

Police Powers

during the Commonwealth Games 2018

The 2018 Gold Coast Commonwealth Games (GC2018) are held from 4 to 15 April 2018. The Commonwealth Games event sites are located at the Gold Coast, in Brisbane, Townsville and Cairns.

This factsheet answers some common questions about an individual's legal rights, particularly with regard to police interactions, in and around GC2018.

WHAT LEGISLATION APPLIES?

The *Police Powers and Responsibilities (Commonwealth Games) Amendment Act 2017* (Qld) (PPRA Act) governs and extends the policing and security arrangements for the GC2018.

The *Police Powers and Responsibilities Act 2000* (Qld) (PPR Act) sets out the general rights and obligations of police officers and individuals when interacting with police.

The *Major Events Act 2014* (Qld) (Major Events Act) facilitates major events held in Queensland.

The *Peaceful Assembly Act 1992* (Qld) (Peaceful Assembly Act) gives people the right to hold peaceful assemblies in Queensland.

SECURITY ZONES

What are Protective Security Zones?

Protective security zones (PSZ) are designated areas where police are able to exercise additional powers aimed at keeping the community safe. A PSZ may include an area, either land or water associated with the Commonwealth Games, and public transport.

How do I know if I am in a PSZ?

It is important to familiarise yourself with the zones before entering them during the GC2018. The PSZs are found on the Gold Coast, in Brisbane, Townsville and Cairns.

The PSZs are subject to change any time, and additional PSZs may be declared. These changes

may not be publicly disclosed immediately, especially in urgent circumstances, meaning it is important to pay attention to and cooperate with police orders and directions.

When do PSZs come into effect?

Different zones come into effect on different dates. Information on specific zones, including their exact locations and boundaries, can be found on the Queensland Police website.

Note that the new police powers in PSZs under the PPRA Act will lapse on 22 April 2018 (seven days after the GC2018 ends), however, police will continue to be exempt from recording their search or other enforcement activities for future major international events.

For the GC2018, this means that any searches by police officers or authorised persons will not be recorded by them on a register. You should therefore keep note of interactions, including the identification details of the police officer or authorised person, if you believe misconduct has occurred.

What if I live or work in a PSZ?

You are not prevented or restricted from coming and going through the PSZs. However, you may be subject to searches by police and other authorised persons.

MAJOR EVENT AREAS

What are Major Event Areas?

A major event area (MEA) is a designated area where a GC2018 event is to be held. Examples include sporting arenas, precincts, convention centres and transport depots. As for PSZs, different areas come into effect at different times. Full details of this and MEA rules and locations can be found on the Embracing 2018 website.

When can I enter an MEA?

An MEA must be entered through designated entrances and exits. You pay an entry fee and

must receive express permission to enter. You cannot enter an MEA if you appear to be drunk or adversely affected by a drug.

What if I live or work in an MEA?

If you live in, work in or conduct business in an MEA, you may apply for an occupant's pass authorising you to enter and remain in the area during the major event period.

What if I am in a PSZ and an MEA?

While the PSZs and MEAs are not expected to overlap, the powers and prohibitions of the MEA and the Major Events Act apply if there is any inconsistency.

POWERS AND PROHIBITIONS

Who can exercise powers in an MEA?

In an MEA, powers may be granted to authorised persons, including police officers, public service employees, local government employees and employees of the major event organisation. Some powers may only be exercised by police officers such as 'frisk searching', removing a person from an MEA, or removing a person from a vehicle using reasonable force.

All authorised persons, except police officers, must produce an identification card before exercising any power.

Who can exercise powers in a PSZ?

Only police officers may exercise powers in PSZs.

Can police search me if I am in a PSZ?

Yes, while entering or within a PSZ, a police officer may search you (e.g. through a frisk search) or inspect an item in your possession (e.g. your bag). Police officers may use an electronic device, including a metal detector.

Police officers may also handle, open and examine the contents of an item.

If reasonably practicable, the police officer must inform you of the powers to be exercised and ask for your cooperation before the search takes place.

A police officer may also use a firearm and explosive-detection dog to search you, your possessions or your vehicle in a PSZ.

Searches involving removal of your clothing are not permitted. But if other provisions of the PPR Act are triggered (e.g. you are reasonably suspected of committing an offence), a more thorough search may be undertaken.

Can police search me if I am in an MEA?

Yes, if you are entering or are in an MEA, a police officer or authorised person may ask you to consent to the:

- use of an electronic detection device, including a metal detector on your personal possessions
- inspection of your belongings
- removal of articles from your clothing
- opening and inspecting the contents of bags.

A police officer or authorised person may not ask for your consent if they consider it reasonably necessary to conduct the search or if you are suspected of committing an offence.

A police officer, but not an authorised person, may also frisk search you, involving them quickly running their hands over your outer garments and examining anything worn or carried by you that can be conveniently and voluntarily removed.

Can police search my vehicle in a PSZ?

Yes, while entering or within a PSZ, a police officer may stop your vehicle to search it.

During a search, a police officer may:

- detain the vehicle for as long as is necessary to conduct the search
- move or require the vehicle to be moved to a suitable location for the search
- open any items in or on the vehicle, or require you to open any part of the vehicle or any thing in or on the vehicle
- scan the vehicle with an electronic device.

