

# **EXPLANATORY MEMORANDUM**

## **Major Events Bill 2023**

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### **OVERVIEW**

The Major Events Bill 2023 will establish a legislative framework to support the attraction, facilitation and retention of major events in Western Australia.

Major events deliver significant economic and social benefits to the State. It is becoming increasingly common for international bodies to require potential host cities of major events to provide certain protections or guarantees for their events.

The Bill is intended to provide greater certainty to major event organisers and venue operators by providing for the safe and orderly running of major events, streamlining some approval processes and protecting the commercial interests of the major event organisers.

The provisions in the legislation will only apply to an event that is prescribed as a major event. The Bill outlines the considerations to be taken into account by the Minister in deciding whether to declare an event as a major event and requirements for consultation.

Regulations will identify which particular provisions of the legislation are to apply to each major event. This enables government to scale the legislative protections to the particular requirements of the event.

The Bill provides for:

- declaration of an event as a major event;
- specification of the major event organiser, major event area, major event period and responsible authority;
- specification of a controlled area and control period;
- suspension or modification of other legislation in limited circumstances;
- approval of temporary works for major events;
- management of roads, waters and traffic;
- safety and crowd management;
- commercial protections for major events organisers, including prohibitions on ambush marketing, unauthorised broadcasting and certain advertising; and restrictions on use of logos or titles; and
- appointment of authorised officers and the powers of those officers in enforcing the requirements of the legislation.

## **PART 1 – PRELIMINARY**

Part 1 provides the short title of the Bill, commencement provisions, objects and definitions of relevant terms, and the application of the legislation to the Crown.

### **Clause 1      Short title**

This clause provides the short title of the *Major Events Act 2023* (the Act).

### **Clause 2      Commencement**

This clause provides that Part 1 of the Act comes into operation on Royal Assent and the remainder of the Act will come into effect on the day after the Act receives Royal Assent.

### **Clause 3      Objects**

This clause outlines the objects of the Act as follows:

- to attract, support and retain major events in the State;
- to deliver economic and social benefits to the State by making the State a more attractive and competitive destination for major events;
- to facilitate the safe and orderly running of major events;
- to promote the enjoyment of participants and spectators of major events; and
- to protect, in an appropriate manner, the commercial interests of major event organisers who hold major events in the State.

### **Clause 4      Terms used**

This clause sets out the definitions for the purposes of the Act.

### **Clause 5      Act binds Crown**

This clause provides that the Act binds the Crown.

## **PART 2 – ESTABLISHING A MAJOR EVENT**

The Act will only apply to an event that is prescribed as a major event.

This Part outlines the process by which an event can be prescribed as a major event, including matters to be taken into consideration and consultation requirements.

### **Division 1 – Power to make regulations establishing major event**

This Division outlines the matters relating to a major event that are required to be, or may be, specified in the regulations that prescribe an event as a major event (referred to as ‘section 6 regulations’).

#### **Clause 6      Prescription of major event and other key matters**

Sub-clause (1) provides that the regulations may prescribe any event of a sporting, cultural or other nature as a major event. It is intended that a broad range of events could be prescribed as a major event, including events of a political or economic nature.

Sub-clause (2) provides that the regulations must specify:

- the major event organiser;
- major event area;
- major event period;
- which provisions of Part 3 (temporary works for major events) and Part 4 (management of roads, waters and traffic) apply to the major event; and
- which provisions of Part 5 (safety and crowd management) and Part 6 (restrictions on commercial activities) apply to the major event, and the area to which and period during which the provisions apply for.

Sub-clause (3) provides that the regulations may specify a responsible authority for the major event. A responsible authority is a person, State agency or local government that is granted the power to appoint authorised officers under clause 73 and may include the major event organiser.

Sub-clause (4) provides that the regulations may also specify an area near the major event area as a controlled area for the major event, the control period, the provisions of Part 6 (restrictions on commercial activities) that apply to a controlled area and the period during which the provisions apply.

Sub-clause (5) clarifies that the regulations under subsection (2)(e) providing which provisions of Part 5 and 6 apply may specify:

- that a provision applies to a major event area or a part of a major event area; and
- that a provision applies during the major event period or any part of that period.

Sub-clause (6) clarifies that the regulations under subsection (4)(c) providing which provisions of Part 6 apply may specify:

- that a provision applies to a controlled area or any part of a controlled area; and
- that a provision applies during the control period or any part of the control period.

#### **Clause 7      Specification of major event organiser**

This clause provides that the regulations may specify one or more persons as the major event organiser for a major event.

#### **Clause 8      Specification of major event area**

This clause provides that the regulations may specify one or more areas in which a major event is to take place to be prescribed as the major event area.

Certain provisions in the Act will only apply in the major event area.

This clause is intentionally broad and does not restrict a major event area by venue, facility or location.

A major event area may include:

- a place to be associated with the major event, including a public place where an event is shown on a screen for public viewing or a place set aside for the media;
- infrastructure to be used for the major event, including any road; and
- a place near a place or infrastructure referred to above.

A major event area can be specified by a land description or by reference to a map held by the chief executive officer of the department. If specified by map, the regulations must include a map depicting the major event area.

#### **Clause 9      Specification of major event period**

This clause provides that the regulations may specify all or any part of the period in which a major event is to take place as the major event period.

Certain provisions of the Act will only apply during the major event period.

The major event period may include:

- a reasonable period before the major event takes place to allow time to prepare for the major event; and
- a reasonable a period after the major event finishes to enable restoration of the major event area and/or any other land.

## **Clause 10      Specification of responsible authority**

This clause provides that one or more of the following may be specified in the regulations as a responsible authority for a major event:

- the major event organiser;
- a State agency; or
- a local government.

The responsible authority may appoint authorised officers under section 73. This clause provides flexibility to allow for an appropriate person to be nominated as the responsible authority depending on the nature of the event.

## **Clause 11      Specification of controlled area and control period**

This clause provides that one or more areas near a major event area may be specified in the regulations as a controlled area. The regulations may also specify the major event period or a shorter period as a control period.

Certain restrictions on commercial activity, set out in Part 6 of the Act, may apply in a controlled area during the control period.

A controlled area may be specified by reference to a land description or a map held by the chief executive officer of the department. If specified by map, the regulations must include a map depicting the controlled area.

## **Division 2 — Criteria for establishing major event**

This Division details what is required of the Minister before recommending the making or amending of regulations prescribing an event to be a major event.

## **Clause 12      Criteria for recommending event be prescribed as major event**

This clause provides that before the Minister may recommend the making of regulations that prescribe an event as a major event, the Minister must confirm in writing that they are of the opinion that:

- the event is a large event of State, national or international significance; and
- it is in the public interest for the event to be prescribed as a major event.

Sub-clause (2) provides a non-exhaustive list of criteria that may be considered by the Minister when making this decision.

### **Clause 13 Minister must consult before recommending section 6 regulations**

This clause outlines the consultation requirements for regulations prescribing an event as a major event (section 6 regulations).

The Minister cannot recommend the making or amending of section 6 regulations until the Minister has consulted with the persons listed in sub-clause (1).

The Minister may also consult with any other person about the proposal.

Sub-clause (4) provides that the consultation requirements do not apply to regulations that, in the Minister's opinion, amend section 6 regulations that are of a minor or urgent nature. The Minister must confirm this opinion in writing.

Sub-clause (5) provides that the consultation requirements do not apply to regulations that revoke the prescription of a major event.

## **Division 3 — Suspension or modification of other legislation**

This Division provides for the making of regulations to suspend or modify an Act referred to in Schedule 1 (referred to as 'section 14 regulations'). This Division outlines the scope and limits of this regulation making power. This Division also details the criteria that must be met before the Minister recommends making section 14 regulations.

### **Clause 14 Power to suspend or modify legislation in Schedule**

This clause provides that regulations may modify or suspend the operation of an Act referred to in Schedule 1 or any subsidiary legislation under any of those Acts in relation to a major event.

Sub-clause (1) provides that a suspension or modification may apply in respect of:

- a use of land in a major event area for the purposes of a major event;
- any development or activities carried out in a major event area for the purposes of a major event; or
- a major event area or part of a major event area during the major event period or any part of the major event period.

Sub-clause (2) provides that the power to suspend the operation of a Schedule 1 Act or subsidiary legislation is a power to specify that the Act or subsidiary legislation does not apply to a matter or thing.

