



Queensland

Emergency Services Legislation Amendment Act 2008

Act No. 64 of 2008



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Queensland

Emergency Services Legislation Amendment Act 2008

Act No. 64 of 2008

An Act to amend the Ambulance Service Act 1991 and the Fire and Rescue Service Act 1990 for particular purposes

[Assented to 27 November 2008]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Emergency Services Legislation Amendment Act 2008*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Ambulance Service Act 1991

3 Act amended in pt 2

This part amends the *Ambulance Service Act 1991*.

4 Amendment of s 3D (Service's functions)

Section 3D(h)—

omit, insert—

- '(h) to refer a person to another health service; and
- (i) to provide community and workplace education in first aid, cardiopulmonary resuscitation and other related matters, to the extent that the service's personnel and equipment can reasonably be deployed or used for the purpose; and'.

5 Amendment of s 9 (Role of commissioner)

Section 9(2)—

omit.

6 Insertion of new pt 5A

After section 41—

insert—

‘Part 5A Investigation officers

‘Division 1 Investigation officers

‘41A Appointment

‘(1) The commissioner may appoint any of the following persons as an investigation officer—

- (a) a public service employee;
- (b) a service officer;
- (c) a person prescribed under a regulation.

‘(2) However, the commissioner may appoint a person as an investigation officer only if the commissioner is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

‘41B Appointment conditions and limit on powers

‘(1) An investigation officer holds office on any conditions stated in—

- (a) the officer’s instrument of appointment; or
- (b) a signed notice given to the officer; or
- (c) a regulation.

[s 6]

‘(2) The instrument of appointment, a signed notice given to the investigation officer or a regulation may limit the officer’s powers under this Act.

‘(3) In this section—

signed notice means a notice signed by the commissioner.

‘41C When investigation officer ceases to hold office

‘(1) An investigation officer ceases to hold office if any of the following happens—

- (a) the term of office stated in a condition of office ends;
- (b) under another condition of office, the officer ceases to hold office.

‘(2) Subsection (1) does not limit the ways an investigation officer may cease to hold office.

‘(3) In this section—

condition of office means a condition on which the investigation officer holds office.

‘41D Functions of investigation officers

‘An investigation officer has the function of investigating offences against sections 44 to 45C and 47.

‘41E Issue of identity card

‘(1) The commissioner must issue an identity card to each investigation officer.

‘(2) The identity card must—

- (a) contain a recent photo of the investigation officer; and
- (b) contain a copy of the investigation officer’s signature; and
- (c) identify the person as an investigation officer under this Act; and

- (d) state an expiry date for the card.
- ‘(3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

‘41F Production or display of identity card

- ‘(1) In exercising a power under this part in relation to a person, an investigation officer must—
 - (a) produce the officer’s identity card for the person’s inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- ‘(2) However, if it is not practicable to comply with subsection (1), the investigation officer must produce the identity card for the person’s inspection at the first reasonable opportunity.
- ‘(3) For subsection (1), an investigation officer does not exercise a power in relation to a person only because the officer has entered a place as mentioned in section 41H(1)(b) or (2).

‘41G Return of identity card

‘A person who ceases to be an investigation officer must return the person’s identity card to the commissioner within 21 days after ceasing to be an investigation officer unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

‘Division 2 Powers of investigation officers

‘41H Power to enter places

- ‘(1) An investigation officer may enter a place if—
 - (a) an occupier of the place consents to the entry; or

[s 6]

- (b) it is a public place and the entry is made when it is open to the public.
- ‘(2) For the purpose of asking the occupier of a place for consent to enter, an investigation officer may, without the occupier’s consent or a warrant—
- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
 - (b) enter part of the place the officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.
- ‘(3) In this section—
- public place*** means—
- (a) a place to which members of the public have access as of right, whether or not on payment of a fee and whether or not access to the place may be restricted at particular times or for particular purposes; or
 - (b) a part of a place that the occupier of the place allows members of the public to enter, but only while the place is ordinarily open to members of the public.

