane 2032, which includes:

- becoming a party to the Olympic Host Contract;
- complying with the corporation's obligations under the Olympic Host Contract;
- organising accommodation and transportation for athletes, officials and media personnel;
- managing the preparation and operation of venues and facilities for the sports program;
- organising events and ceremonies such as the Olympic and Paralympic torch relays, the opening and closing ceremonies and the cultural olympiad;
- managing the ticketing program;
- recruiting, retaining and organising volunteers;
- establishing a marketing program in consultation with the IOC and the Australian Olympic Committee; and
- supporting the IOC and the host broadcaster in relation to broadcasting and to make arrangements for the provision of other information services.

The Bill will establish the Board which will be responsible for ensuring the Corporation performs its functions in a proper, effective and efficient way and have the power to do anything necessary or convenient to be done to achieve this.

A Board is considered the most appropriate decision-making body to govern the Corporation for the following key reasons:

- a relatively large number of key Games stakeholders can have effective representation and decision-making power, including those required by the Olympic Host Contract;

- membership on the board can be set to ensure voting rights reflect Games partners' level of investment and risk in Brisbane 2032;
- board sub-committees and commissions can be used to ensure greater levels of representation and diversity; and
- a board can add value to the operations of the Corporation by including among its membership subject matter experts and those with high standing within the community.

Alternative ways of achieving policy objectives

Legislation is the only way to establish the Corporation as a statutory body. In deciding to establish the Corporation as a statutory body, the Queensland Government considered previous governance models adopted by former Games hosts (including the models adopted for both the Sydney 2000 and London 2012 Olympic and Paralympic Games, and the Gold Coast 2018 Commonwealth Games).

It was not considered appropriate for a government department to undertake the activities of the Corporation, as this arrangement could inhibit the Corporation from acting freely in a commercial manner to generate revenue and independently manage the IOC's financial contribution to its operations.

Estimated cost for government implementation

The *IOC Future Host Commission Questionnaire Response: Final Submission – May 2021* included a Games organisation budget which provided details of the Corporation's planned revenue and expenditure. The Corporation is budgeted to be cost-neutral due to the significant contribution from the IOC towards their operations and other revenue including ticketing and merchandise sales, sponsorships, and banknote, coin or stamp programs.

The Queensland Government may incur some administrative costs in the course of supporting the establishment of the Corporation, such as assisting it with the development of its governance framework and briefing the incoming chief executive officer of the Corporation. There may also be ongoing administrative costs to the Queensland Government in engaging and cooperating with the Corporation to successfully deliver Brisbane 2032, such as participating in regular meetings and sharing information with the Corporation. Any administrative costs would be funded through existing Queensland Government resources to support the coordination of Brisbane 2032-related activities.

Under the Olympic Host Contract, the State guaranteed that it would undertake to cover a potential financial shortfall of the Corporation and ensure that the Corporation can deliver Brisbane 2032 in accordance with the requirements of the Olympic Host Contract and meet all of its financial obligations. As such, the Bill provides that if the Corporation has any outstanding liabilities at the time of its dissolution, these liabilities will be transferred to the State. To minimise the risk of outstanding liabilities being transferred to the State, the Bill provides that the Corporation should use its best endeavours to avoid creating liabilities that will not be, or are likely not to have been, satisfied before the Corporation is wound up.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

Delegations of power

Subsections (1)(a) and (f) to (k) of clause 17 provide for certain persons and entities to exercise their discretion in relation to who they recommend for appointment to the board. Subsection (1)(f) of clause 23 enables the Australian Olympic Committee, Paralympics Australia, Prime Minister and Lord Mayor to remove their nominated directors from office by providing a written notice to the Minister. These clauses are effectively a delegation of administrative power and could breach the fundamental legislative principle that the delegation of administrative power is only allowed in appropriate cases and to appropriate persons (*Legislative Standards Act 1992* (LSA), section 4(3)(c)).

The primary reason for allowing certain persons and entities to decide who become directors of the board (as opposed to just ex-officio directors) is to ensure that Games partners have sufficient flexibility to recommend suitable appointees depending on the emerging needs of the Corporation over its life. For example, the expertise required of board directors may be different in the early years of the Corporation's life compared to the years immediately proceeding Brisbane 2032. There needs to be a level of discretion granted to ensure that the board has the appropriate mix of skills and experience, at least 50% of nominated directors are women, and at least one of the independent directors are an Aboriginal or Torres Strait Islander person, while ensuring that the interests of Games partners are adequately represented.