Sub-clause (3) provides that the power to modify the operation of a Schedule 1 Act or subsidiary legislation is a power to specify that the Act or subsidiary legislation applies to a matter or thing with the modifications specified in the regulations.

Sub-clause (4) provides that suspension or modification of an Act or subsidiary legislation is only permissible for the Acts or specific provisions of the Acts listed in Schedule 1, any provisions of the Act that affect the operation of specific provisions listed in Schedule 1, and any subsidiary legislation relating to the specific provisions listed in Schedule 1.

Sub-clause (5) provides that if Schedule 1 specifies a particular subject-matter in relation to an Act, the power to suspend or modify is limited to the provisions that relate to that subject-matter and any subsidiary legislation relating to that subject-matter.

This is a Henry VIII clause as it permits the modification of primary legislation by subsidiary legislation. However, the power to modify or suspend legislation is considered necessary to give effect to the objects of the Act. For example, road traffic legislation may require modification for the purpose of staging a motor racing or cycling event. Any modification of Schedule 1 legislation will be limited in scope to the major event area (or part of the major event area) and the major event period (or part of the major event period) and will therefore have very limited application. Further limitations on the exercise of the power to make section 14 regulations are set out in clause 15.

## **Clause 15      Criteria for suspending or modifying legislation**

This clause outlines additional procedural requirements for the making of section 14 regulations.

Sub-clause (1) provides that the Minister must not recommend the making of regulations that suspend or modify the operation of a Schedule 1 Act or subsidiary legislation under a Schedule 1 Act unless the Minister confirms in writing that:

- in the Minister's opinion the suspension or modification is in the public interest and is necessary for the effective preparation for, or management or conduct of the major event; and
- the Minister responsible for the administration of the relevant Schedule 1 Act has agreed to the suspension or modification.

Sub-clause (2) provides that the same procedural requirements apply to the amendment of section 14 regulations. Subclause (3) provides that this clause does not apply to regulations that revoke section 14 regulations.

These procedural requirements, in addition to the usual requirements applicable to the making of regulations, are intended to ensure there is transparency and accountability in the making of section 14 regulations. Modification of legislation will be permitted only in those circumstances where it is necessary in order to achieve the objectives of the Act.



## **PART 3 – TEMPORARY WORKS FOR MAJOR EVENTS**

This Part contains provisions to allow for the carrying out of temporary works required for a major event. Temporary works may include things such as erecting a grandstand, barricade or marquee.

### **Clause 16      Provisions apply only if section 6 regulations specify that they apply**

This clause provides that a provision in Part 3 will apply to a major event only if section 6 regulations provide that it applies.

### **Clause 17      Minister may authorise temporary works for purposes of major event**

This clause provides that the Minister may, by notice (a temporary works approval), authorise a major event organiser to carry out temporary works within the major event area for the purposes of the major event.

The Minister may also authorise the major event organiser to carry out maintenance of the temporary works and/or other activities that the major events organiser considers necessary for, or incidental to, the temporary works.

The Minister must cause the temporary works approval to be published on the department's website and in a newspaper that circulates either in the major event area or generally in the State.

A temporary works approval can be varied or revoked by a further notice published on the department's website and in a newspaper that circulates either in the major event area or generally in the State.

### **Clause 18      Conditions and duration of temporary works approval**

This clause provides that the temporary works approval is subject to any conditions specified by the Minister in the temporary works approval or in the regulations.

The temporary works approval will have effect until the end of the major event period or any shorter period specified by the Minister in the temporary works approval.

A temporary works approval will cease to have effect if revoked by the Minister.

### **Clause 19      Authority conferred by temporary works approval**

This clause provides that the major event organiser may enter land in the major event area to carry out the works or activities authorised by the temporary works approval if the land is State land or the owner and occupier (if there is one) of the land consent to the works or activities.

The major event organiser must comply with any conditions set out in the temporary works approval.

The major event organiser must ensure the temporary works (including any maintenance of the temporary works or activities that the major events organiser considers necessary for, or incidental to, the temporary works) are carried out in accordance with any other applicable written law, except as provided by section 20 and any section 14 regulations.

**Clause 20      Development approval not required**

This clause provides an exemption from the requirement to obtain planning approval, or any permit or authorisation under specified legislation for any works or activities authorised by a temporary works approval.

The exemption ceases to have effect at the end of the period for which the temporary works approval has effect, or a longer period if agreed by the relevant planning authority.

The intention of this provision is to enable temporary works to be expedited.

**Clause 21      Power to move unattended vehicles or vessels**

This clause provides that where a vehicle or vessel is on State land in a major event area, and an authorised officer reasonably believes that the vehicle or vessel is unattended and that it is necessary to move it to enable the works or activities to be carried out, the officer (or a person authorised by the officer) may move the vehicle or vessel to a place where the vehicle or vessel can be left or stored.

If the major event has a traffic and transport management plan, the movement of the vehicle or vessel under this clause must be done in accordance with that plan. If a vehicle or vessel is moved, Part 9 Division 1 (Moving vehicles or vessels) applies.

**Clause 22      Land must be restored to pre-works condition**

This clause requires a major event organiser who carries out works or activities under a temporary works approval to restore the land to a condition that is reasonably comparable to its pre-works condition, unless subject to any written agreement between the major event organiser and the owner of the land.

The restoration work must be carried out by the end of the period for which the temporary works approval applies.

If the land is not restored, the owner of the land can undertake work reasonably necessary to restore the land and recover the costs from the major event organiser in court, unless subject to any written agreement between the major event organiser and the owner of the land.

## **PART 4 – MANAGEMENT OF ROADS, WATERS AND TRAFFIC**

This Part provides authorised officers and the major event organiser with powers regarding roads, waters and traffic.

### **Clause 23 Provisions apply only if regulations specify that they apply**

This clause provides that a provision in Part 4 will apply to a major event only if section 6 regulations provide that it applies.

### **Clause 24 Traffic and transport management plan must be prepared**

This clause requires a major event organiser to prepare a traffic and transport management plan for a major event. Sub-clause (2) outlines what is to be included in the plan.

A traffic and transport management plan may make provision for a major event lane. This is a lane or part of a lane (of a road) either inside the major event area or that provides performers or participants in a major event with access to the major event area.

A traffic and transport management plan, or any amendment to it, has no effect until it is approved in writing by the Transport CEO.

If the major event area includes any navigable waters, the plan has no effect until it is also approved in writing by the Maritime CEO.

### **Clause 25 Consultation regarding proposed traffic and transport management plan**

This clause requires the major event organiser to consult with certain public officials and bodies when developing or amending a traffic and transport management plan.

This clause also permits the major event organiser to consult with other public officials and public authorities when preparing or amending a traffic and transport management plan.

Consultation on an amendment to the traffic and transport management plan is not required if the amendment is minor or required as a matter of urgency and the Transport CEO agrees in writing and when the major event area includes any navigable waters, the Maritime CEO agree in writing.

### **Clause 26 Road closures for major event**

This clause permits a major event organiser, to close all or part of a road in a major event area. A road may be closed to use by any person or vehicle (or both) and may for all or part of the major event period.

A road closure is to be effected by the erection of signs, barriers or notices at or near the entrance to the road concerned (in accordance with the traffic and transport management plan).

The major event organiser must not exercise a power conferred by this provision except in accordance with the traffic and transport management plan or the approval of the Transport CEO. Subclause (4) requires the Transport CEO to cause a notice to be published in the *Gazette* which details the road closure. However, subclause (5) provides that failure to publish the notice in the *Gazette* will not invalidate the road closure.

A person commits an offence under this clause if they enter, drive a vehicle on or use a road in contravention of the road closure.

This prohibition does not apply:

- if the person is acting with the written authorisation of the major event organiser;
- if the person has a reasonable excuse;
- to a police officer performing the duties of a police officer;
- to an emergency vehicle; or
- to a vehicle of a class exempted by the regulations.

#### **Clause 27      Effect of road closure on traffic laws**

Subclause (1) provides that a road the subject of a road closure will continue to be a public place and a road for the purposes of the *Road Traffic Act 1974* or any other written law.

Subclause (1) is subject to any section 14 regulations that modify or suspend written law.