‘411 Entry with consent

- ‘(1) This section applies if an investigation officer intends to ask an occupier of a place to consent to the officer or another officer entering the place.
- ‘(2) Before asking for the consent, the investigation officer must tell the occupier—
- (a) the purpose of the entry; and
 - (b) that the occupier is not required to consent.
- ‘(3) If the consent is given, the investigation officer may ask the occupier to sign an acknowledgement of the consent.
- ‘(4) The acknowledgement must state—
- (a) the occupier has been told—

- (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) the purpose of the entry; and
 - (c) the occupier gives the investigation officer consent to enter the place and exercise powers under this part; and
 - (d) the time and date the consent was given.
- ‘(5) If the occupier signs an acknowledgement, the investigation officer must immediately give a copy to the occupier.
- ‘(6) If—
- (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
 - (b) an acknowledgement complying with subsection (4) for the entry is not produced in evidence;
- the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

‘41J General powers after entering places

- ‘(1) This section applies to an investigation officer who enters a place.
- ‘(2) However, if an investigation officer enters a place to get the occupier’s consent to enter a place, this section applies to the officer only if the consent is given or the entry is otherwise authorised.
- ‘(3) For monitoring and enforcing compliance with sections 44 to 45C and 47, the investigation officer may—
- (a) copy a document at the place or take the document to another place to copy it; or
 - (b) require a person at the place, to give the officer reasonable help to exercise the officer’s powers under paragraph (a); or
 - (c) require a person at the place, to answer questions by the officer to help the officer ascertain whether the person,

[s 6]

or another person at the place, committed an offence against section 44, 45, 45A, 45B, 45C or 47.

- ‘(4) When making a requirement mentioned in subsection (3)(b) or (c), the investigation officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.
- ‘(5) If an authorised officer takes a document from a place to copy it, the document must be copied as soon as practicable and returned to the place.
- ‘(6) To remove any doubt, it is declared that this section applies to an investigation officer who is also an authorised officer and entered a place for the purpose of exercising a power under section 38(1).
- ‘(7) Also, the powers an investigation officer mentioned in subsection (6) has under this section are in addition to, and do not limit, any powers the officer may have under section 38(1).

‘41K Power to require name and address

- ‘(1) This section applies if an investigation officer—
 - (a) finds a person committing an offence against section 44, 45, 45A, 45B, 45C or 47; or
 - (b) finds a person in circumstances that lead the officer to reasonably suspect the person has just committed an offence against section 44, 45, 45A, 45B, 45C or 47; or
 - (c) has information that leads the officer to reasonably suspect a person has committed an offence against section 44, 45, 45A, 45B, 45C or 47.
- ‘(2) The investigation officer may require the person to state the person’s name and residential address.
- ‘(3) When making the requirement, the investigation officer must warn the person it is an offence to fail to state the person’s name or residential address, unless the person has a reasonable excuse.

-
- ‘(4) The investigation officer may require the person to give the officer evidence of the correctness of the stated name or residential address if the officer reasonably suspects the stated name or address to be false.

‘Division 3 Protection from liability

‘41L Protection from liability

- ‘(1) An investigation officer is not civilly liable for an act done, or omission made, honestly and without negligence, when acting as an investigation officer.
- ‘(2) If subsection (1) prevents a civil liability attaching to an investigation officer liability attaches instead to the State.
- ‘(3) In this section—
investigation officer includes a person required to help an investigation officer under section 41J(3)(b).’.

7 Insertion of new ss 44–45C

Part 6, before section 46—

insert—

‘44 Failure to help investigation officer

- ‘(1) A person required to give reasonable help under section 41J(3)(b) must comply with the requirement, unless the person has a reasonable excuse.
Maximum penalty—10 penalty units.
- ‘(2) It is a reasonable excuse for the person not to comply with the requirement because complying with the requirement might tend to incriminate the person.

[s 7]

‘45 Failure to answer questions

‘(1) A person of whom a requirement is made under section 41J(3)(c) must, unless the person has a reasonable excuse, comply with the requirement.

Maximum penalty—10 penalty units.

‘(2) It is a reasonable excuse for the person to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.