The Minister and Prime Minister are the appropriate persons to exercise discretion on the appointment of independent directors and the president, given the State is a signatory to the Olympic Host Contract and is responsible for covering any potential financial shortfall of the Corporation and the Commonwealth Government has committed to provide a significant financial contribution to critical Games-related infrastructure. Clauses 18 and 25 include appropriate limitations on this discretion, such as them being satisfied that the person is appropriately qualified and meeting requirements for consultation. Clauses 19 and 20 require the Prime Minister, Premier and Lord Mayor to have regard to the requirement that at least 50% of nominated directors holding office be women, the gender diversity of the board's directors and the Queensland Government's policy about gender equity on boards, and that the Lord Mayor consult with the Council of Mayors (SEQ) Pty Ltd.

Providing the Australian Olympic Committee, Paralympics Australia, Prime Minister and Lord Mayor with the ability to remove their nominated directors from office at their discretion under clause 23 is considered an appropriate delegation of administrative power to ensure that persons can immediately be removed from office if they are no longer affiliated with, or supported by, the nominating entity. This is justified as directors of the board should at all times be truly representative of the Games partners that nominated them, pursuant to the intent of the Olympic Host Contract. The power is balanced with that fact that a new director that is nominated to a position vacated under clause 23 will still need to be appointed by the Governor in Council as per clause 17(5).

Clause 60 provides that the Corporation may delegate its functions under the Act to the chief executive officer or a committee of the board. The chief executive officer may also subdelegate one of the functions delegated to them with the written approval of the Board. This clause is also effectively a delegation of administrative power and could breach the fundamental legislative principle that the delegation of administrative power is only allowed in appropriate cases and to appropriate persons (LSA, section 4(3)(c)).

The scope of this power is broad and enables the delegation of any function or power of the Corporation (including that which may be prescribed under regulation in the future). This is necessary given the wide range of functions the Corporation will be required to undertake and that some tasks may be more effectively delivered if they can be given close attention by a committee of the board or the chief executive officer. Giving the Corporation the flexibility to use its discretion to delegate its functions or powers will empower the Corporation to successfully deliver Brisbane 2032 in the manner it considers most efficient and effective. It is appropriate for the chief executive officer or committee of the Board to exercise a function or power of the Corporation, given the chief executive officer is responsible for the day-to-day administration of the Corporation, and committees (which comprise of directors of the board) will have the expertise and decision-making power to efficiently undertake functions relevant to the Corporation.

Power to obtain criminal history

Clause 28 of the Bill provides the Minister with the power to obtain criminal history information about prospective and current nominated directors. Clause 29 imposes an obligation on nominated directors to, unless they have a reasonable excuse, immediately give notice to the Minister if they are convicted of an indictable offence.

The power to obtain a person's criminal history potentially breaches the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals (LSA, section 4(2)(a)). However, the power for the Minister to obtain criminal history information is necessary to ensure the suitability of individuals appointed to the Corporation. Similarly, the obligation imposed on nominated directors to disclose if they are convicted of an indictable offence is necessary to ensure the integrity of the Corporation.

The Bill includes safeguards to protect an individual's criminal history information. The Bill provides that the Minister may only exercise the power under clause 28 with the written consent of the individual.

In addition, clause 30 of the Bill provides safeguards to protect an individual's criminal history information and operates to prevent further disclosure, and limits the purpose for which the criminal history information may be used.

Offences

Legislation should have sufficient regard to the rights and liberties of individuals (LSA, section 4(2)(a)). Any new offence must be appropriate and reasonable in light of the conduct that constitutes the offence.

Offence – Failure to disclose a conviction

Clause 24 provides that a person is disqualified from being a nominated director of the Board if they have been convicted of an indictable offence, are an insolvent under administration, or disqualified from managing corporations under the *Corporations Act 2001* (Cwlth), part 2D.6.

Clauses 29 imposes an obligation on nominated directors of the Board to, unless they have a reasonable excuse, immediately give notice to the Minister if they are convicted of an indictable offence. Failure to comply with this obligation is an offence with a maximum penalty of 100 penalty units.

Requiring the notice to be given ‘immediately’ is an appropriate timeframe. While ‘immediately’ is a subjective term, it is a stronger expression than ‘as soon as practicable’. This is an appropriate timeframe for compliance with this requirement, particularly given that clause 23 of the Bill operates to automatically end the person’s term of appointment, should such circumstances arise.

The obligation for nominated directors to disclose if they are convicted of an indictable offence reinforces the expectation that directors are to behave ethically and legally and ensures that the Minister is aware of matters that may impact on the integrity of the Corporation. Imposing such an obligation on directors is reasonable and there is a strong public interest in ensuring that there is appropriate oversight and accountability imposed on people who seek appointment, or are appointed, to the board of the Corporation.