Subclause (3) provides that if a road closure is in effect, a person attending or participating in the major event will not be guilty of an offence regulating the movement of traffic or pedestrians or relating to the obstruction of a street if the person is complying with the road closure and is not obstructing the free passage of any emergency vehicle. This is consistent with the *Road Traffic Act 1974* section 81E.

Subclause (3) does not authorise a contravention of any direction by a police officer under the *Public Order in Street Act 1984*.

#### **Clause 28      Closures of waters for major event**

This clause permits a major event organiser, to close all or part of any navigable waters within a major event area for the purposes of allowing any person or vessel (or both) to use the navigable waters during all or any part of the major event period.

‘Waters’ has a specific definition under this clause. A closure is to be effected by the erection of signs, barriers or notices at or near the entrance to the waters concerned.

The major event organiser must not exercise a power conferred by this provision except when in accordance with the traffic and transport management plan or the approval of the Maritime CEO.

Subclause (5) requires the Maritime CEO to cause a notice to be published in the *Gazette* which details the closure of waters. However, subclause (6) provides that failure to publish the notice in the *Gazette* will not invalidate the closure of waters.

A person commits an offence under this clause if they enter or navigate a vessel in waters in contravention of a closure of waters. This prohibition does not apply:

- if the person is acting with the written authorisation of the major event organiser;
- if the person has a reasonable excuse;
- to a police officer performing the duties of a police officer;
- to an emergency vessel; or
- to a vessel of a class exempted by the regulations.

## **Clause 29      Establishment of major event lanes**

This clause provides that the major event organiser may identify, in the traffic and transport management plan, that a lane or part of a lane of a road is a major event lane for all or part of the major event period.

This clause also provides that certain signs must be used to establish a major event lane, and that the regulations can prescribe the form these signs should take. These signs are taken to be a road sign for the purposes of the *Road Traffic Act 1974*, and that Act applies to signs and markings for a major event lane.

## **Clause 30      Transport CEO must give notice of major event lanes**

This clause requires the Transport CEO to cause a notice to be published in the *Gazette* if a major event lane is established in the traffic and transport management plan.

Sub-clause (2) outlines the matters to be included in the notice.

However, a failure to comply with this clause does not invalidate the establishment of the major event lane.

## **Clause 31      Major event lane permits**

This clause provides that a major event organiser may issue a person with a major event lane permit.

A major event lane permit authorises a vehicle to be driven in a major event lane by the holder of the permit or by another person with the holder of the permit as a passenger. The permit can also allow a person who is an employee of, or otherwise engaged by, the person issued with the permit to drive a vehicle in a major event lane.

A major event lane permit may be issued subject to reasonable conditions.

## **Clause 32      Unauthorised use of major event lane**

This clause prohibits, and creates an offence for, driving a vehicle in a major event lane. However, a person will not commit an offence under this clause if they are:

- authorised, by a major event lane permit to drive the vehicle in the major event lane and the vehicle displays the permit;
- driving an emergency vehicle; or
- driving a vehicle that of a class specified in a major event lane notice as being a class of vehicle that is permitted to use a major event lane without displaying a major event permit.

This clause provides that regulations may prescribe that certain exceptions or defences found in the *Road Traffic Code 2000* apply to an offence under this section.

## **Clause 33      Authorised officers may stop vehicles in major event lane**

This clause provides that an authorised officer may direct a person who is in control of a vehicle in a major event lane to stop the vehicle for the purposes of ascertaining whether the person is authorised to drive the vehicle in the major event lane.

An authorised officer must clearly identify themselves when directing a person under this clause.

This clause outlines the directions an authorised officer may give to the person in control of the vehicle. Failure to comply with a direction is an offence, but the person will not commit an offence if they were not informed by the authorised officer that failure to comply with a direction is an offence.

If a person fails to comply with a direction to get out of a vehicle, a police officer may use reasonable force.

Subclause (8) provides that the power to stop a vehicle in a major event lane applies:

- in the major event area; or
- in another place if the power is exercised by a police officer or an authorised acting under the supervision of a police officer.

## **Clause 34      Authorised officers may inspect and verify permits**

This clause permits an authorised officer to direct a person, when the person is in control of a vehicle displaying a major event lane permit, to produce the permit to the officer for inspection.

This clause also permits an authorised officer to direct a person who is in control of, or a passenger in, a vehicle in a major event lane to give the officer the person's personal details if:

- the vehicle displays a major event lane permit; and
- the direction is reasonable to enable the authorised officer to verify that the person in control of the vehicle is authorised to drive in the major event lane.

The authorised officer can also direct the person to provide evidence of their personal details provided, but only if it is reasonable for the officer to expect the person to be in possession of that evidence in the circumstances.

This clause provides that a person commits an offence if they:

- fail to comply with a direction given under this clause without reasonable excuse; or
- provide false or misleading personal details to an authorised officer in purported compliance with a direction given under this clause.

This clause also permits an authorised officer to confiscate a major event lane permit in certain circumstances. The authorised officer must return a confiscated permit to the major event organiser.

## **Clause 35      Leaving vehicles or vessels in major event area**

This clause provides that a major event organiser may designate any public place or part of a public place in a major event area as an area in which parking or leaving vehicles, or mooring, anchoring or leaving vessels is prohibited.

This must be done in accordance with the traffic and transport management plan.

The area must be designated by the erection of signs or notices.

The major event organiser must not exercise a power conferred by this provision except when in accordance with:

- the traffic and transport management plan; or
- the approval of the Transport CEO (when the prohibition applies to vehicles); or
- the Maritime CEO (when the prohibition applies to vessels).

Sub-clauses (4) and (5) provide that a person commits an offence if they park or leave a vehicle, or moor, anchor or leave a vessel, in an area in which parking or leaving a vehicle is prohibited.

This clause does not apply to a pram, stroller, wheelchair or other mobility aid; an emergency vehicle or vessel; or a vehicle or vessel of a class excluded by the regulations.

A person will not commit an offence if the person:

- is acting with the written authorisation of the major event organiser;
- is acting with the written authorisation of the WA event venue controller (in relation to any part of the major event area that is a WA event venue); or
- has a reasonable excuse.

**Clause 36      Authorised officers may move vehicles or vessels**

This clause permits an authorised officer to move a vehicle or vessel, or authorise it to be moved, if the authorised officer reasonably suspects that it has been left in an area in which parking or leaving a vehicle or vessel is prohibited.

The authorised officer may move the vehicle or vessel, or authorise it to be moved, to a public place where the vehicle or vessel can be stored or parked, moored, anchored or left without any time restrictions.

The authorised officer must exercise their powers under this section in accordance with the traffic and transport management plan.

If a vehicle or vessel is moved under this clause, Part 9 Division 1 applies (Moving vehicles or vessels).



## **PART 5 – SAFETY AND CROWD MANAGEMENT**

This Part contains provisions intended to facilitate the safe and orderly operation of major events.

### **Division 1 – Application of Part**

This Division outlines how and when Part 5 will apply to a major event.

#### **Clause 37      Provisions apply only if section 6 regulations specify that they apply**

This clause provides that a provision of Part 5 will only apply to a major event if the section 6 regulations for the particular event state that the provision applies.

If a provision in Part 5 applies, the provision only applies:

- in relation to the major event area (or a part of the major event area specified in the regulations); and
- during the major event period (or a shorter period specified in the regulations).

### **Division 2 – Entry to and movement in major event area**

This Division provides the requirements for entry into and movement within a major event area.

#### **Clause 38      Designated entries and exits must be used**

This clause provides that it is an offence to, without reasonable excuse:

- enter a major event area through anywhere other than a designated entrance; or
- exit a major event area through anywhere other than a designated exit.

However, a police officer or other person acting under the authority of a written law is permitted to enter or exit a major event area through places other than a designated entrance or exit.

#### **Clause 39      Entry fee must be paid**

This clause applies when the major event organiser charges a fee to enter a major event area.

Subclause (1) provides that it is an offence to, without reasonable excuse, enter or remain in a major event area, or any part of a major event area, without:

- paying the entry fee; or
- holding a ticket or other evidence that shows the entry fee has been paid.

However, a person does not commit an offence under this clause if they have:

- the written authorisation of the major event organiser to be in the area concerned;
- the written authorisation of the WA event venue controller to be there (in relation to any part of the major event area that is a WA event venue); or
- a reasonable excuse.

Subclause (1) does not apply to a police officer or other person acting under the authority of a written law.