‘45A Failure to give name or address

‘(1) A person of whom a personal details requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

‘(2) A person does not commit an offence against subsection (1) if—

(a) the person was required to state the person’s name and residential address by an investigation officer who suspected the person had committed an offence against this Act; and

(b) the person is not proved to have committed the offence against this Act.

‘(3) In this section—

personal details requirement means a requirement under section 41K(2) or (4).

‘45B False or misleading statements

‘A person must not state anything to an investigation officer the person knows is false or misleading in a material particular.

Maximum penalty—10 penalty units.

‘45C False or misleading documents

‘(1) A person must not give an investigation officer a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—10 penalty units.

‘(2) Subsection (1) does not apply to a person if the person, when giving the document—

(a) tells the investigation officer, to the best of the person’s ability, how it is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.’.

8 Replacement of s 47 (False calls)

Section 47—

omit, insert—

‘47 False calls for ambulance service

‘(1) A person must not request that the service provide an ambulance service for a person (the *patient*), unless the patient is sick or injured and requires an ambulance service.

Maximum penalty—100 penalty units or 1 year’s imprisonment.

‘(2) For subsection (1), a request may be made orally, in writing or by conduct.

‘(3) An infringement notice under the *State Penalties Enforcement Act 1999* may be issued to a person for a contravention of subsection (1) only if an investigation officer—

(a) has investigated any lawful excuse of the person; and

(b) is satisfied the person does not have a lawful excuse.’.

9 Replacement of s 49 (Confidentiality)

Section 49—

[s 9]

omit, insert—

‘49 Unauthorised disclosure of confidential information by a designated officer

‘(1) A designated officer or former designated officer must not, whether directly or indirectly, disclose confidential information unless the disclosure is authorised under part 7, division 1.

Maximum penalty—50 penalty units.

‘(2) Subsection (1) does not apply to the disclosure of confidential information to the person to whom the confidential information relates.

‘(3) In this section—

confidential information means information a person has because of being a designated officer that identifies a person as a person who is receiving, or has received, an ambulance service.

designated officer means—

- (a) the chief executive; or
- (b) a service officer; or
- (c) an honorary ambulance officer; or
- (d) an agent of the service.

former designated officer means a person who was, but is no longer, a designated officer.

‘49A Unauthorised disclosure of confidential information by an informed person

‘(1) This section applies to a person (an *informed person*) who has confidential information disclosed to the person, whether directly or indirectly, by a designated officer.

‘(2) The informed person must not, whether directly or indirectly, disclose the confidential information to anyone else.

Maximum penalty—50 penalty units.

-
- ‘(3) Subsection (2) does not apply to the disclosure of confidential information—
- (a) to the person to whom the confidential information relates; or
 - (b) for a lawful purpose for which the confidential information was originally disclosed to the informed person; or
 - (c) required or allowed under an agreement specified in section 50L; or
 - (d) authorised under an Act or another law.

- ‘(4) In this section—

confidential information means information an informed person has because of subsection (1) that identifies a person as a person who is receiving, or has received, an ambulance service.

designated officer means—

- (a) the chief executive; or
- (b) a service officer; or
- (c) an honorary ambulance officer; or
- (d) an agent of the service.’.

10 Insertion of new s 50C

Part 6, after section 50B—

insert—

‘50C Order for payment if guilty of false call

- ‘(1) If a person is convicted by a court of an offence against section 47, the court may order the person to pay to the service, a reasonable amount for the expenses of or incidental to the provision of the ambulance service that was requested by the person.
- ‘(2) The court may make an order under subsection (1) in addition to imposing a penalty for the offence.

[s 11]

- ‘(3) An amount ordered to be paid under subsection (1) may be recovered by the service as a debt owing to it by the person.
- ‘(4) Subsection (1) does not limit the court’s powers under the *Penalties and Sentences Act 1992* or another law.’.