It is noted that similar provisions requiring a person to disclose if they are convicted of an indictable offence are found in other Queensland legislation including for example, *Health and Wellbeing Queensland Act 2019*; *Hospital Foundations Act 2018*; *Jobs Queensland Act 2015*; and *Cross River Rail Delivery Authority Act 2016*, all of which impose a penalty of 100 penalty units where a person fails to disclose a conviction relating to an indictable offence.

As such, including this offence in the Bill is considered appropriate and reasonable and not a breach of the fundamental legislative principles.

Offence – Confidentiality of criminal history information

Clause 30(2) creates a new offence for a person who possesses criminal history information because the person is (or has been) a director or another person involved in administration of the Act to disclose another person’s criminal history information other than as provided for under the provision. The maximum penalty for breach of this provision is 100 penalty units.

This offence is included in the Bill to protect the rights of the person about whom the information relates and provide an important safeguard against the unnecessary disclosure of a person’s protected information. The penalty is set at a level to provide the appropriate deterrence and is consistent with the similar offences in Queensland legislation. On this basis, the inclusion of the offence in the Bill is considered appropriate and reasonable and not a breach of the fundamental legislative principles.

Offence – Duty to act honestly

Clause 56 provides that directors of the Board and the chief executive officer of the Corporation must act honestly in the performance of their functions and the exercise of their powers. Failure to comply with this obligation is an offence with a maximum penalty of 100 penalty units.

Given the public importance of successfully delivering Brisbane 2032 and the significant amount of money the Corporation will be responsible for, the impact of any wrongdoing on behalf of the directors and the chief executive officer could be of greater significance than other statutory bodies. Furthermore, given that the State has guaranteed to meet any financial shortfall of the Corporation when it is wound up, any dishonest actions by directors or the chief executive officer that result in increased financial costs for the Corporation could ultimately be transferred to the State as a liability upon the Corporation's dissolution. As such, the creation of this offence is justified and will ensure that directors and the chief executive officer honestly discharge their duties.

It should be noted that similar provisions have been applied across the Queensland statute book including, for example, under the *Cross River Rail Delivery Authority Act 2016*, *Commonwealth Games Arrangements Act 2011*, *Racing Act 2002* and the *Rural and Regional Adjustment Act 1994*.

Offence – Use or disclosure of confidential information

Clause 57 provides for the protection of information acquired by a person through administering or performing a function under the Act. A person must not directly or indirectly disclose the confidential information unless the use or disclosure is permitted under subsection (3). For the purpose of this clause, confidential information means information that could identify an individual; is about a person's current financial position or financial background; or would be likely to damage the commercial activities of a person to whom the information relates. The maximum penalty for failing to comply with this requirement is 100 penalty units.

Given the breadth of information to which the Corporation and the Board will have access that could identify an individual (such as ticketing information or an athlete's medical information), the creation of this offence is justified to ensure that this information is only used for proper and lawful purposes and therefore is not a breach of the fundamental legislative principles.

Regulation-making power

Clause 9(3)(b) provides that the Corporation may have any other function prescribed by regulation. The power to prescribe additional functions under regulation potentially breaches the fundamental legislative principle that legislation should have sufficient regard to the institution of Parliament (LSA, section 4(2)(b) and 4(4)). However, this provision is justified as it includes an appropriate limitation, being that the prescription of additional functions must be related to the Corporation's main function. The main function of the Corporation is to undertake and facilitate the organisation, conduct, promotion and commercial and financial management of the Olympic and Paralympic Games.

Clause 52(1) provides that a regulation may prescribe a day as the dissolution day. This clause also potentially breaches the fundamental legislative principle that legislation should have sufficient regard to the institution of Parliament (LSA, section 4(2)(b) and 4(4)). However, it is necessary to have the flexibility to prescribe the dissolution day under a regulation given that Brisbane 2032 is more than 10 years away and it is not yet clear how long the Corporation will need to meet its remaining obligations under the Olympic Host Contract after Brisbane 2032 and get its affairs in order prior to dissolution. The amount of time needed prior to dissolution will also depend on the magnitude of the Corporation's assets and liabilities and the administrative processes it has in place.

Given these uncertainties, providing flexibility to prescribe a dissolution day under regulation is justified. There is also an appropriate limitation on this clause which provides that the Minister consult with the IOC prior to recommending the making of a regulation under clause 52(1).

Dealing with assets and liabilities on dissolution

Clause 53 provides that upon dissolution of the Corporation, all directors of the Board go out of office and the appointment of the chief executive officer and other staff employed by the Corporation ends. This clause potentially breaches the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals (LSA, section 4(2)(a)), particularly given that no compensation is payable to these persons. However, this is justifiable given that directors and appointees will enter into arrangements knowing that the Corporation has a limited life and no compensation is payable upon dissolution of the Corporation.