Can police search my vehicle in an MEA?

Yes, a police officer or authorised person, may ask a person entering an MEA in a vehicle to stop and consent to the:

- inspection of the vehicle
- removal of an item from the vehicle and inspection of the item.

A police officer or authorised person may also stop your vehicle and require you to:

- not move your vehicle until the authorised person has exercised their power
- move your vehicle and keep the vehicle at a reasonable place to allow the authorised person to exercise their power
- get out of the vehicle.

It is an offence not to comply with one of the above-stated directions if the authorised person has warned you that it was an offence not to comply.

Can police search my house in a PSZ?

Police officers may enter and search your residence uninvited without a warrant in a PSZ if:

- you consent to the search
- the police officer reasonably suspects an offence may be committed in or from your residence that may endanger the safety of a person.

If you consented to the search and police do not have any other authority to conduct the search, you may withdraw or limit your consent at any time.

Residence does not include carports, verandahs, areas beneath residences, land surrounding residences, or other external parts of residences, and police can search these areas without your consent and any other authority.

Can they search my house in an MEA?

If your house is in an MEA, police officers may only search and enter the premises if they have a warrant or with your consent.

QUESTIONING

In an MEA, police or authorised persons may ask you to produce a ticket or other evidence, including an occupant's pass or other applicable authorisation from the GC2018 event organiser, indicating that you are entitled to be in the area or a part of it.

Police and authorised persons in MEAs may also ask you to state your name and current residential address, including evidence of its accuracy, if they reasonably suspect that you have committed an offence. Refusing to comply with this requirement means that you will be committing an offence and could be charged.

For non-MEAs, general police powers under the PPR Act apply, including the ability to ask for your name and address in many cases, if it is reasonable in the circumstances.

How should I interact with the police?

If interacting with police officers and authorised persons, we suggest you:

- politely ask the police officer(s) or authorised person(s) for their identity details, including their name, rank and station. If they are not in uniform, they must show you other proof of identity (e.g. identity cards)
- tell the police officer(s) or authorised person(s) your name and address, and your age if you are under 17 years old

- try to record the names of any witnesses to the interaction or event
- politely say that you are unwilling to answer any more questions

Similarly, if you are driving, police are allowed to pull you over to ask for your name and address, and your licence if they have a legal reason (e.g. to conduct a random breath alcohol or drug test, or to enforce transport or drug laws).

You can refuse to answer any other questions. However, police are entitled to stop, detain and search your vehicle if you are entering, within or leaving a PSZ.

For more comprehensive information in interacting with police generally, please refer to the Caxton Legal Centre *Police Powers—Your Rights* booklet.

DIRECTION POWER

What is removal or move-on power in an MEA?

A police officer may direct you to leave when they believe you:

- are committing an offence
- appear to be drunk or negatively affected by a drug
- do not consent to an inspection or frisk search upon entering the MEA, including of your physical possessions
- cannot provide a ticket or evidence of your right to be in the MEA.

If you refuse to comply with the direction, a police officer may use reasonable force to remove you from the MEA or from your vehicle (if they direct you to exit your vehicle).

What is removal or move-on power in a PSZ?

Police may ask an individual, a group of people or a person in a vehicle to move to a specific place, stay in a specific place or leave the PSZ.

The aim of this power is to avoid overcrowding, but it may be used for other purposes. It is also important to pay attention to police as directions may be given using a loud hailer or through an amplified system.

What is exclusion power in an MEA?

If you are directed to leave an MEA, you may be excluded for no more than 24 hours. However, the GC2018 event organiser may then order to exclude you for the rest of the event, and collect an image of you to ensure your exclusion.

What is exclusion power in a PSZ?

Police can ask you to leave the PSZ if they believe it is necessary for the safety of people entering or in the PSZ.

Police are required to give you a warning to comply with the direction and further opportunity to comply before you are charged with an offence.

PUBLIC ASSEMBLY RIGHTS

A public assembly is an assembly occurring in a public place, whether or not it remains at a place or is moving between location points.

Your right to hold peaceful public assemblies or protests in Queensland under the Peaceful Assembly Act is retained for the GC2018. Police cannot give a direction that interferes with this right unless it is reasonably necessary in the interests of public safety, public order or the protection of the rights and freedom of others, including to enjoy the natural environment and conduct their business.

When is an assembly lawful?

If an assembly is authorised, peaceful and complies with the conditions of approval, you cannot be prosecuted for specific offences relating to the assembly (e.g. obstructing a public place).

However, even if the assembly is authorised, you can be arrested during an assembly for breaches of other laws through offensive, indecent or obscene behaviour, public drunkenness, breaches of the peace, riot, trespass and damage to property.

Five working days before an assembly, the organiser must give notice to the Commissioner of the Queensland Police Service (QPS), providing details of the time, date and location of the proposed assembly.

If the assembly is to be held in, or pass through, a place that is a park, reserve, pedestrian mall or other public place, you should also give notice to the relevant local government authority.

