

Queensland Academy of Sport Bill 2025

Statement of Compatibility

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019*, I, Tim Mander MP, Minister for Sport and Racing and Minister for the Olympic and Paralympic Games make this statement of compatibility with respect to the Queensland Academy of Sport Bill 2025.

In my opinion, the Queensland Academy of Sport Bill 2025 is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The Queensland Academy of Sport Bill 2025 (the Bill) establishes the Queensland Academy of Sport (the Academy) as a statutory body, overseen by an appropriately skilled board, which will allow the Academy to act with agility, efficiency and flexibility. The enabling legislation will define the body's objectives, functions, powers and governance structure.

Established in 1991, the Academy is the Queensland Government's high-performance sports agency responsible for preparing Queensland elite athletes, teams and coaches for world class success. The Academy currently forms part of the Sport and Recreation division of the Department of Sport, Racing and Olympic and Paralympic Games.

On 12 July 2024, following an independent review, the then Queensland Government announced that steps would be taken towards the Academy becoming a statutory body.

Following the October 2024 State Election, Executive Government considered the appropriateness of transitioning the Academy from its current organisational form to operating as a statutory body established under enabling legislation and recommended that the Academy be established as a statutory body outside of a government department as this organisational form is likely to:

- improve governance and accountability structures for the Academy, with management oversight from an independent board with varied skills and experience within the high-performance sporting sector;
- provide operational efficiency for the Academy in key processes such as travel, sponsorships and procurement;
- provide fit for purpose IT systems and processes that support the adoption of emerging technologies which could give Academy supported athletes an advantage over competitors;
- improve flexibility in branding and partnerships to maximise the opportunity for the Academy to engage commercial and philanthropic partners;
- provide fewer disruptions from future Machinery of Government changes; and
- support the attraction of world class sporting talent.

Human Rights Issues

Human rights relevant to the Bill (Part 2, Division 2 and 3 *Human Rights Act 2019* (HR Act)).

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 HR Act).

The human rights relevant to the provisions of the Bill are as follows:

- Taking part in public life (section 23 of the HR Act).
- Privacy and reputation (section 25 of the HR Act).

Taking part in public life

(a) the nature of the right

Section 23(1) of the HR Act provides that every person in Queensland has the right, and is to have the opportunity, without discrimination to participate in the conduct of public affairs, directly or through freely chosen representatives. Section 23(2)(b) of the HR Act provides that every eligible person has the right, and is to have the opportunity, without discrimination to have access, on general terms of equality, to the public service and to public office.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The clauses of the Bill relevant to this right are:

- Division 2, clause 15 which requires that members of the board satisfy qualifications, skills or experience requirements.
- Division 2, clause 19 which disqualifies individuals from becoming, or continuing to be, a member of the board on the basis of pertinent individual circumstances, such as criminal history and financial insolvency.
- Division 1, clause 36 which disqualifies individuals from becoming, or continuing to be, Chief Executive Officer (CEO) of the Academy on the basis of pertinent individual circumstances, such as criminal history and financial insolvency.

The Bill proposes to specify the skills and experience required for individuals to be appointed to the board. Division 2, clause 15 of the Bill prescribes that an individual may be appointed to the board only if they have relevant qualifications, skills or experience in the areas of business or financial management, corporate governance, law, high-performance sport, Olympic or Paralympic sport, or another area the Minister considers relevant or necessary to support the board in performing its functions.

Other clauses (clauses 19 and 36) also prescribe that individuals may be disqualified from becoming, or continuing to be, a member of the board or the CEO, on the basis of individual circumstances including:

- Having a conviction, other than a spent conviction, for an indictable offence.

- Being an insolvent under administration.
- Being disqualified from managing corporations because of the *Corporations Act 2001* (Cth), part 2D.6.

The Academy is a public authority in control of substantial high performance sporting operations and assets. These requirements support the public interest in the effective management of Queensland's Olympic and Paralympic Elite Performance Programs, associated infrastructure assets, and business management and operational responsibilities.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The requirement to hold specific qualifications, skills or experience helps achieve the purpose of effectively managing Queensland's Elite Performance Programs as individuals with qualifications, skills or experience could be expected to better manage those programs.

The purpose of the power to disqualify individuals from being a member of the board or CEO of the Academy on the basis of individual circumstances such as criminal convictions and financial insolvency is to ensure that all members of the board and the CEO act in the best interests of the Academy.

Members of statutory bodies are in positions of trust and have responsibilities to ensure the effective and efficient performance of the body. 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 public office.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

The Bill provides the ability for the Governor in Council to approve the appointments of individuals with qualifications, skills or experience in other areas the Minister considers appropriate for appointment to the board. Less restrictive and reasonably available ways to achieve the purpose have not been identified, noting the Minister has discretion to nominate candidates that have other qualifications, skills or experience deemed necessary to support the board and its functions.

The provisions in the Bill that disqualify individuals from becoming, or continuing to be a member of the board or the CEO of the Academy on the basis of pertinent individual circumstances such as a person's criminal history, financial insolvency status, and eligibility to manage a corporation are necessary to ensure the integrity of appointments to the board and to the position of CEO. This is because these are factors which could feasibly have an adverse impact on the capability of an individual to act within the best interests of the Academy. Less restrictive and reasonably available ways to achieve the purpose have not been identified.