Transfer of personal information to overseas entities

Clause 58 authorises the corporation to transfer an individual's personal information to the International Olympic Committee or International Paralympic Committee if the information is transferred in the performance of the corporation's functions. This clause potentially breaches the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals (LSA, section 4(2)(a)).

It will be necessary for the Corporation to maintain a close working relationship with the International Olympic Committee and International Paralympic Committee to deliver its functions and meet its obligations under the Olympic Host Contract. Under the Olympic Host Contract, the Corporation is required to cooperate with the IOC in relation to the processing of personal information, and to fulfill all obligations under the laws of Queensland and Switzerland, including the Swiss Federal Data Protection Act 1992 and the European General Data Protection Regulation 2016.

Clause 33 of the *Information Privacy Act 2009* provides an avenue for the corporation to transfer an individual's personal information to an entity outside Australia in limited circumstances. However, given the volume of information the corporation may need to share with the International Olympic Committee and International Paralympic Committee and the frequency at which this may occur, it would be unduly burdensome for the corporation to rely on these limited circumstances on each occasion it needs to transfer personal information to these entities.

Clause 58 will provide an authorisation for the corporation to transfer personal information to the International Olympic Committee and International Paralympic Committee as required; however, the clause is appropriately balanced in that the information can only be transferred in the performance of the corporation's functions.

Protection from liability

Clause 61 provides for the protection of a director of the Board, the chief executive officer and any other employee of the Corporation (officials) from civil liability for acts done, or omissions made, honestly and without negligence. This clause potentially breaches the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals (LSA, section 4(2)(a)). However, this clause includes appropriate limitations on the protection from civil liability, such as the protection not extending to officials who have been dishonest and negligent, and allowing for an avenue of redress for any affected individuals by providing that liability attaches to the corporation.

Amendment of Right to Information Act 2009

Clause 65 amends Schedule 1 of the *Right to Information Act 2009* to provide that a document that is created or received by the corporation in carrying out its functions under this Act, and to the extent it comprises information of a confidential nature that was communicated in confidence by or for the Australian Olympic Committee or the International Olympic Committee, does not apply to the *Right to Information Act 2009*. This clause potentially breaches the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals (LSA, section 4(2)(a)).

This clause is justified given the sensitive nature of some of the documents that will be developed in connection with the performance of the Corporation's functions, such as commercial-in-confidence information in relation to the Corporation's local marketing program. A similar provision was included in the *Sydney Organising Committee for the Olympic Games Act 1993* (NSW) (SOCOG Act), which constituted the Sydney Organising Committee for the Olympic Games to stage and deliver the Sydney 2000 Games.

Consultation

A consultation draft of the Bill was shared with the Australian Government, Brisbane City Council, City of Gold Coast, Sunshine Coast Council, Council of Mayors South East Queensland, Australian Olympic Committee and Paralympics Australia in September 2021. These stakeholders were invited to provide written comment on the draft Bill and several meetings were held to discuss feedback received with the relevant stakeholders. The draft Bill was also provided to the IOC for endorsement, as required under the Olympic Host Contract.

Key change requests made during consultation on the draft Bill that have been incorporated into the Bill include:

- removing the cap on the number of Board directors to ensure requirements under the Olympic Host Contract are met should there ever be more than one active IOC Member residing in Australia or more than one International Paralympic Committee Governing Board Member residing in Australia

- allowing the Australian Olympic Committee to nominate either the President or Honorary Life President of the Australian Olympic Committee to the Board
- ensuring at least 50% of the nominated directors to the Board are women in accordance with the Queensland Government's *Women's on Board Policy*
- including reference to 'independent' directors and requiring that these directors not be an elected office holder, an employee of the Commonwealth, State or local governments, or a member/employee of the Australian Olympic Committee, Paralympics Australia, the IOC or International Paralympic Committee
- exempting documents or information from the operation of the *Right to Information Act 2009* if it contains information that is confidential to the IOC or Australian Olympic Committee, similar to the Sydney 2000 Games
- excluding Commonwealth parliamentarians from the application of the *Crime and Corruption Act 2001*
- authorising the Corporation to transfer an individual's personal information to the International Olympic Committee or International Paralympic Committee as required under the Olympic Host Contract.