11 Insertion of new pt 7, div 1 and div 2 hdg

Part 7, before section 51—

insert—

‘Division 1 Confidentiality

‘50D Definitions for div 1

‘In this division—

confidential information means information a person has because of being a designated officer that identifies a person as a person who is receiving, or has received, an ambulance service.

designated officer means—

- (a) the chief executive; or
- (b) a service officer; or
- (c) an honorary ambulance officer; or
- (d) an agent of the service.

health practitioner registration Act means any one of the following Acts—

- *Medical Practitioners Registration Act 2001*
- *Medical Radiation Technologists Registration Act 2001*
- *Occupational Therapists Registration Act 2001*
- *Pharmacists Registration Act 2001*
- *Physiotherapists Registration Act 2001*
- *Psychologists Registration Act 2001*.

health professional—

- (a) means a person registered under a health practitioner registration Act or enrolled, registered or authorised to practise under the *Nursing Act 1992*; or
- (b) includes a person registered under a law of another State that provides for the same matter as the *Medical Practitioners Registration Act 2001* or *Nursing Act 1992*, or a provision of one of those Acts.

‘50E Disclosure required or permitted by law

‘A designated officer is authorised to disclose confidential information if the disclosure is required or permitted by an Act or another law.

‘50F Disclosure with consent

- ‘(1) A designated officer is authorised to disclose confidential information if the person to whom the confidential information relates consents to the disclosure.
- ‘(2) However, if the person to whom the confidential information relates (the *patient*) does not have capacity to consent to the disclosure, the disclosure is authorised if another person who is authorised to consent on the patient’s behalf consents to the disclosure.

Example of a person who is authorised to consent on behalf of a patient—
a parent or guardian

‘50G Disclosure to person who has sufficient interest in health and welfare of person

- ‘(1) A designated officer is authorised to disclose confidential information if the disclosure is to a person who, in the officer’s reasonable opinion, has a sufficient personal interest in the health and welfare of the person to whom the confidential information relates.

[s 11]

Examples of a person who may have sufficient personal interest in the health and welfare of a person to whom confidential information relates—

- the person’s child, guardian, parent or spouse
 - an adult who is providing home care to the person because of a chronic condition or disability
 - a medical practitioner who has had responsibility for the care and treatment of the person
- ‘(2) However, subsection (1) does not apply if the person to whom the confidential information relates requests the information not to be disclosed.
- ‘(3) For subsection (1), if the person to whom the confidential information relates is deceased another person has a sufficient personal interest in the health and welfare of the deceased person if, in the officer’s reasonable opinion, the other person would have had a sufficient interest while the deceased person was alive.

‘50H Disclosure of confidential information for care or treatment of person

‘A designated officer is authorised to disclose confidential information if the disclosure is required for the care or treatment of the person to whom the information relates and the disclosure is to—

- (a) an employee of a hospital who processes admissions of patients to the hospital; or
- (b) a health professional; or
- (c) an honorary ambulance officer or service officer; or
- (d) a member of an ambulance service (or similar body providing ambulance services) from outside Queensland.

‘50I Disclosure is general condition of person

- ‘(1) A designated officer is authorised to disclose confidential information if the confidential information is about the

condition of the person to whom the confidential information relates and is communicated in general terms.

Example of communicated in general terms—

A service officer discloses that a person's condition is "satisfactory".

- '(2) However, subsection (1) does not apply if the person to whom the confidential information relates requests the information not to be disclosed.

'50J Disclosure to police or corrective services officers

- '(1) A designated officer is authorised to disclose confidential information if the disclosure is to—
- (a) a police officer for the purpose of the police officer exercising a power under the *Police Powers and Responsibilities Act 2000* in relation to the person to whom the confidential information relates; or
 - (b) a police officer and the person to whom the confidential information relates is in the custody of police; or
 - (c) a corrective services officer and the person to whom the confidential information relates is in the custody of the chief executive (corrections).

Note—

See the *Corrective Services Act 2006*, section 7, for when a person is taken to be in the custody the chief executive (corrections).

- '(2) In this section—

chief executive (corrections) means the chief executive of the department in which the *Corrective Services Act 2006* is administered.

corrective services officer has the meaning given by the *Corrective Services Act 2006*.

