

Major Sports Facilities and Other Legislation Amendment Bill 2016

Explanatory Notes

FOR

Amendments to be moved during consideration in detail by the Honourable Curtis Pitt MP, Treasurer, Minister for Aboriginal and Torres Strait Islander Partnerships and Minister for Sport

Title of the Bill

Major Sports Facilities and Other Legislation Amendment Bill 2016

Objectives of the Amendments

The *Major Sports Facilities Act 2001* provides that a person is not qualified to be or continue as a director of the Stadiums Queensland Board if they are convicted of an indictable offence. The Major Sports Facilities and Other Legislation Amendment Bill 2016 (the Bill) includes provisions to support the operation of the act in two ways.

Firstly, the Bill aims to clarify the ability of the chief executive of the department to undertake checks of the criminal history of those people proposed for appointment to the Stadiums Queensland Board. Additionally, the Bill also includes a clause regarding the requirement for persons appointed to the Stadiums Queensland Board to immediately give notice to the chief executive of the department if they are convicted of a new indictable offence during the term of their appointment.

The Bill includes safeguards to protect criminal history information obtained by the department in relation to prospective directors. These safeguards include a new offence provision for the unlawful disclosure of information contained in a criminal history report, and the requirement that the department destroy criminal history information after a time that it is no longer required for the purpose for which it was obtained. The Bill only provides these safeguards in relation to the information obtained in undertaking criminal history checks for proposed new appointees to the Stadiums Queensland Board.

On 10 October 2016, the Transportation and Utilities Committee (the Committee's) Report No. 24 recommended that these privacy safeguards also be applied to information pertaining to criminal history information disclosed by directors during their term of appointment. This amendment is in response to the Committee's recommendation and extends the privacy safeguards to all criminal history information obtained or provided to the department in relation to prospective and current directors of the Stadiums Queensland Board.

The Bill will also amend reference to Suncorp Stadium to Brisbane Stadium (Lang Park). The purposes of amending the naming of Suncorp Stadium to a generic, location-based name is to reduce the need for regulatory changes when sponsorship rights change, and meet 'clean stadium' obligations in contracts with event organisers when required. The addition of the name "Lang Park" (in parentheses) reflects the historical significance and use of the name for this facility in the legislation.

Achievement of the Objectives

The policy objectives of the proposed amendment are achieved through the application of an offence provision for the disclosure of criminal history information unless permitted. It is proposed that the disclosure of criminal history information to another person will be permitted under the following circumstances:

- to the extent necessary to perform functions under the Major Sports Facilities Act, or
- if the disclosure is authorised under an Act, or otherwise required or permitted by law, or
- if the person to whom the information relates consents to the disclosure, or
- if the disclosure is in a form that does not identify the person to whom the information relates, or
- if the information is, or has been, lawfully accessible to the public.

The amendment proposes that if a person discloses criminal history information relating to a Stadiums Queensland board director, in a way that is not permitted by the Act, the maximum penalty is 100 penalty units.

In addition, the amendment provides that the chief executive of the department must ensure that criminal history information about a Stadiums Queensland board director is destroyed when it is no longer needed for the purpose for which it was obtained.

Alternative Ways of Achieving Policy Objectives

There are no alternative ways of achieving the policy objective as the amendments are being made to ensure that privacy safeguards are applied consistently to criminal history information relating to proposed and current board directors. The safeguards protecting the privacy of criminal history information outlined in the Bill are consistent with other Queensland Acts.

Estimated Cost for Government Implementation

There are no anticipated costs to government for implementation.

Consistency with Fundamental Legislative Principles

Clause 18 Insertion of new ss 17A to 17C

In their consideration of Clause 18 of the Bill, the Committee noted that it could be considered that the ability of the chief executive to request a criminal history report breaches the privacy and the rights and liberties of individuals pursuant to section 4(2)(a) of the *Legislative Standards Act 1992*. However, in exploring consistency with fundamental legislative principles, the Committee considered that the requirement for the disclosure of criminal history information to the department is appropriate, particularly if safeguards related to protecting the privacy of the information are provided for.

The Committee therefore recommended that this amendment be made to ensure that all criminal history pertaining to proposed and current directors of the Stadiums Queensland Board is covered by provisions protecting the privacy of that information.

Consultation

The amendments respond to Recommendation 2 of the Committee's report and observations made during their consideration of the Bill. The Government's amendments ensure the Bill provides consistent safeguards to protect information provided under section 17A and section 17C. As such, it is not considered necessary to undertake further consultation in relation to the amendments to be moved during consideration in detail.

Stadiums Queensland was consulted on and has endorsed the amendment in relation to the name change of Suncorp Stadium. Stadiums Queensland also confirmed that the amendment to the name Suncorp Stadium in the legislation to refer to Brisbane Stadium (Lang Park) will not have any legal effect on sponsorship naming rights.

Consistency with legislation of other jurisdictions

The amendments are specific to the State of Queensland.

Notes on Provisions

Clause 1 omits proposed new subsection 17A(6) from the Bill. Subsection 17A(6) provides that the chief executive of the department must ensure that a criminal history report is destroyed as soon as practical after it is no longer needed for the purpose for which it was requested. In the Bill this subsection relates to criminal history obtained in a criminal history report for prospective directors only. This is now covered by proposed new subsection 17D(5).

Clause 2 renumbers subsection 17A(7) to 17A(6).

Clause 3 removes subsection 17B from the Bill. Subsection 17B provides provisions related to the confidentiality of criminal history information obtained under proposed new subsection 17A. This is now covered by proposed new subsection 17D.

Clause 4 inserts new subsection 17D. Subsections 17D(1) and (2) provide that the section applies to people who possess criminal history information obtained under proposed new subsections 17A and 17C of the Bill. Subsection 17A clarifies the chief executive of the department's ability to seek a criminal history report about a person proposed for appointment to the Stadiums Queensland Board. Subsection 17C includes provisions requiring a current director to give notice if they are convicted of an indictable offence during their term of appointment.

Proposed new subsection 17D(3) provides a new offence provision for the disclosure of criminal history information that is not permitted under proposed new subsection 17D(4).

Proposed new subsection 17D(4) provides the circumstances under which criminal history information obtained under 17A and 17C can be disclosed.

Proposed new subsection 17D(5) provides that the chief executive of the department must ensure that criminal history information is destroyed as soon as practical after it is no longer needed for the purpose of 17A and 17C.

Clause 22 omits the proposed new heading at Part 3B of the Bill. *Clause 22A* amends the heading at Pt 3B to reflect the name change of Suncorp Stadium to Brisbane Stadium (Lang Park).

Clause 26 amends subsection 30AM(3) of the Bill to reflect the name change of Suncorp Stadium to Brisbane Stadium (Lang Park).

Clause 27 omits the proposed new section 30AN from the Bill. *Clause 27A* will amend sections 30AN and subsection 30AN(1) and 30AN(2) to reflect the name change of Suncorp Stadium to Brisbane Stadium (Lang Park).

Proposed Schedule 1 (Acts amended) will also be amended to reflect the name change of Suncorp Stadium to Brisbane Stadium (Lang Park).