Key change requests made during consultation on the draft Bill that have not been incorporated into the Bill include:

- increasing the number of local government representatives on the Board from two to three directors to ensure the local governments of Brisbane, Gold Coast and Sunshine Coast were directly represented
- listing multiple contractual documents and commitments contained or already referenced within the Olympic Host Contract
- lengthening, or not including, a maximum appointment term for nominated directors and the Chief Executive Officer
- providing the Board with powers to self-appoint its President and remove directors from the Board
- allowing the Corporation to borrow and invest (including in foreign currencies) without gaining the relevant approvals stipulated in the *Statutory Bodies Financial Arrangements Act 1982* and Statutory Bodies Financial Arrangements Regulation 2019.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland and is not uniform with any current legislation of the Commonwealth or another State or Territory. However, approaches in other jurisdictions for previous editions of the Olympic and Paralympic Games, including the Sydney 2000 and London 2012 Olympic and Paralympic Games, were taken into consideration during the drafting of the Bill.

The Bill is largely consistent with the SOCOG Act, which established a board of directors to manage and control the affairs of the Sydney Organising Committee for the Olympic Games.

The Bill will be complemented by the *Olympic Insignia Protection Act 1987* (Cwlth), which regulates the commercial use of certain Olympic symbols and expressions.

Notes on provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill will be cited as the *Brisbane Olympic and Paralympic Games Arrangements Act 2021*.

Clause 2 states that the Act commences on 20 December 2021.

Clause 3 provides that the main purpose of the Act is to establish the Brisbane Organising Committee for the 2032 Olympic and Paralympic Games (the corporation) to plan, organise and deliver the Olympic and Paralympic Games in accordance with the host contract.

Clause 4 provides that the Act binds all persons, including the State, the Commonwealth and the other States so far as the legislative power of the Parliament permits.

Clause 5 states that the dictionary in the schedule defines particular words used in this Act.

Part 2 Establishment, functions and powers of corporation

Division 1 Establishment

Clause 6 establishes the corporation.

Clause 7 provides that the corporation is a body corporate, has a seal and may sue and be sued in its corporate name, and does not represent the State.

Clause 8 states that the corporation is a statutory body under the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982* and is a unit of public administration under the *Crime and Corruption Act 2001*. However, the *Crime and Corruption Act 2001* does not apply in relation to a director who is a member of the Parliament of the Commonwealth.

Division 2 Functions and powers

Clause 9 sets out the functions of the corporation. Subsection (1) provides that the corporation's main function is to facilitate the organisation, conduct, promotion and commercial and financial management of the 2032 Olympic and Paralympic Games. Subsection (2) details other specific functions of the corporation. Subsection (3) provides that the corporation may also undertake any other functions given to it under this Act, another Act, or a regulation.

Clause 10 outlines certain matters that the corporation must have regard to, comply with and use its best endeavours to do, when performing its functions. Under subsection (1)(a), the corporation must have regard to its financial resources, and that of the State, available for the 2032 Olympic and Paralympic Games. The corporation must also have regard to and comply with the Olympic Charter; the International Paralympic Committee Handbook; the World Anti-Doping Code; the Athletes' Rights and Responsibilities Declaration; and the Olympic Movement Code on the Prevention of the Manipulation of Competitions.

Subsections (1)(c) and (d) require the corporation to use its best endeavours to avoid creating liabilities that will not be satisfied before it is dissolved under the Act, and to comply with the Queensland Government's procurement policy, including procurement from Indigenous businesses. However, subsection (2) provides that the Queensland Government's procurement policy does not apply to the extent it is inconsistent with the host contract.

Clause 11 sets out the powers of the corporation, including that the corporation has all the powers of an individual and any other power given to it under this Act or another Act.

Clause 12 states that the corporation may perform its functions, and exercise its powers, inside or outside Queensland.

Clause 13 provides that a document can be considered executed by the corporation if it is signed by the chief executive officer, the president or another person authorised by the board of directors of the corporation (the board). A document executed by the corporation under a seal may only be executed in a way authorised by the board and signed by the chief executive officer, the president or another person authorised by the board.

Part 3 Board of directors

Division 1 Establishment, functions and powers

Clause 14 establishes the board.

Clause 15 sets out the functions of the board, which includes ensuring that the corporation performs its functions in a proper, effective and efficient way; and any other function given to the board under this Act.

Clause 16 provides that the board can do anything necessary or convenient to be done in performing its functions. Subsection (2) states that anything done in the name of, or for, or with the authority of, the board is taken to have been done by the corporation.