[s 11]

‘50K Disclosure for administering, monitoring or enforcing compliance with Act

‘A designated officer is authorised to disclose confidential information if the disclosure is—

- (a) made for the purpose of administering, monitoring or enforcing compliance with, this Act; or
- (b) made for a proceeding in a court or tribunal; or
- (c) to an entity for the purpose of the entity investigating or determining if a service officer or honorary ambulance officer has failed to comply with a code of practice.

‘50L Disclosure to Commonwealth, another State or Commonwealth or State entity

‘(1) A designated officer is authorised to disclose confidential information if—

- (a) the disclosure is to the Commonwealth or another State, or an entity of the Commonwealth or another State and the disclosure is required or allowed under an agreement—
 - (i) between Queensland and the Commonwealth, State or entity; and
 - (ii) prescribed under a regulation for this paragraph; or
- (b) the disclosure is to an entity of the State and the disclosure is required or allowed under an agreement—
 - (i) between the service and the entity; and
 - (ii) prescribed under a regulation for this paragraph.

‘(2) In this section—

entity, of the Commonwealth or a State, includes a department and an entity established under an Act for a public purpose.

‘50M Disclosure to Health Quality and Complaints Commission

‘A designated officer is authorised to disclose confidential information if the disclosure is to the Health Quality and Complaints Commission for the purpose of—

- (a) making, or giving information about, a complaint about a provider of health services; or
- (b) answering questions or otherwise giving information as part of an investigation under the *Health Quality and Complaints Commission Act 2006* about a person who is or was a provider of health services; or
- (c) giving the commission information about health services including information requested by the commission under the *Health Quality and Complaints Commission Act 2006*, section 21; or
- (d) giving the commission aggregated data, including data that identifies persons, about complaint management, patient safety or another matter relating to the quality of health services.

‘50N Disclosure to Australian Red Cross Society

‘A designated officer is authorised to disclose confidential information if the disclosure is to the Australian Red Cross Society for the purpose of tracing blood, or blood products derived from blood, infected with any disease or the donor or recipient of any such blood.

‘50O Disclosure to person performing function under Coroners Act 2003

‘A designated officer is authorised to disclose confidential information if the disclosure is to a person who requires the information to perform a function under the *Coroners Act 2003*, other than the preparation of an annual report.

[s 11]

‘50P Disclosure is authorised by chief executive

- ‘(1) A designated officer is authorised to disclose confidential information if the chief executive has, in writing, authorised the disclosure.
- ‘(2) The chief executive may only authorise a disclosure of confidential information under subsection (1) if the chief executive is satisfied, on reasonable grounds, that the disclosure is—
 - (a) in the public interest; or
 - (b) necessary to assist in averting a serious risk to the life, health or safety of any person, including the person to whom the confidential information relates; or
 - (c) made for the purpose of research which has the approval of an appropriate ethics committee.
- ‘(3) The department’s annual report for a financial year under the *Financial Administration and Audit Act 1977* must include details of—
 - (a) the nature of any confidential information disclosed under subsection (1) during the financial year; and
 - (b) the purpose for which the confidential information was disclosed.
- ‘(4) However, the details mentioned in subsection (3)(a) must not identify, directly or indirectly, the person to whom the confidential information relates.
- ‘(5) Despite the *Public Service Act 2008*, section 103, the chief executive may not delegate the chief executive’s power under subsection (1).

‘50Q Necessary or incidental disclosure

‘A designated officer is authorised to disclose confidential information if the disclosure of confidential information by a designated person is necessary or incidental to a disclosure of confidential information otherwise permitted under this division.

Examples of necessary or incidental disclosure—

- the disclosure of confidential information to support staff at a public sector hospital who make appointments for patients, maintain patient records and undertake other administrative tasks
- the disclosure of confidential information to advise the chief executive about authorising the disclosure of confidential information under section 50P
- accessing contact details for a person to seek the person's consent under section 50F to the disclosure of confidential information
- permitting contractors to access databases to write, test or analyse programs, perform database administration tasks or maintain technical aspects of computer hardware

'50R Application of this division to former designated officers

- '(1) Section 50E, 50F, 50J, 50M, 50O or 50Q (the *relevant provision*) applies to the disclosure of confidential information by a former designated person in the same way as it applies to the disclosure of confidential information by a designated person.
- '(2) For subsection (1), a reference in the relevant provision to a designated person is taken to be a reference to a former designated person.
- '(3) In this section—
former designated officer means a person who was, but is no longer, a designated officer.