#### **Clause 40      Occupant's pass**

This clause provides that a person who resides, works or has a business in a major event area can apply to the major event organiser for an 'occupant's pass'.

The major event organiser must grant the person an occupant's pass if satisfied that the applicant needs access to the major event area during the major event period for the purposes of ordinary use and enjoyment of, or travel to or from, the place they reside, work or have a business.

If granted, the occupant's pass authorises the person to enter or remain in a major event area or part of a major event area during the major event period.

The occupant's pass can include reasonable conditions, such as only authorising the person access to the major event area on specified days and times during the major event period.

#### **Clause 41      Entry to playing field or competition or performance area**

This clause is designed to prevent unauthorised persons entering onto, or remaining in, the area in which competitions, performances, sporting matches or other major events are held. This is to ensure the event runs safely, securely and without disruption.

It is an offence for any person to enter or remain on a playing field or competition or performance area within a major event area unless:

- the person is a performer or participant in the major event;
- the person has a role in preparing for or holding the major event and the person's presence in the area concerned is necessary in connection with that role;
- the person is acting with written authorisation of the major event organiser;
- the person has a reasonable excuse; or
- the person is a police officer or other person acting under the authority of a written law.

## **Clause 42     Entry to restricted area**

This clause permits a major event organiser to restrict access to certain parts of the major event area, and a WA event venue controller to restrict access to certain parts of its WA event venue.

A major event organiser may designate any area within a major event area, other than a WA event venue, to be used only by particular persons.

A WA event venue controller can designate part of a WA event venue to be used only by particular persons.

An area must be designated as a restricted area by the erections of signs or notices.

This clause provides that it is an offence for a person to enter or remain in a designated area if they are not a person the area is designated for.

However, a person will not commit an offence under this clause if the person:

- has a role in preparing for or holding the major event and their presence in the designated area is necessary in connection with that role; or
- has the written authorisation of the major event organiser or WA event venue controller and the restricted area was designated by the major event organiser or the WA event venue controller (whichever is relevant); or
- has a reasonable excuse; or
- is a police officer or other person acting under the authority of a written law.

## **Clause 43     Bringing vehicles into major event area**

Sub-clause (1) prohibits a person from bringing a vehicle into a major event area unless person is on a road that is open to the public.

A person will not commit an offence if the person:

- is acting with the written authorisation of the major event organiser; or
- is acting with the written authorisation of a WA event venue controller but only in relation to a part of the major event area that is a WA event venue ; or
- has a reasonable excuse.

The prohibition does not apply to prams, strollers, wheelchairs and other mobility aids, emergency vehicles and a vehicle of a class exempted by the regulations.

## **Division 3 – Conduct in and over major event area**

This Division regulates the conduct of persons in the major event area.

### **Clause 44 Possession of prohibited items**

This clause prohibits persons within a major event area to be in possession of certain items.

The prohibited items are listed in subclause (1).

The following exceptions to this clause apply.

A police officer performing the duties of a police officer within the major event area is permitted to be in possession of the items listed in this clause.

The prohibition on animals being taken into the major event area does not apply to assistance animals such as guide, hearing or assistance dogs, or a person's pets if the person lives within the major event area.

The clause also permits a person within the major event area to possess the items listed in the clause if:

- they have written authorisation from the major event organiser to be in possession of the item; or
- they are required to be in possession of the item by any written or other law (for example, a distress flare on a vessel); or
- they have a reasonable excuse for possessing the item.

### **Clause 45 Endangering others or disrupting a major event**

This clause prohibits persons in a major event area from throwing or propelling anything that could injure a person, damage property or disrupt the major event.

Higher penalties apply if a person throw or propels anything that may injure a person or damage property, including an explosive, flare or other distress signal.

This clause does not apply to:

- performers or participants in the major event doing anything that is part of the ordinary course of the major event; or
- a spectator returning a thing that has been thrown or propelled by a performer or participant, but only if returned in a manner not intended to injure a person, damage property or disrupt the major event.

A person does not commit an offence if the person is acting with the written authorisation of the major event organiser or if they have a reasonable excuse for throwing or propelling the item.

#### **Clause 46      Obstructing performers or participants**

This clause prohibits any person from obstructing a person in a major event area performer while they are performing or participating in a major event.

A person does not contravene this section if they are acting with the written authorisation of the major event organiser, or if they have a reasonable excuse.

#### **Clause 47      Possession and consumption of liquor**

This clause provides that a person must not bring liquor into a major event area.

A person does not commit an offence under this clause if the liquor is brought into the major event area by a person authorised to sell the liquor in the major event area under *Liquor Control Act 1988*, or if the person is delivering liquor to a person authorised to sell the liquor in the major event area under *Liquor Control Act 1988*.

A person does not commit an offence under this clause if the person lives in the major event area, or is staying in accommodation within the major event area.

This clause also provides that a major event organiser can designate any area that is a public place within a major event area as an area where liquor must not be consumed. Penalties apply if a person consumes liquor within a designated area.

A person can, however, consume liquor on any premises within the major event area where the consumption of liquor is authorised by a licence or permit under the *Liquor Control Act 1988*.

#### **Clause 48      Control of airspace**

This clause prohibits a person, in the course of State air navigation, from operating an aircraft or causing an aircraft to be operated in any restricted area that is over a major event area.

A restricted area is an area declared by the Civil Aviation Safety Authority (established by the *Civil Aviation Act 1988* (Commonwealth) section 8(1)) to be a restricted area under the regulations under the *Airspace Act 2007* (Commonwealth).

'State air navigation' is defined as air navigation within Western Australia to and in relation to which the Commonwealth Air Navigation Regulations apply, under the *Air Navigation Act 1937* section 4, as if they were incorporated in that Act".

However, a person does not contravene this clause if:

- they are permitted to operate the aircraft in the restricted area by or under the *Airspace Act 2007* (Commonwealth); or
- the aircraft is a military aircraft or a police aircraft that is being operated for military or security purposes; or
- the aircraft is being operated for emergency purposes.

This clause also provides that, where there is any inconsistency between this clause and the provisions of the Commonwealth Air Navigation Regulations as they apply to and in relation to "State air navigation", this clause prevails.

#### **Clause 49      Other prohibited conduct**

This clause prohibits a person from engaging in certain conduct within a major event area.

Subclause (1) lists prohibited conduct and provides that regulations may prescribe further prohibited conduct.

Subclause (2) provides that a person does not contravene this section if the person is acting with the written authorisation of the major event organiser, or has a reasonable excuse.

### **Division 4 – Enforcement powers**

This Division outlines the enforcement powers of a person appointed as an authorised officer under clause 73(1).

#### **Clause 50      Searches and inspection on entry**

This clause permits an authorised officer to request that a person do any of the things listed in subclause (1) when the person the subject of the request is entering or seeking to enter a major event area or any part of a major event area.

The authorised officer may only make this request:

- for the purpose of ensuring compliance with the Act or otherwise to ensure the safe and effective conduct of the major event; and
- if the authorised officer reasonably considers it necessary to make the request.

The authorised officer must inform the person of the reason for making the request if asked to do so by the person who is the subject of the request.

If the person refuses to comply with the request, the authorised officer can give the person a direction to leave.

#### **Clause 51      Power to request surrender of prohibited items and liquor**

The clause provides that an authorised officer may request any person entering or seeking to enter or in a major event area to surrender:

- a thing the officer reasonably suspects to be a prohibited thing; or
- liquor the officer reasonably suspects the person is bringing into or has brought into the major event area in contravention of the Act.

If the person refuses to comply with the request, the authorised officer can give the person a direction to leave.

#### **Clause 52      Power to request ticket or other evidence to be produced**

This clause provides that an authorised officer may request any person entering, seeking to enter or in a major event area to produce a ticket or other evidence of their right to be in the major event area or part of the major event area concerned.

If the person refuses to comply with the request, the authorised officer can give the person a direction to leave.

#### **Clause 53      Power to refuse unauthorised entry**

This clause provides that an authorised officer may give a direction to leave to a person the officer reasonably suspects in attempting to enter the major event area or a part of the major event area in contravention of a provision of the Act.

#### **Clause 54      Searches inside major event area**

This clause provides that an authorised officer may request that a person in a major event area submit to the searches or inspections listed in subclause (1).

The authorised officer may only make this request:

- for the purpose of ensuring compliance with the Act or otherwise to ensure the safe and effective conduct of the major event; and
- if the authorised officer reasonably considers it necessary to make the request.

