

15 September 2014

The Research Director
State Development, Infrastructure and Industry Committee
Parliament House
George Street
BRISBANE QLD 4000

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Dear Ms Pasley

Submission on Major Events Bill 2014

The Office of the Information Commissioner wishes to provide a submission on one aspect of the Major Events Bill 2014 that raises privacy considerations.

I would like to thank the Committee for the opportunity to comment. If the Committee would like further information or assistance to ensure that the Bill achieves its objectives while protecting and respecting individuals' personal information, please do not hesitate to contact me.

Please find attached our submission.

Yours sincerely

Clare Smith
Acting Privacy Commissioner

Encl OIC Submission



Submission to the State Development, Infrastructure and Industry Committee

Inquiry into the Major Events Bill 2014

September 2014

Background - The role of the Office of the Information Commissioner

The statutory functions of the Information Commissioner under the *Information Privacy Act 2009* (Qld) (**IP Act**) include commenting on issues relating to the administration of privacy in the Queensland public sector environment¹. This function forms the basis for this submission on the Major Events Bill 2014 (**the Bill**) by the Office of the Information Commissioner (**OIC**).

Summary of Submission

OIC's submits that the Committee give consideration to including in clause 18(5)(d) of the Bill, the requirements placed on "authorised officers" contained in section 568 of the *Police Powers and Responsibilities Act 2000* (**PPR Act**)² in order to manage the practical aspects of removal of "head gear" so as to respect the privacy of the persons concerned.

Submission - clause 18(5)(d) of the Bill

OIC notes that the Bill consolidates, replaces and repeals the *Health Practitioners (Special Events Exemption) Act 1998*, *Motor Racing Events Act 1990* (**MRE Act**) and Chapter 19, Part 2 of the *Police Powers and Responsibilities Act 2000* (**PPR Act**).³

OIC's submission addresses clause 18(5)(d) of the Bill.

Clause 18(5)(d)

Clause 18(5)(d) of the Bill provides:

18 Entering and existing major event area

...

(4) *An authorised person may ask a person entering a major event area to consent to all or any of the following –*

...

(d) *the removal of a person's outer clothing, shoes, hat or other head gear.*

OIC notes that "head gear" is not defined. OIC also notes the statement in the Explanatory Notes that:

*Failure to comply with a request ... under this clause is not an offence. However, a person who refuses such a request can be directed to leave the major event area under clause 26 and directed not to re-enter the major event area for 24 hours.*⁴

Clause 18(5)(d) is similar to section 568(2)(b) of the PPR Act, which enables 'a police officer or authorised person (security official)' to request that a person 'remove 1 or more outer garments worn by the entrant as specified by the official and allow the official to inspect the garments'.

¹ Section 135(1)(b)(v) of the IP Act.

² This section of the PRA Act is to be repealed.

³ Fourth paragraph on page 1 and second paragraph of page 3 of Explanatory Notes.

⁴ Clause 26(1)(c), (d) and (e) of the Bill.

Reasonableness and giving reasons

Section 568 of the PPR Act provides that requests made to persons entering major events can be made when:

- the authorised person reasonably considers it necessary to make the request;⁵ and
- the authorised person tells the person the reason for making the request.⁶

That is, an authorised person must meet requirements of reasonableness and giving reasons in order to exercise their power under section 568(2)(b).

The requirements of “reasonableness” and “giving reasons” are not set out in clause 18 or elsewhere in the Bill, and accordingly it appears that an authorised person may not be required to meet them when exercising their power under clause 18(5)(d).

Who may touch items removed under clause 18(5)(d)

OIC also notes that section 568 of the PPR Act provides that an official may touch a garment that a person is wearing only if they are the same sex as the person.⁷

In contrast, clause 18(5)(d) refers simply to *‘the removal of the person’s outer clothing, shoes, hat or other head gear’*. It does not indicate whether the items are removed by the person wearing them, or by the authorised person. Assuming that only the person wearing the items can remove them, it remains possible that the authorised person can touch them. This is by virtue of clause 18(5)(b), which enables a request that the person consent to the authorised person searching and examining their possessions – which would presumably include touching the possessions. Unlike section 568 of the PPR Act, clause 18(5) does not accommodate gender sensibilities. It includes no requirement that the authorised person touching the person’s items be the same sex as them.

In light of these differences, OIC concludes that clause 18(5)(d) enables similar requests to section 568(2)(b) of the PPR Act, but without the same protections as that section. OIC has some concerns about this, given that the removal of a person’s “head gear” particularly if it is worn for religious or customary reasons as a consequence impacts on a person’s privacy as it discloses the person’s personal information⁸ to anyone viewing the removal.

It is noted that the person must consent to the removal and refusing to do so is not an offence. However, it is further noted that refusal to give consent may mean they are removed from the major event site for 24 hours. By implication, the individual may feel compelled to consent and have their privacy compromised.

⁵ Whether or not the entrant or belongings have been subjected to electronic screening.

⁶ See section 568(1) of the PPR Act.

⁷ See section 568(3) of the PPR Act.

⁸ As defined in section 12 of the IP Act.

OIC submits that the Committee should consider whether the requirements contained in section 568 of the PPR Act should be included in clause 18(5)(d).

Conclusion

OIC would welcome any opportunity to provide further information or assistance with respect to achieving the Bill's objectives in accordance with the requirements of the *Information Privacy Act 2009* (Qld).