'Division 2 Other matters'.

12 Amendment of s 53A (Function of Emergency Services Advisory Council)

Section 53A(1)(a)(iii)—
omit.

[s 13]

13 Amendment of schedule (Dictionary)

(1) Schedule—

insert—

‘health service see *Health Services Act 1991*, section 3.

honorary ambulance officer means a person appointed as an honorary ambulance officer under section 14(1).’.

(2) Schedule, definition *ambulance service*, ‘prehospital’—

omit.

Part 3 Amendment of Fire and Rescue Service Act 1990

14 Act amended

This part amends the *Fire and Rescue Service Act 1990*.

15 Amendment of s 12 (Role of commissioner)

Section 12(2)—

omit.

16 Amendment of s 35 (Functions of council)

(1) Section 35(1)—

omit, insert—

‘(1) The council’s function is to advise the Minister about the following matters—

(a) the extent to which current service delivery by the service—

(i) meets community needs; and

-
- (ii) contributes to the achievement of the government's desired outcomes for the community; and
 - (iii) meets community expectations about the use of fire as a means of hazard reduction and sustainable land management; and
 - (iv) impacts on the environment;
- (b) preparing for, and responding to, fire in rural areas including the operation of rural fire brigades and the fire fighting or fire prevention function of emergency service units;
 - (c) fire safety, fire prevention and the reduction of fire danger in rural areas;
 - (d) using fire as a means of sustainable land management in rural areas;
 - (e) the functions, capacity and capability of the department in supporting disaster mitigation and response activity;
 - (f) anything else referred to it by the Minister—
 - (i) that is relevant to the functions of the service; or
 - (ii) that relates to activities carried out or funded by the department.'.
- (2) Section 35(2)—
omit.
 - (3) Section 35(3)—
renumber as section 35(2).

17 Omission of pt 5 (Rural Fire Advisory Council)

Part 5—
omit.

18 Amendment of s 57 (Power to require name and address)

Section 57(1)—

[s 19]

omit, insert—

- ‘(1) This section applies if an authorised fire officer—
- (a) finds a person committing an offence against this Act; or
 - (b) finds a person in circumstances that lead the officer to reasonably suspect the person has just committed an offence against this Act; or
 - (c) has information that leads the officer to reasonably suspect a person has committed an offence against this Act.’.

19 Omission of pt 6A, hdg (Decontamination)

Part 6A, heading—

omit.

20 Insertion of new pt 6A

After section 60A—

insert—

‘Part 6A Powers of investigation officers

‘Division 1 Investigation officers

‘60B Appointment

- ‘(1) The commissioner may appoint any of the following persons as an investigation officer—
- (a) a public service employee;
 - (b) a fire service officer;
 - (c) a person prescribed under a regulation.
- ‘(2) However, the commissioner may appoint a person as an investigation officer only if the commissioner is satisfied the

person is qualified for appointment because the person has the necessary expertise or experience.

‘60C Appointment conditions and limit on powers

- ‘(1) An investigation officer holds office on any conditions stated in—
 - (a) the officer’s instrument of appointment; or
 - (b) a signed notice given to the officer; or
 - (c) a regulation.
- ‘(2) The instrument of appointment, a signed notice given to the investigation officer or a regulation may limit the officer’s powers under this Act.
- ‘(3) In this section—
signed notice means a notice signed by the commissioner.

‘60D When investigation officer ceases to hold office

- ‘(1) An investigation officer ceases to hold office if any of the following happens—
 - (a) the term of office stated in a condition of office ends;
 - (b) under another condition of office, the officer ceases to hold office.
- ‘(2) Subsection (1) does not limit the ways an investigation officer may cease to hold office.
- ‘(3) In this section—
condition of office means a condition on which the investigation officer holds office.