Similar provisions in relation to the disqualification of a person from membership of statutory body are common across the Queensland statute book. For similar examples: the *Major Sports Facilities Act 2001*, the *Veterans' Council Act 2021*, the *Health and Wellbeing Queensland Act 2019*; the *Hospital Foundations Act 2018*, the *Jobs Queensland Act 2015*; and the *Cross River Rail Delivery Authority Act 2016*.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The importance of appointing members of the board with appropriate qualifications, skills and experience, who can be trusted to act in the best interests of the Academy and effectively manage statewide elite talent pathways and programs, outweighs the potential limitation on the right to take part in public life.

(f) any other relevant factors

Nil.

Privacy and reputation

(a) the nature of the right

Section 25(a) of the HR Act provides that every person in Queensland has the right not to have the person's privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

Section 25(b) of the HR Act provides that every person in Queensland has the right not to have the person's reputation unlawfully attacked.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The clauses of the Bill relevant to this right are:

- Division 2, clause 19 (2), which disqualifies individuals from becoming, or continuing to be members of the board if they do not consent to being subject to a criminal history report at the request of the Minister.
- Division 1, clause 36 (2), which disqualifies an individual from becoming, or continuing to be, CEO if they do not consent to being subject to a criminal history report at the request of the Minister.
- Division 1, clause 49, which enables members of the board and the CEO to be subject to criminal history reports as a means of determining whether they should commence, or continue, in their roles.
- Division 2, clause 20 (2), which requires members of the board to disclose other relevant updates to their individual circumstances such as financial insolvency, and disqualification from managing a corporation under the *Corporations Act 2001* (Cth).
- Division 1, clause 37 (2), which requires the CEO to disclose other relevant updates to their individual circumstances such as financial insolvency or disqualification from managing a corporation under the *Corporations Act 2001* (Cth).
- Division 1, clause 50, which requires members of the board and the CEO to disclose any new indictable offences on their record.
- Division 1, clause 42, which requires the CEO to disclose potential conflicts of interest of relevance to their role as CEO of the Academy.

- Division 3 Clause 30, which requires members of the board to disclose direct or indirect conflicts of interest of relevance to matters of the board and their role as a member of the board.

The Bill proposes that the board and the CEO, both current and prospective, would be required to disclose information and consent to Criminal History Reports. This would be to identify individual circumstances that may compromise their capability or integrity as members of the board or CEO and manage conflicts of interest. Division 2, clause 19 (2) and Division 1, clause 36 (2) of the Bill prescribe that an individual may be disqualified from becoming, or continuing to be, a member of the board or CEO respectively if they do not consent to being subject to a Criminal History Report on the request of the Minister.

Division 2, clause 20 (2) and division 1, clauses 37 and 50 outlines requirements for individuals to disclose updates to their personal circumstances which may impact their integrity or capability as a member of the board or the CEO. This includes updates such as: indictable offences on their record; becoming an insolvent under administration; and/or being disqualified from managing a corporation under the *Corporations Act 2001* (Cth).

Division 1, clause 42 and division 3, clause 30 outline requirements for members of the Board and the CEO to disclose conflicts of interest pertaining to matters of consideration by the Board, or the performance of the CEO's functions respectively.

The purpose of these requirements for disclosure regarding matters such as conflicts of interest, criminal convictions, and financial insolvency is to ensure that the Board and the CEO act in the best interests of the Academy.

Members of statutory bodies are in positions of trust and have responsibilities to ensure the effective and efficient performance of the body. 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 public office.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

As outlined above, the purpose of clauses listed is to ensure the integrity and capability of the membership of the board and the position of CEO. To determine a person's suitability for appointment, the Minister requires the power to independently verify their criminal history, which those individuals would need to consent to for legal reasons. To ensure the ongoing suitability of individuals to continue in their roles, it is necessary that they disclose pertinent changes to their individual circumstances if they arise.

To avoid conflicts of interest adversely impacting decisions of the board and the duties of CEO, it is necessary that they be disclosed so that they can be managed. The limitation on the right to privacy and reputation imposed by the clauses outlined above are necessary for such information to be obtained.

It is in the public interest that the membership of public bodies be open to scrutiny by the Minister to whom the public body is responsible, and that obligations are imposed on the board and the CEO to disclose matters that could disqualify a person from their role.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

The provisions in the Bill that require personal information to be disclosed such as criminal convictions, financial insolvency, and conflicts of interest are necessary to ensure the integrity and capability of appointments to the board and to the position of CEO, as well as manage operational and integrity risks relating to conflicts of interest. Without the power to obtain this information, the ability to manage issues that may adversely impact the performance of the board and CEO duties could be significantly compromised.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

As outlined above, the importance for the Minister to have the power to obtain information about a person's criminal history and the requirement for a person to disclose certain matters that would disqualify them from being a member of the board, or undertaking the position of CEO is important for ensuring the integrity of the board and the Academy more broadly.

The requirement to disclose conflicts of interest ensures proper and transparent decision making in the public interest. Such provisions are common in Queensland legislation and strike a fair balance between the importance of ensuring an individual's right to privacy and the integrity of membership and appointments to Queensland Government statutory bodies.

(f) any other relevant factors

Nil.

Conclusion

In my opinion, the Queensland Academy of Sport Bill 2025 is compatible with human rights under the *Human Rights Act 2019* because it limits a human right only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

TIM MANDER MP
MINISTER FOR SPORT AND RACING AND
MINISTER FOR THE OLYMPIC AND PARALYMPIC GAMES

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