The authorised officer must inform the person of the reason for making the request if asked to do so by the person who is the subject of the request.

If the person refuses to comply with the request, the authorised officer can give the person a direction to leave.

**Clause 55      General powers relating to conduct of persons in major event area**

This clause provides that an authorised officer may give a direction to leave the major event area to a person who the authorised officer reasonably suspects that the person has just committed, or is committing an offence, is behaving in a risky, disorderly or disruptive manner, or is drunk or adversely affected by a drug.

**Clause 56      Power to request personal details**

Provides that an authorised officer may request personal details (name and address) from a person if the officer reasonably suspects that the person has just committed or is committing an offence.

The authorised officer may also request that the person provide evidence of the personal details provided if:

- the officer reasonably suspects that the personal details provided are false; and
- it is reasonable to expect the person to be in possession of that evidence in the circumstances.

If the person refuses to comply with the request, the authorised officer can give the person a direction to leave (see clause 45).

**Clause 57      Direction to leave major event area**

The clause provides that a power conferred by the Act to give a direction to 'direction to leave' is power to direct a person:

- not to enter or to immediately leave major event area; and
- not to enter the major event area for a specified period not longer than 24 hours.

The direction to leave can be given orally or in writing.

A person must comply with a direction to leave. A penalty applies for failure to comply.

If a person refuses to comply with a direction to leave, this clause permits a police officer to use reasonable force to enforce the direction to leave.

**Clause 58      Entry bans**

The clause provides that the major event organiser may, by written notice, give an entry ban to a person, directing the person not to enter the major event area for a specified period.



A major event organiser can only issue an entry ban to a person if the person has been given a direction to leave under section 55 (general power relating to conduct of persons) and if the major event organiser is reasonably satisfied that the person's behaviour justifies banning the person from a major event area for a period exceeding 24 hours.

An entry ban cannot extend beyond the end of the major event period.

It is an offence to fail to comply with an entry ban. If a person fails to comply, a police officer can use reasonable force to enforce the entry ban.

## **Clause 59      Taking of photographs**

This clause provides that an authorised officer may take a photograph or other image of a person who is given a direction to leave or an entry ban.

The authorised officer can only take the photograph or other image if the authorised officer reasonably considers it necessary for the purposes of enforcing the direction to leave or the entry ban.

The authorised officer or major event organiser can only retain and use the photograph or image to enforce the direction to leave or entry ban; or to use in any legal proceedings in connection with the direction to leave or entry ban.

It is the responsibility of the major event organiser to ensure that the photograph or image is securely disposed of as soon as practicable after it is no longer required for any of the permitted purposes listed above.

Subclause (4) states that this section does not authorise contravention of the *Surveillance Devices Act 1998*.

## **PART 6 – RESTRICTIONS ON COMMERCIAL ACTIVITIES**

This Part provides for restrictions on advertising and other commercial activities in relation to a major event.

The intention of this Part is to prevent unauthorised commercial or marketing activity by a third party that seeks to take advantage of the goodwill or increased interest of a major event. This can include publicity stunts or handing out merchandise to spectators outside a major event area.

### **Clause 60      Provisions apply only if section 6 regulations specify that they apply**

This clause provides that a provision of Part 6 will only apply to a major event if the section 6 regulations for the particular event state that the provision applies.

The regulations may apply the provisions of Part 6 to the major event area and/or the controlled area.

If a provision in Part 6 applies, the provision only applies:

- in relation to the major event area or controlled area (or a part of the area specified in the regulations); and
- during the major event period or control period (or a shorter period specified in the regulations).

### **Clause 61      Sale or distribution of things on road and in public places**

This clause makes it an offence for a person to sell or distribute anything while on a road or public place in a major event area or controlled area unless the:

- sale or distribution is of a type exempted by regulation; or
- person is acting with the written authorisation of the major event organiser.

An authorised officer, who suspects a contravention of this provision, may direct a person to remove a thing from the major event area or controlled area immediately or within a specified period.

A person who does not comply with a direction issued by an authorised officer under this clause commits an offence, but only if they were informed by the authorised officer that failure to comply is an offence.

Sub-clause (7) gives the authorised officer the power to seize the thing that the person was directed to remove if the person does not comply with the direction.

## **Clause 62     Ambush marketing**

This clause makes it an offence for a person, while in a major event area or controlled area, to:

- promote a person, service or thing; or
- do anything that suggests that a person, service or thing is an affiliate of the major event.

A person will not commit an offence under this clause if they are acting with the written authorisations of the major event organiser.

An authorised officer, who suspects a contravention of this provision, may direct a person to remove a thing from the major event area or controlled area or cover anything being used in connection with a contravention of this clause.

A person who does not comply with a direction issued by an authorised officer under this clause commits an offence, but only if they were informed by the authorised officer that failure to comply is an offence.

Sub-clause (8) gives the authorised officer the power to seize the thing that the person was directed to remove or cover it if the person does not comply with the direction

## **Clause 63     Advertising on buildings or structures**

This clause provides that a person commits an offence if they cause or permit an advertisement to be displayed on any building or structure in a major event or controlled area unless:

- they are acting with the written authorisation of the major event organiser;
- the advertisement is displayed in connection with the person's ordinary business activities, does not imply affiliation with the major event in any way, and the advertisement was displayed before the major event period started;
- the advertisement is of a class prescribed by the regulations as exempt; or
- the advertisement is fully covered.

This clause gives authorised officers the power to remove or cover advertisements, provided the officer reasonably suspects that the advertisement is displayed in contravention of this clause.

In the exercise of this power, the officer can enter a place, but can only enter a place ordinarily used for human habitation with the occupier's consent. In exercising this power, the officer is required to take reasonable steps to prevent or minimise damage to property.

## **Clause 64     Advertising on vehicles**

This clause makes it an offence for a person to cause or permit an advertisement to be displayed on a vehicle or on a banner or sign attached to or towed by a vehicle within a major event area or controlled area, or visible from a major event area or controlled area.

However, a person will not commit an offence under this clause if:

- the advertisement forms part of the normal markings or livery of the vehicle;
- the advertisement identifies the manufacturer of the vehicle, or any part of the vehicle, or a business or undertaking in connection with which the vehicle is used;
- does not imply the advertiser or the service or thing that is advertised is an affiliate of the major event;
- the person is acting with the written authorisation of the major event organiser;
- the person has a reasonable excuse; or
- the advertisement or vehicle is of a class prescribed by the regulations as exempt.

## **Clause 65     Advertising on vessels**

This clause makes it an offence for a person to cause or permit an advertisement to be displayed on a vessel or on a banner or sign attached to or towed by a vessel within a major event area or controlled area, or visible from a major event area or controlled area.

However, a person will not commit an offence under this clause if:

- the advertisement forms part of the normal markings or livery of the vessel;
- the advertisement identifies the manufacturer of the vessel, or any part of the vessel, or a business or undertaking in connection with which the vessel is used;
- does not imply the advertiser or the service or thing that is advertised is an affiliate of the major event;
- the person is acting with the written authorisation of the major event organiser;
- the person has a reasonable excuse; or
- the advertisement or vessel is of a class prescribed by the regulations as exempt.

## **Clause 66     Aerial advertising**

This clause makes it an offence for a person to display aerial advertising, or cause aerial advertising to be displayed, within sight of a major event area or a controlled area.

A person will not commit an offence under this clause if:

- they display the aerial advertising in accordance with written authorisation of the major event organiser; or
- they display the aerial advertising in accordance with an event order under the *Major Events (Aerial Advertising) Act 2009* for another event.

This clause does not apply to a person flying an aircraft in an emergency or for, or in the provision of, emergency services.

Sub-clause (4) provides that *Major Events (Aerial Advertising) Act 2009* Part 3 (Civil remedies) and section 16 (Liability of certain officers of body corporate for offences) apply in respect of a contravention of this section in the same way as they apply in respect of a contravention of section 11 of that Act (Offence to display unauthorised aerial advertising).

This provision displaces the requirement for an event organiser to apply for an 'event order' under the *Major Events (Aerial Advertising) Act 2009*, but retains Part 3 and section 16 of that Act in respect of breaches. This means that a major event organiser under this Act does not need to separately apply for an 'event order' under the *Major Events (Aerial Advertising) Act 2009*.