Division 2 Composition

Clause 17 provides that the board consists of the following persons:

- the President or Honorary Life President of the Australian Olympic Committee
- the President of Paralympics Australia
- the Chief Executive Officer of the Australian Olympic Committee
- any IOC members from Australia that have not reached the age limit or extended age limit for members under the Olympic Charter
- any International Paralympic Committee Governing Board members from Australia

- one athlete having competed for Australia in a recent edition of the Olympic Games as confirmed by the Australian Olympic Committee
- one athlete having competed for Australia in a recent edition of the Paralympic Games as confirmed by Paralympics Australia
- five independent directors (one to be the President of the Board and at least one to be Indigenous) as agreed to by the Premier of Queensland and the Prime Minister
- up to four directors nominated by the Prime Minister of Australia
- four directors nominated by the Premier of Queensland
- one director nominated by the Lord Mayor of Brisbane
- the Lord Mayor of Brisbane.

Subsection (2) clarifies that if the President or Honorary Life President of the Australian Olympic Committee or President of Paralympics Australia are also IOC or International Paralympic Committee Governing Board members from Australia, then the latter positions are taken not to be filled. Subsection (3) requires that at least 50% of nominated directors holding office be women.

Clause 18 provides for conditions on the appointment of independent directors of the board, which is subject to a joint process with the Commonwealth Government. Subsection (3) provides that an independent director cannot be an elected office holder, an employee of the Commonwealth, State or local governments, or a member/employee of the Australian Olympic Committee, Paralympics Australia, the IOC or International Paralympic Committee. The Minister may only nominate a person as an independent director if:

- the Minister has consulted with the Lord Mayor, President of the Australian Olympic Committee and President of Paralympics Australia;
- the Minister has given notice of the nomination to the Prime Minister; and
- the Prime Minister does not object to the proposed nomination within 14 days.

Clause 19 provides that in nominating a person to the board, the Prime Minister and Premier must have regard to the requirement that at least 50% of nominated directors holding office be women, the gender diversity of the board's directors and the Queensland Government's policy about gender equity on boards.

Clause 20 provides that in nominating a person to the board, the Lord Mayor must consult with the Council of Mayors (SEQ) Pty Ltd. Both the Lord Mayor and Council of Mayors (SEQ) Pty Ltd must have regard to the requirement that at least 50% of nominated directors holding office be women, the gender diversity of the board's directors and the Queensland Government's policy about gender equity on boards.

Clause 21 states that a director who is an elected office holder or a public servant is not entitled to be paid any remuneration or allowances. Also, a director holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

Clause 22 provides that terms of nominated directors must not be longer than 4 years, except for the President or Honorary Life President of the Australian Olympic Committee. However, there are no limits on the reappointment of nominated directors.

Clause 23 provides for when the office of a director becomes vacant. Subsection (1)(f) enables the Australian Olympic Committee, Paralympics Australia, Prime Minister and Lord

Mayor to remove their nominated directors from office by providing a written notice to the Minister. Subsections (1)(g) to (i) provide for the automatic removal of nominated directors from office if they are:

- nominated by the Prime Minister; are a member of the Commonwealth Parliament at the time they are nominated; and the Prime Minister's political party is no longer recognised as being in government or they stop being a member of the Commonwealth Parliament;
- nominated by the Premier; are a member of the Legislative Assembly at the time they are nominated; and the Premier's political party is no longer recognised as being in government or they stop being a member of the Legislative Assembly; or
- nominated by the Lord Mayor; are a councillor of a local government at the time they are nominated; and the director stops being a councillor of the local government.

Subsection (2) clarifies that the office of a director, other than a nominated director, is vacated if the person holding office stops occupying the position that constitutes the director's office.

Clause 24 prescribes the circumstances that will disqualify a person from becoming, or continuing as, a nominated director. In accordance with the clause, a person is disqualified from becoming, or continuing as, a nominated director if the person:

- has a conviction, other than a spent conviction, for an indictable offence;
- is an insolvent under administration; and
- is disqualified from managing corporations because of the *Corporations Act 2001* (Cwlth), part 2D.6.

Subsection (4) provides a mechanism whereby the Minister may consider the circumstances of an offence or insolvency and give approval for the person to become a nominated director despite the conviction or insolvency.

Division 3 President and vice presidents

Clause 25 provides for the appointment of a president of the board, which is subject to a joint process with the Commonwealth Government. In accordance with the clause, the Governor in Council may appoint a nominated director to be the president on the recommendation of the Minister. Subsection (2) provides that the Minister may only recommend the appointment of a nominated director as the president if:

- the Minister has consulted with the Lord Mayor, President of the Australian Olympic Committee and President of Paralympics Australia;
- the Minister has given notice of the nomination to the Prime Minister; and
- the Prime Minister does not object to the proposed nomination within 14 days.

Subsection (3) provides for the role of the president.