While failure to give notice does not make the assembly unlawful, Caxton considers it preferable to provide notice.

The Notice of Intention to Hold a Public Assembly form is available on the Queensland Police website.

What should I consider when planning to participate in an assembly in an MEA or PSZ?

- Ensure that you comply with the conditions of your assembly approval.

- Carry ID that has your current address.
- Ensure that you do not possess any prohibited items within the MEAs or PSZs, including weapons, explosives, flares or distress signals, and laser pointers. You are also not allowed to have an animal with you (unless the animal is an assistance animal or is the pet of a resident in an MEA or PSZ).
- Carry with you, on a card rather than your phone, the contact details of a legal representative, such as a criminal law firm or Legal Aid Queensland.
- You may sound or video record your own face-to-face conversations with other people, including police, without telling them, but there are strict limitations on playing these recordings or showing transcripts of the recordings to other people.
- Be aware that PSZs can change at short notice, particularly through the orders of the Police Commissioner.
- Pay attention to and follow police directions, which may be given in an amplified way (e.g. through loudspeakers).
- Follow the QPS announcements online (through their Facebook or the QPS website), and educate yourself about the Games rules, including general police powers in the PPR Act, extended police powers for the PSZs in the PPRA Act, the rules applying to MEAs in the Major Events Act, and the general rules in the Peaceful Assembly Act.

ARREST

There are no new arrest or custody powers of police for the GC2018, meaning existing rules in the PPR Act apply in MEAs and PSZs.

Importantly, you may be arrested without a warrant if police reasonably suspect you have committed or are committing an offence.

What should I do if I am arrested?

Police in Queensland normally must tell you that you are under arrest and the basis of your arrest. You should always ask the police officer if you are under arrest and why if it is not clear. Remember what they say and when they say it, and write the details down as soon as possible.

If police ask you to go to the police station, you should say that you do not wish to go with them to the station unless you are actually being arrested or detained.

If you are arrested, you must:

- comply with police directions—remember that it is an offence in itself to assault or obstruct police officers, police dogs or police horses in any way when they are reasonably conducting their duties
- provide your name, address and identification upon request.

After you have given this basic information, you are entitled not to answer any more questions without legal advice and representation. Be aware that any conversations can be used as evidence against you.

If you believe your arrest was caught on surveillance cameras or closed-circuit television (CCTV), you should try to get a copy of this footage, which your lawyer can help you with.

Note also that you may be charged without being physically arrested. This means that police can personally give you a notice to appear in court, or a ticket in some instances, when they reasonably suspect that you are committing or have committed an offence.

ADDITIONAL OFFENCES

While within an MEA, it is an offence to possess, throw or light a weapon, an explosive, a flare or distress signal, a laser pointer, or have with you an animal other than an assistance dog or a pet that resides within the MEA.

In an MEA, it is also prohibited to offer services, solicit money from persons (beg), sell or distribute items without approval, erect tents or other temporary structures, erect or affix decorations or equipment, distribute pamphlets or leaflets, or busk.

You may not enter into restricted areas or playing fields, or bring any alcohol into an MEA. It is an offence to fail to comply with a direction to leave the MEA and not return for a specified period.

You must not display posters on buildings within MEAs, unless the posters were hung prior to the time at which the area became an MEA.

For further information regarding general police powers on the Gold Coast during the Commonwealth Games outside the PSZs, please see Caxton Legal Centre's guide *Police Powers—Your Rights*.

ACCOUNTABILITY AND COMPLAINTS

How do I make complaints about police or authorised persons?

Refer to the Queensland Police website for information on how to make a complaint, the complaints process, and where to lodge the complaint.

The preferred way is to complain in person at your nearest police station or complete an online QPS complaint form.

You can also email a written complaint to the State Complaint's Coordinator of the Ethical Standards Command.

For more serious conduct, namely corrupt conduct or misconduct by police or other public officials, you can report to the Crime and Corruption Commission. You do not need proof of this—only enough reason to believe that the conduct has occurred.

Note that corrupt conduct:

- is not honest and impartial
- knowingly or recklessly breaches public trust
- involves the misuse of agency-related information or material.

Alternatively, you can complain to your local Member of Parliament.

LEGAL ADVICE

If you are arrested participating in assembly activities at the GC2018 or while in an MEA or PSZ, Caxton Legal Centre can provide advice to you through our regular advice sessions. Contact us to make an appointment on (07) 3214 6333.

Caxton will not have independent legal observers in place during the Gold Coast Commonwealth Games.

If you are arrested and detained by police, we recommend that you contact a private criminal lawyer.

CONTACT POINTS

CAXTON LEGAL CENTRE

T: (07) 3214 6333

LEGAL AID QUEENSLAND

T: 1300 651 188

ABORIGINAL AND TORRES STRAIT ISLANDER LEGAL SERVICE

T: (07) 3025 3888

YOUTH ADVOCACY CENTRE

T: (07) 3356 1002

QUEENSLAND POLICE SERVICE ETHICAL STANDARDS COMMAND

T: 13 14 44 or (07) 3364 6464

CRIME AND CORRUPTION COMMISSION

T: (07) 3360 6060

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This information is current at March 2018.

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