## **Clause 67      Broadcasting or recording major event**

This clause makes it an offence for a person to broadcast or record a major event. However, a person will not commit an offence if:

- they are acting with the written authorisation of the major event organiser; or
- the broadcast or recording is on a personal electronic device and is for personal use and for a purpose other than for profit or commercial gain.

## **PART 7 – USE OF OFFICIAL LOGOS OR TITLES**

This Part provides for the creation and use of official logos and official titles for major events.

### **Clause 68 Declaration of official logo or official title**

This clause provides that regulations may declare a logo to be an official logo for the major event, and/or a title to be an official title for a major event.

Any declaration under this clause ceases to have effect at the end of the major event period.

### **Clause 69 Major event organiser may authorise use of official logo or title**

This clause provides the process for authorisation by the major event organiser for the use of the official title or official logo.

The major event organiser may by notice in writing authorise a person to use an official logo or official title.

Sub-clause (2) outlines the details to be included in the notice.

The major event organiser must establish and maintain a register of authorisations, include the details in sub-clause (2) in the register, publish the register on the major event organiser's website, and publish in any other manner required by the regulations.

### **Clause 70 Unauthorised use of official logo or official title**

This clause creates an offence for the unauthorised use of an official logo or title for a commercial purpose, promotion, advertising, marketing, or generally suggesting that a person, thing or service is an affiliate of the major event when not an affiliate.

It is also an offence to use a logo or title that is substantially identical with, or deceptively similar to, an official logo or official title.

This clause does not apply if the use is for, or incidental to, reporting news or current affairs, criticising or reviewing something, giving professional advice, or research or education.

This clause also gives authorised officers the power to seize a thing displaying an official logo or official title, or a logo or title that is substantially identical with, or deceptively similar to, an official logo or official title in contravention of this provision.

### **Clause 71 Other remedies not affected**

This clause provides that Part 7 does not affect or limit a civil right or remedy that exists apart from Part 7, whether at common law or otherwise.

## **PART 8 – AUTHORISED OFFICERS**

This Part provides for the appointment of authorised officers as well as their functions, powers and obligations. Authorised officers perform a number of functions under the Act to ensure compliance.

### **Division 1 – Application of Part**

This Division specifies when Part 8 applies in relation to a major event.

#### **Clause 72 Provisions apply if authorised officers given powers**

This clause provides that Part 8 applies in relation to a major event if the regulations specify a responsible authority for the major event.

### **Division 2 – Appointment of authorised officers**

This Division provides for the appointment of authorised officers.

#### **Clause 73 Appointment of authorised officers**

Sub-clause (1) provides that a responsible authority may appoint an authorised officer. The responsible authority for a major event will be specified in the section 6 regulations and can include the major event organiser, a State agency or a local government.

The appointment must be made by instrument in writing and the appointment has effect for the period specified in the appointment instrument or if no period is specified, the major event period.

A person may only be appointed as an authorised officer if the person is eligible for appointment and is considered suitable person to be appointed having regard to the person's experience, expertise, training or qualifications and any requirements as to suitability specified in the regulations.

A person's appointment as an authorised officer ceases upon revocation, resignation, if they cease to be eligible, the period of appointment ends, or the major event period ends.

#### **Clause 74 Eligibility for appointment as an authorised officer**

Sub-clause (1) listed the persons who are eligible for appointment as an authorised officer.

The regulations may specify further eligibility requirements for appointment as an authorised officer. This might include certain training or qualifications.

Sub-clause (3) provides that a person's appointment as an authorised officer does not mean that they will be considered to be a public service officer or local government officer (only by reason of that appointment).

Sub-clause (4) makes it clear that a public service officer's appointment as an authorised officer does not affect the application of the *Public Service Management Act 1994* to that person or the powers of their public service employer.

Sub-clause (5) makes it clear that a local government officer's appointment as an authorised officer does not affect the application of the *Local Government Act 1995* to that person or the powers of their local government employer.

Sub-clause (6) makes it clear that this provision does not authorise a contravention of the *Security and Related Activities (Control) Act 1996*, which provides for the licensing of crowd controllers.

#### **Clause 75      Restrictions on functions**

An authorised officer's functions in relation to a major event are subject to any limitations or conditions specified in:

- the officer's instrument of appointment;
- a notice in writing to the authorised officer by the responsible authority who appointed them; and
- the regulations.

#### **Clause 76      Identity cards**

This clause does not apply to police officers.

The responsible authority is required to give an identity card to each person appointed as an authorised officer. The identity card must identify the person as an authorised officer and contain a recent photograph of the person, an expiry date and any other matter required by the regulations.

When an authorised officer exercises a power under the Act and the power relates to a person, the officer must produce the identity card for the person's inspection or have the identity card displayed so that it is clearly visible to the person while the officer is exercising the power.

A person who is appointed as an authorised officer must return their identity card to the responsible authority within 21 days after ceasing to be an authorised officer. Failure to do so is an offence.

### **Division 3 – Offences**

This Division sets out offences in relation to authorised officers.

#### **Clause 77      Impersonating authorised officer**

It is an offence to impersonate a person appointed as an authorised officer.



**Clause 78      Obstruction of authorised officer**

It is an offence to, without a reasonable excuse, hinder or obstruct an authorised officer who is performing a function or exercising a power under the Act.

## **PART 9 – ANCILLARY PROVISIONS RELATING TO POWERS OF AUTHORISED OFFICERS**

This Part provides further details of the powers conferred on persons appointed as authorised officers.

### **Division 1 – Moving vehicles or vessels**

This Division relates to the power to move vehicles or vessels.

#### **Clause 79      Application of Division**

Part 9 Division 1 applies if an authorised officer moves a vehicle or vessel, or authorises a vehicle or vessel to be moved in accordance with section 21(1) or 36(1) of the Act.

#### **Clause 80      Police must be notified if vehicle or vessel is moved**

As soon as practicable after a vehicle or vessel is moved, an authorised officer must provide specific information to a police officer at the police station that is nearest to where the vehicle or vessel was before it was moved and include the information stated in sub-clause (1). This must be done as soon as practicable after the officer moves the vehicle or vessel.

This will allow the police to provide information about the whereabouts of a vehicle or vessel to the owner if it is reported stolen.

A police officer who moves a vessel or vehicle while exercising the powers of an authorised officer does not need to comply with this section.

#### **Clause 81      Movement of vehicle or vessel**

As soon as practicable after an authorised officer moves a vehicle or vessel, or authorises a vehicle or vessel to be moved, the authorised officer must provide the major event organiser with the information provided in sub-clause (1).

Sub-clause (2) provides that if the vehicle or vessel is moved to a place of storage, the place must have been approved by the major event organiser.

#### **Clause 82      Major event organiser must give notice to collect**

Within 7 days of the vehicle or vessel being moved, the major event organiser must provide the owner of the vehicle or vessel with a notice to collect.

The notice to collect must include the information set out in sub-clause (2).

If the major event organiser is unable to identify or locate the owner within 7 days after the vehicle or vessel is moved, the major event organiser must cause the notice to collect to be published in a

newspaper that circulates in the area where the vehicle or vessel was before it was moved.

When the notice is published in the newspaper, the major event organiser is taken to have given the owner notice.

If the major event organiser is of the opinion that the vehicle or vessel has insufficient value (a value less than the prescribed value in the regulations, calculated in the prescribed manner) to justify publishing the notice, then publication is not required.

### **Clause 83      Disclosure of information**

This clause provides that the Transport CEO or Maritime CEO may, on the request of the major event organiser, provide any information held by the Transport Chief or Maritime Chief about a vehicle or vessel that is reasonably required to enable the major event organiser to give a notice to collect to the owner of the vehicle.

### **Clause 84      Major event organiser may charge moving fee**

This clause allows the major event organiser to charge the owner (or person in charge of a vehicle or vessel) with a moving fee to cover any reasonable expenses incurred in relation to moving or storing the vehicle or vessel, or in giving or publishing the notice to collect.

If the owner (or person in charge of the vehicle or vessel) does not pay a moving fee charged by the major event organiser, the major event organiser can recover the fee in court.

If a vehicle or vessel is moved by a police officer, the Commissioner of Police may charge the major event organiser with a fee to cover the reasonable expenses incurred by the Commissioner in moving the vehicle or vessel. The major event organiser can then recover the fee from the owner (or person in charge of the vehicle or vessel).