Clause 26 provides that there may be up to five vice presidents of the board. In accordance with the clause, the five vice presidents are:

- one of the four persons nominated by the Premier;
- one of the four persons nominated by the Prime Minister, if any;
- the President of Paralympics Australia;
- the Lord Mayor; and

- any IOC member on the board that is also a vice president of the IOC, unless there is no person that meets this requirement, in which case it will be the President or Honorary Life President of the Australian Olympic Committee;

The vice presidents nominated by the Premier and Prime Minister are appointed by the Governor in Council. Subsection (3) provides that the Minister may only recommend the appointment of the Prime Minister's vice president if the Minister has given notice of the nomination to the Prime Minister and the Prime Minister does not object to the proposed nomination within 14 days.

Clause 27 provides that at the same time a person is appointed as a nominated director, they may also be appointed as the president or as a vice president. Subsection (4) provides that a person appointed as president or vice president may resign from their office as president or vice president and continue to be a nominated director for their remaining term of appointment as a nominated director.

Division 4 Criminal history

Clause 28 provides the Minister with the power to ask the commissioner of the police service for a written report about the criminal history of a person and a brief description of the circumstances of a conviction mentioned in the criminal history, to decide whether the person is disqualified from becoming or continuing as a nominated director of the board. The use of this power is limited to circumstances where the person has given the Minister written consent for the request.

Clause 29 requires that a nominated director of the board must, unless they have a reasonable excuse, immediately give notice to the Minister if they are convicted of an indictable offence during their term of appointment. Failure to give notice is an offence with a maximum penalty of 100 penalty units.

Clause 30 provides that the criminal history information is confidential. Disclosure, except as permitted under subsection (3), is an offence with a maximum penalty of 100 penalty units.

Division 5 Board meetings

Subdivision 1 General provisions

Clause 31 provides that the board may conduct its business in the way it considers appropriate.

Clause 32 provides that the board may convene a meeting at a time and place decided by the Board.

Clause 33 provides that the president is to preside at all board meetings at which the president is present. If the president is absent from the meeting, the Premier's nominated vice president or the Prime Minister's nominated vice president is to preside on a rotating basis, starting with the Premier's nominated vice president. If the president, the Premier's nominated vice president and the Prime Minister's nominated vice president are all absent from a board meeting, another vice president chosen by the directors present is to preside.

Clause 34 prescribes that a quorum for meetings of the board is two-thirds of the number of directors holding office (i.e. ex officio directors and directors appointed by Governor in Council to the Board), including the president or a vice president.

Clause 35 provides the procedure for deciding questions at meetings of the board. The provision also allows directors to participate in meetings using modern communication technology, such as teleconferencing.

Clause 36 states that the board must keep minutes of its meetings.

Subdivision 2 Disclosure of interests

Clause 37 states the subdivision applies if a director has an interest in a matter about to be considered at a board meeting that could conflict with the performance of their duties, unless the interest is held in their capacity as an elected office holder.

Clause 38 provides that a director must disclose the nature of a potential conflict of interest as soon as practicable at a board meeting.

Clause 39 provides that if a director discloses at a board meeting that they are a member, partner, or employee of a company or other entity, or have another stated interest in it, they are taken to have disclosed the nature of the interest in compliance with clause 38.

Clause 40 provides that unless the board otherwise directs, a director who discloses an interest must not be present when the board considers a matter relevant to the director's interest or take part in any decision making about the matter. The director must also not be present when the board considers whether to give a direction under subsection (1). The directors present at the meeting to decide whether the director can take part in a decision of the board under subsection (1)(b) constitute a quorum.

Clause 41 provides that the board must keep a register of interests recording the disclosure of interests.

Clause 42 provides that a director's failure to disclose an interest does not invalidate a decision of the board, but the board must reconsider the decision if it becomes aware of the contravention.

Subdivision 3 Other provisions

Clause 43 provides that a director who is an elected office holder, the President or Honorary Life President of the Australian Olympic Committee, a member of the International Olympic Committee or a member of the governing board of the International Paralympic Committee does not owe a duty to the corporation to disclose confidential information given to the director in confidence in their official capacity.

Clause 44 provides that particular provisions of the *City of Brisbane Act 2010* and *Local Government Act 2009* related to conflict of interests do not apply to the Lord Mayor or another councillor who holds office as a director.

Division 6 Committees and commissions

Clause 45 states that the board may establish one or more committees to assist in the performance of the board's functions. The membership of committees must be directors decided by the board. Committees are permitted to conduct their proceedings as they consider appropriate.

Clause 46 prescribes that any committees established by the board that relate to audit, risk management and/or financial management must be attended by a public service employee who is nominated by the Minister. Subsection (3) provides that the public service employee nominated by the Minister may observe the meeting (speaking only if invited to do so by the committee) and receive the same information a member of the committee is entitled to receive relating to the meeting or other business of the committee. This clause does not prevent these committees, or any other committees, from inviting other persons to observe their meetings, for example representatives from Brisbane City Council or any other relevant stakeholders.