‘60E Functions of investigation officers

‘An investigation officer has the function of investigating offences against this part and section 146A.

[s 20]

‘60F Issue of identity card

- ‘(1) The commissioner must issue an identity card to each investigation officer.
- ‘(2) The identity card must—
 - (a) contain a recent photo of the investigation officer; and
 - (b) contain a copy of the investigation officer’s signature; and
 - (c) identify the person as an investigation officer under this Act; and
 - (d) state an expiry date for the card.
- ‘(3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

‘60G Production or display of identity card

- ‘(1) In exercising a power under this part in relation to a person, an investigation officer must—
 - (a) produce the officer’s identity card for the person’s inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- ‘(2) However, if it is not practicable to comply with subsection (1), the investigation officer must produce the identity card for the person’s inspection at the first reasonable opportunity.
- ‘(3) For subsection (1), an investigation officer does not exercise a power in relation to a person only because the officer has entered a place as mentioned in section 60I(1)(b) or (2).

‘60H Return of identity card

‘A person who ceases to be an investigation officer must return the person’s identity card to the commissioner within

21 days after ceasing to be an investigation officer unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

‘Division 2 Powers of investigation officers

‘60I Power to enter places

- ‘(1) An investigation officer may enter a place if—
- (a) an occupier of the place consents to the entry; or
 - (b) it is a public place and the entry is made when it is open to the public.
- ‘(2) For the purpose of asking the occupier of a place for consent to enter, an investigation officer may, without the occupier’s consent or a warrant—
- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
 - (b) enter part of the place the officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.
- ‘(3) In this section—
- public place*** means—
- (a) a place to which members of the public have access as of right, whether or not on payment of a fee and whether or not access to the place may be restricted at particular times or for particular purposes; or
 - (b) a part of a place that the occupier of the place allows members of the public to enter, but only while the place is ordinarily open to members of the public.

[s 20]

‘60J Entry with consent

- ‘(1) This section applies if an investigation officer intends to ask an occupier of a place to consent to the officer or another investigation officer entering the place.
- ‘(2) Before asking for the consent, the investigation officer must tell the occupier—
 - (a) the purpose of the entry; and
 - (b) that the occupier is not required to consent.
- ‘(3) If the consent is given, the investigation officer may ask the occupier to sign an acknowledgement of the consent.
- ‘(4) The acknowledgement must state—
 - (a) the occupier has been told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) the purpose of the entry; and
 - (c) the occupier gives the investigation officer consent to enter the place and exercise powers under this part; and
 - (d) the time and date the consent was given.
- ‘(5) If the occupier signs an acknowledgement, the investigation officer must immediately give a copy to the occupier.
- ‘(6) If—
 - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
 - (b) an acknowledgement complying with subsection (4) for the entry is not produced in evidence;the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

‘60K General powers after entering places

- ‘(1) This section applies to an investigation officer who enters a place.

-
- ‘(2) However, if an investigation officer enters a place to get the occupier’s consent to enter a place, this section applies to the officer only if the consent is given or the entry is otherwise authorised.
- ‘(3) For monitoring and enforcing compliance with this part or section 146A, the investigation officer may—
- (a) copy a document at the place or take the document to another place to copy it; or
 - (b) require a person at the place, to give the officer reasonable help to exercise the officer’s powers under paragraph (a); or
 - (c) require a person at the place, to answer questions by the officer to help the officer ascertain whether the person, or another person at the place, committed an offence against this Act.
- ‘(4) When making a requirement mentioned in subsection (3)(b) or (c), the investigation officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.
- ‘(5) If an investigation officer takes a document from a place to copy it, the document must be copied as soon as practicable and returned to the place.
- ‘(6) To remove any doubt, it is declared that this section applies to an investigation officer who is also an authorised fire officer and enters a place for the purpose of exercising a power under part 6.
- ‘(7) Also, the powers an investigation officer mentioned in subsection (6) has under this section are in addition to, and do not limit, any powers the officer may have under part 6.

‘60L Failure to help investigation officer

- ‘(1) A person required to give reasonable help under section 60K(3)(b) must comply with the requirement, unless the person has a reasonable excuse.