If a vehicle or vessel is moved by an authorised officer who is not appointed by the major event organiser, the responsible authority that appointed the authorised officer may charge a fee to the major event organiser to cover the reasonable expenses incurred by the responsible authority in moving the vehicle or vessel. The major event organiser can then recover the fee from the owner (or person in charge of the vehicle or vessel).

### **Clause 85      Storage of moved vehicles or vessels**

This clause outlines the requirements for storage if a vehicle or vessel is moved to a place where it can be stored.

The arrangements for storage of a vehicle or vessel must comply with the requirements of the traffic and transport management plan for the major event.

A person may drive, move, tow or otherwise convey a vehicle or vessel to where the vehicle or vessel is stored provided they are

authorised by the major event organiser and it is done under the storage arrangements.

The major event organiser must make arrangements that enable the owner to collect the vehicle or vessel during business hours.

#### **Clause 86 Release of vehicle or vessel from storage**

This clause outlines the process of releasing a vehicle or vessel from storage to the owner.

The major event organiser must ensure the vehicle or vessel is released to a person from storage if:

- satisfied that the person is the owner of the vehicle or vessel; and
- the person collects the within 2 months of a notice to collect being given to the owner.

The major event organiser may refuse to release a vehicle or vessel from storage until any moving fee has been paid.

Once the moving fee has been paid, liability for the moving fee is extinguished.

#### **Clause 87 Disposal of uncollected vehicles or vessels**

This clause provides for the disposal of vehicles or vessels that have been moved pursuant to this Act.

The major event organiser may dispose of a vehicle or vessel at the end of 2 months after:

- the notice to collect was given; or
- the major event organiser certified that the vehicle or vessel has insufficient value to justify publishing a notice to collect.

The major event organiser may:

- sell the vehicle or vessel; or
- dispose of the vehicle or vessel in any way the major event organiser considers appropriate (only if the proceeds of sale of the vehicle or vessel are unlikely to cover the reasonable expenses that would be incurred in selling it).

If the vehicle or vessel is sold, the buyer obtains good title, provided the buyer acquires the vehicle or vessel in good faith and without notice of any failure by the major event organiser to comply with this Act in relation to the moving, storage or sale of the vehicle or vessel.

Sub-clause (4) provides that if the vehicle or vessel is sold, the proceeds of sale must be applied as follows:

- first, in payment of the reasonable expenses of major event organiser in selling the vehicle or vessel;

- second, in payment of any moving fee owed to the major event organiser; and
- any remaining proceeds must then be paid to the owner of the vehicle or vessel.

The major event organiser may waive payment of all or any part of the expenses or fees referred to in sub-clause (4).

The payment of a moving fee, or part of a moving fee, from the proceeds of sale of a vehicle or vessel extinguishes any liability of a person to pay the major event organiser the fee or part.

If the major event organiser knows the identity, but not the whereabouts, of the owner, the remaining proceeds must be paid to the Treasurer to be dealt with under the *Unclaimed Money Act 1990* as prescribed retained money.

If the major event organiser does not know the identity of the owner, the remaining proceeds must be paid to the Treasurer and credited to the Consolidated Account.

## Division 2 – Seized things

This Division provides how a thing is to be dealt with once it is seized by an authorised officer.

### Clause 88 Application of Division

This Division applies if an authorised officer seizes a thing under:

- section 61(7) - sale or distribution of things on road and in public places;
- section 62(8) – ambush marketing; or
- section 70(4) – unauthorised use of an official logo or official title.

This Division does not apply if a police officer exercising the powers of an authorised officer seizes a thing.

### Clause 89 Terms used

This clause provides definitions for terms used in Part 9 Division 2.

**person entitled** has the meaning given in the *Criminal and Found Property Disposal Act 2006* section 3 (the owner of the property, a person authorised by the owner to possess the property or a person who is otherwise legally entitled to the property)

### Clause 90 Receipt for seized things

This clause provides that an authorised officer must, as soon as practicable after seizing a thing, give a receipt to the person who was in possession of the seized thing

The receipt must include information, set out in sub-clause (2).

If the person in possession of the thing is not present when the thing is seized, the authorised officer may give a receipt by leaving it in a conspicuous position at the place where the thing was seized, or by leaving the receipt with the owner of the premises in which the thing was seized.

**Clause 91      Seized things must be given to department or returned**

As soon as practicable after seizing a thing, an authorised officer must either give the seized thing to the CEO of the department or return it to the person from whom it was seized.

**Clause 92      Application of Criminal and Found Property Disposal Act 2006**

The clause provides that the *Criminal and Found Property Disposal Act 2006* applies in respect of a seized thing in the department's possession.

For the purposes of the *Criminal and Found Property Disposal Act 2006*, the department is a prescribed agency, and a seized thing is taken to have been seized in the course of a criminal investigation by the department.

This clause also provides that, the chief executive officer of the department must, if practicable, allow a person who is otherwise entitled to possession of a seized thing to have reasonable access to the thing.

**Clause 93      Compensation for seizure**

This clause applies if the seized thing was seized by an authorised officer appointed by the major event organiser.

This clause provides that a person entitled to property that is a seized thing is entitled to compensation from the major event organiser for any loss incurred by that person as a result of the seizure in the following circumstances:

- if proceedings for a relevant offence in respect of the seized thing are not commenced within 12 months after the thing is seized; and
- if proceedings for a relevant offence in respect of the seized thing are commenced within 12 months after the thing is seized, but the proceedings are discontinued or the accused is found not guilty of the offence.

If the person is entitled to compensation under this clause, the loss incurred by the person must be calculated having regard to any entitlement of the person under the *Criminal and Found Property Disposal Act 2006*.

A person is not entitled to compensation under this section if the major event organiser establishes that the person's possession or use of the seized thing was unlawful.

### **Division 3 – Surrendered things**

This Division provides how a thing is to be dealt with once it is surrendered to an authorised officer.

#### **Clause 94      Application of Division**

This Division applies if a thing is surrendered to an authorised officer exercising a power referred to in clause 51(1) (power to request surrender of prohibited items and liquor).

This includes where a police officer seizes the thing or does a forensic examination on it and then gives the thing to an authorised officer or the major event organiser to be dealt with as a surrendered thing under this Division (pursuant to section 99(5)).

#### **Clause 95      Terms used**

This clause provides definitions for some terms used in Part 9 Division 3.

***person entitled*** to a surrendered thing means the person who surrendered the thing to an authorised officer.

#### **Clause 96      Storage and collection of surrendered things**

The major event organiser must ensure that a surrendered thing is stored at or near the major event area where the thing is surrendered.

This must be done in accordance with any directions made by the Minister and given to the major event organiser.

The major event organiser must return the surrendered thing to the person entitled when the person leaves the major event area or within 28 days after the thing is surrendered.

If the thing is not collected by the person when they leave the major event area, the major event organiser must continue to store the thing until the person entitled requests the return of the thing or the expiration of 28 days (whichever occurs first).

If the thing is likely to perish before 28 days pass or if it would be dangerous to keep the thing for 28 days, the major event organiser may destroy the thing anytime after the day on which it was surrendered.

If the person who surrendered the thing does not collect the thing within 28 days of it being surrendered, the major event organiser can dispose of the thing, whether by selling it or otherwise.

This clause does not apply to a surrendered thing that is a firearm, prohibited weapon, controlled weapon or explosive.

**Clause 97      Firearms, prohibited weapons, controlled weapons and explosives**

The major event organiser must cause any surrendered thing that is a firearm, prohibited weapon, controlled weapon or explosives to be given to a police officer as soon as practicable and no later than 24 hours after it is surrendered to the authorised officer.

This clause also provides that the *Criminal and Found Property Disposal Act 2006* applies to and in relation to any surrendered thing that is given to a police officer under this clause as if it were seized property seized in the course of a criminal investigation by the Police Force.



## **PART 10 – MISCELLANEOUS**

This Part provides for various matters not covered elsewhere in the Bill.

### **Clause 98 Police officer may exercise powers of authorised officers**

This clause provides that a police officer may exercise any power of an authorised officer in relation to a major event.

If a police officer exercises a power of an authorised officer, any provision in the Act that would ordinarily apply when an authorised officer exercises that power applies, unless the contrary is indicated.