Clause 47 states that the board may establish one or more commissions to advise on matters referred to the commission by the board. Members of commissions can include directors of the board or other appropriately qualified persons. Commissions are permitted to conduct their proceedings as they consider appropriate.

Part 4 Staff of corporation

Division 1 Chief executive officer

Clause 48 provides for the appointment of a chief executive officer of the corporation. In accordance with the clause, a chief executive officer can only be appointed by the board if:

- the Premier has consented to the proposed appointment;
- the board has given notice of the proposed appointment to the Prime Minister; and
- the Prime Minister does not object to the proposed appointment within 14 days.

The chief executive officer is considered an employee of the corporation under the Act and not under the *Public Service Act 2008*. The chief executive officer is responsible for the day-to-day administration of the corporation's operations and is accountable to the board.

Clause 49 provides that the term of the chief executive officer must not be longer than four years. However, there is no limit on how many times the chief executive officer may be reappointed.

Clause 50 states that the chief executive officer holds office on the terms and conditions, not provided for by this Act, that are decided by the board with the written approval of the Minister.

Division 2 Other staff

Clause 51 provides that staff are employed by the corporation under the Act and not under the *Public Service Act 2008*.

Part 5 Dissolution of corporation

Clause 52 provides that a regulation may prescribe a day as the dissolution day. The Minister may only recommend the making of a regulation if the Minister has consulted with the IOC about the proposed dissolution day.

Clause 53 provides that on the dissolution day, the State is the successor in law of the corporation. All assets, rights and liabilities of the corporation will vest in the State. The State is also substituted as a party to any contract, lease or other instrument or any legal proceeding to which the corporation was party. This clause does not affect the State's obligations under the host contract, including the State's guarantee that it would undertake to cover a potential financial shortfall of the Corporation and ensure that the Corporation can deliver Brisbane 2032 in accordance with the requirements of the host contract and meet all of its financial obligations.

Part 6 Miscellaneous

Clause 54 requires the corporation to enter into a funding agreement with the Minister within six months after the corporation's establishment. This agreement must include reporting requirements to enable the Minister to monitor the financial activities of the corporation.

Clause 55 provides that the Minister may give the corporation a written direction about the performance of the corporation's functions or the exercise of its powers. The Minister may only give a direction to the corporation if the Minister is satisfied it is reasonably necessary to give the direction and the Minister has considered the corporation's obligations under the host contract. Subsection (4) requires the Minister to notify the Commonwealth Government before providing a direction to the corporation. Ministerial directions to the corporation could include, for example, giving the Minister information held or controlled by the corporation or a report about the corporation's functions.

Clause 56 prescribes that a director of the board and the chief executive officer must act honestly in the performance of their functions or exercise of their powers under this Act. Failure to comply with this obligation is an offence with a maximum penalty of 100 penalty units.

Clause 57 provides for the protection of information acquired by a person through administering or performing a function under the Act. A person must not disclose confidential information to anyone else unless the use or disclosure is permitted under subsection (3). The maximum penalty for failing to comply with this requirement is 100 penalty units.

Clause 58 authorises the corporation to transfer an individual's personal information to the International Olympic Committee or International Paralympic Committee if the information is transferred in the performance of the corporation's functions.

Clause 59 provides that in performing its functions under this, the corporation will not contravene Part IV of the *Competition and Consumer Act 2010* (Cwlth) or the Competition Code of Queensland.

Clause 60 provides that the corporation may delegate its functions (including powers) to the chief executive officer or a committee of the board. The chief executive officer may also, with the written approval of the board, subdelegate a function given to them by the board to an appropriately qualified member of the corporation's staff.

Clause 61 provides that a board director, the chief executive officer or any other employee of the corporation is not civilly liable for an act done, or omission made, honestly and without negligence under this Act, with liability instead attaching to the corporation.

Clause 62 provides the Governor in Council with regulation-making power.

Part 7 Amendments of legislation

Division 1 Amendment of this Act

Clause 63 states that this division amends this Act.

Clause 64 will remove reference to amendments in the long title of the Act once those amendments have commenced.

Division 2 Amendment of Right to Information Act 2009

Clause 65 states that this division amends the *Right to Information Act 2009*.

Clause 66 provides that, to the extent it comprises information not already in the public domain that was communicated in confidence by or for the Australian Olympic Committee or the International Olympic Committee, a document that is created or received by the corporation in carrying out its functions under this Act does not apply to the *Right to Information Act 2009*.

Schedule 1 Dictionary

The Schedule provides a dictionary which defines key terms used in the Act.