[s 20]

Maximum penalty—10 penalty units.

- ‘(2) It is a reasonable excuse for the person not to comply with the requirement because complying with the requirement might tend to incriminate the person.

‘60M Failure to answer questions

- ‘(1) A person of whom a requirement is made under section 60K(3)(c) must, unless the person has a reasonable excuse, comply with the requirement.

Maximum penalty—10 penalty units.

- ‘(2) It is a reasonable excuse for the person to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.

‘60N Power to require name and address

- ‘(1) This section applies if an investigation officer—
- (a) finds a person committing an offence against this part or section 146A; or
 - (b) finds a person in circumstances that lead the officer to reasonably suspect the person has just committed an offence against this part or section 146A; or
 - (c) has information that leads the officer to reasonably suspect a person has committed an offence against this part or section 146A.
- ‘(2) The investigation officer may require the person to state the person’s name and residential address.
- ‘(3) When making the requirement, the investigation officer must warn the person it is an offence to fail to state the person’s name or residential address, unless the person has a reasonable excuse.
- ‘(4) The investigation officer may require the person to give the officer evidence of the correctness of the stated name or

residential address if the officer reasonably suspects the stated name or address to be false.

‘60O Failure to give name or address

‘(1) A person of whom a personal details requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

‘(2) A person does not commit an offence against subsection (1) if—

(a) the person was required to state the person’s name and residential address by an investigation officer who suspected the person had committed an offence against this Act; and

(b) the person is not proved to have committed the offence against this Act.

‘(3) In this section—

personal details requirement means a requirement under section 60N(2) or (4).

‘60P False or misleading statements

‘A person must not state anything to an investigation officer the person knows is false or misleading in a material particular.

Maximum penalty—10 penalty units.

‘60Q False or misleading documents

‘(1) A person must not give an investigation officer a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—10 penalty units.

[s 21]

- ‘(2) Subsection (1) does not apply to a person if the person, when giving the document—
- (a) tells the investigation officer, to the best of the person’s ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.’

21 Insertion of new s 146A

After section 146—

omit, insert—

‘146A False calls

- ‘(1) A person must not—
- (a) request that the service provide a fire and rescue service at a place unless a fire and rescue service is required at the place; or
 - (b) give a false alarm of fire.

Maximum penalty—

- (a) if the offence is committed during a state of fire emergency at a place to which the declaration of emergency applies—250 penalty units or 1 year’s imprisonment; or
 - (b) otherwise—100 penalty units or 1 year’s imprisonment.
- ‘(2) For subsection (1), a request may be made orally, in writing or by conduct.

Example of conduct being a request that the service provide a fire and rescue service at a place—

activation of a break-glass fire alarm

- ‘(3) An infringement notice under the *State Penalties Enforcement Act 1999* may be issued to a person for a contravention of subsection (1) only if an investigation officer—
- (a) has investigated any lawful excuse of the person; and

(b) is satisfied the person does not have a lawful excuse.

‘(4) In this section—

fire and rescue service means protection or rescue by the service—

(a) of persons, property and the environment from fire and hazardous materials emergencies; or

(b) of persons trapped in a vehicle or building or otherwise endangered.’.

22 Amendment of s 147 (Offences)

(1) Section 147(f)—

omit.

(2) Section 147, penalty, paragraph (d)—

omit.

23 Insertion of new s 150

After section 149A—

insert—

‘150 Order for payment if guilty of false call

‘(1) If a person is convicted by a court of an offence against section 146A, the court may order the person to pay to the service, a reasonable amount for the expenses of or incidental to the provision of the fire and rescue service that was requested by the person.

‘(2) The court may make an order under subsection (1) in addition to imposing a penalty for the offence.

‘(3) An amount ordered to be paid under subsection (1) may be recovered by the service as a debt owing to it by the person.

‘(4) Subsection (1) does not limit the court’s powers under the *Penalties and Sentences Act 1992* or another law.’.

[s 24]

24 Amendment of sch 6 (Dictionary)

Schedule 6, definition *council*—
omit.

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