This clause also provides that, when a police officer exercises a power under this Act, the *Criminal Investigation Act 2006* Part 2 (Ancillary provisions about exercising powers) applies with any necessary modifications.

A police officer must provide a person with their official details if requested by a person in relation to whom a power under this Act is being exercised.

This clause applies whether or not there is a responsible authority for a major event.

This clause only authorises a police officer to exercise a power conferred on an authorised officer by a provision of Part 3, 4, 5 or 6, when section 6 regulations apply that provision to the major event.

The powers a police officer has under any written law are not limited by this clause.

### **Clause 99 Police powers to seize and examine things**

Terms in this section have the same meaning as in the *Criminal Investigation Act 2006*.

This clause provides that a thing relevant to an offence that has been found by, or surrendered to, an authorised officer or a police officer exercising a power under the Act can be seized by a police officer.

Regardless of whether the police officer seizes the thing, a police officer can do a forensic examination on it, pursuant to section 21 of the *Criminal Investigation Act 2006*.

After a police officer seizes a thing or does a forensic examination on it, the police officer may:

- return the thing to the person who was in possession of it immediately before it was found or surrendered;
- give the thing to an authorised officer or the major event organiser to be dealt with as a surrendered thing under Part 9 Division 3; or
- otherwise deal with it in accordance with law.

The *Criminal Investigation Act 2006* applies to and in respect of the seizing and forensic examination of things by police officers

exercising powers under this Act in the same way as it applies to police officers exercising powers under that Act.

#### **Clause 100 Court may order forfeiture, destruction and disposal of things**

If a person is convicted of an offence under the following sections, the court can order that a thing be destroyed, disposed of or forfeited to the State, provided the court is satisfied that the thing was the subject of, used in, or otherwise involved in the commission of the offence.

- section 61(1) – sale or distribution of things on road and in public places
- section 62(1) or (2) – ambush marketing
- section 70(2) – unauthorised use of official logo or official title

If a thing is forfeited to the State, the *Criminal and Found Property Disposal Act 2006* applies to the thing.

#### **Clause 101 Directions to major event organiser**

This clause provides that the Minister may give the major event organiser a written direction to do, or refrain from doing, anything necessary for the running of a major event, and the major event organiser must comply with the direction.

The delegation of some administrative powers to the major event organiser(s) is balanced with the ability for the Minister to direct the major event organiser if the Minister forms the view that doing so is in the best interests of the State. This enables the Minister to retain the necessary control and flexibility needed to successfully facilitate the safe and orderly delivery of the major event in the State.

#### **Clause 102 Major event organiser may be required to erect signs**

This clause provides that the regulations may require a major event organiser to erect signs in or at the entrance of a major event area and/or a controlled area.

These signs may describe the powers of the authorised officers or police officers that are provided by this Bill in that area.

#### **Clause 103 No liability in nuisance**

This clause provides that the major event organiser cannot be liable in nuisance for any activity carried out within a major event area during a major event period.

The clause also provides that a person carrying out an activity within a major event area during a major event period cannot be liable in nuisance for the activity, provided the activity was approved by the major event organiser.

## **Clause 104    Protection from tortious liability**

This clause provides for protection from liability in tort for the State and State representatives.

Sub-clause (3) provides protection from liability in tort for any Minister, officer, employee or agent of the State (State representative) for any act or omission done in good faith in connection with:

- the administration or purported administration of the Act;
- the performance or purported performance of a function under this Act; or
- a major event or any works authorised or carried out for the purposes of a major event.

Sub-clause (4) provides that the protection applies:

- even if the thing done (as described in sub-clause (3)) may have been capable of being done whether or not this Bill was enacted; and
- in relation to a thing done by an authorised officer who is a public service officer, even if the responsible authority that appointed the authorised officer is not a State agency.

Sub-clause (5) provides that the protection from liability extends to the State for:

- a State representative having done anything to which the protection given by sub-clause (3) applies; and
- anything done in connection with a major event or any works authorised or carried out for the purposes of a major event.

Sub-clause (6) provides that the relief from liability for the State set out in sub-clause (4) does not apply to anything done that causes personal injury to a person or death of a person.

Sub-clause (7) provides that this clause does not affect the liability:

- of the major event organiser;
- of the State when the major event organiser is a State representative; or
- under an indemnity given, or other agreement made by the major event organiser or the State that expressly relates to a major event.

Sub-clause (8) clarifies that for the purposes of this clause, a person who is appointed as an authorised officer, but is not a public service officer, does not become a State representative because of:

- their appointment;
- anything in or done under this Bill; or
- the performance or purported performance of a function under this Act.

Sub-clause (8) also clarifies that the purposes of this clause, a major event organiser does not become a State representative because:

- they are prescribed as the major event organiser;
- of anything in or done under this Bill; or the performance or purported performance of a function under this Act.

#### **Clause 105 Powers and duties of responsible authority**

This clause provides that:

- an employing authority of a State agency may exercise or perform the powers or duties of a State agency as responsible authority for a major event; and
- the CEO of a local government may exercise or perform the powers or duties of a local government as responsible authority for a major event.

#### **Clause 106 Delegation by chief executive officers and employing authorities**

This clause make provision for delegation of any power or duty under the Act by:

- a CEO of a department;
- an employing authority of a State agency; and
- a local government CEO.

Any delegation must be in writing.

A person who is delegated any power or duty cannot further delegate that power or duty.

The person is presumed to exercise or perform the power or duty in accordance with the terms of the delegation unless the contrary is shown.

Nothing in this clause limits the ability of a person to perform a function through an officer or agent.

#### **Clause 107 Regulations**

This clause provides that the Governor may make regulations prescribing all matters that are required or permitted to be prescribed or are necessary or convenient to be prescribed for giving effect to the Act.

Before any section 6 or section 14 regulations are made, the Minister must recommend the making of these regulations.

Regulations may provide that contravention of a regulation is an offence with a penalty not exceeding a fine of \$5,000.

## **PART 11 – TRANSITIONAL PROVISION**

### **Clause 108    Consultation undertaken before commencement day**

Clause 108 is a transitional provision, which provides that any consultation about proposed section 6 regulations undertaken by a Minister before the commencement day is taken to be consultation for the purposes of section 13 of the Act.

This clause applies whether or not the administration of this Act is committed to the Minister who undertakes the consultation.

This clause does not limit the operation of the *Interpretation Act 1984* section 25 which makes provision for some powers in an Act to be exercised before it commences.

## **PART 12 – AMENDMENTS TO OTHER ACTS**

This Part outlines the consequential amendments that are required to other legislation.

### **Clause 109    *Health (Miscellaneous Provisions) Act 1911* amended**

This clause inserts section 175A into the *Health (Miscellaneous Provisions) Act 1911*.

This allows the Chief Health Officer to exercise and perform any of the powers or duties of a local government under Part IV of that Act, in relation to the construction, extension or alteration of a public building in a major event area for the purposes of a major event.

### **Clause 110    *Major Events (Aerial Advertising) Act 2009* amended**

This clause inserts section 11(2A) into the *Major Events (Aerial Advertising) Act 2009*.

This permits aerial advertising in relation to a major event to be displayed in specific circumstances without the need to comply with section 11(1) of the *Major Events (Aerial Advertising) Act 2009*.

### **Clause 111    *Public Order in Streets Act 1984* amended**

This clause amends section 9A(2)(b) and inserts section 9A(2)(c) into the *Public Order in Streets Act 1984*.

The effect of this provision is that the Commissioner for Police may not give an instruction to a police officer to regulate traffic, prevent or remove obstructions or maintain order in the streets if such as instruction is given for the purpose of frustrating the holding or conduct of a major event on a road closed under section 26.

### **Clause 112    *Unclaimed Money Act 1990* amended**

This clause inserts section 9(1)(i) into the *Unclaimed Money Act 1990*.

This applies the provisions of the *Unclaimed Money Act 1990* in relation to prescribed retained money to money paid to the Treasurer under clause 87(7) of the Bill (proceeds of sale on the disposal of an uncollected vehicle or vessel, where the major event organiser knows the identity, but not the whereabouts of the owner).

## **SCHEDULE 1 – LEGISLATION THAT CAN BE SUSPENDED OR MODIFIED IN RELATION TO A MAJOR EVENT**

This Schedule provides a list of Acts that can be suspended or modified in relation to a major event, in accordance with other clauses in the Bill.