

AMBULANCE SERVICE AMENDMENT BILL 1996

EXPLANATORY NOTES

Short Title

This Bill may be cited as the *Ambulance Service Amendment Bill 1996*.

Policy Objectives and Rationale for the Bill

The Bill establishes the Queensland Ambulance Service as a separate statutory authority, to enable it to operate more independently of the Department of Emergency Services.

The Queensland Ambulance Service is charged with the primary responsibility of providing ambulance, transport and casualty services to people requiring medical or health care facilities.

The Bill also establishes a Board of the Queensland Ambulance Service, which will have responsibility for the performance of the Queensland Ambulance Service and determination of the policies of the Service. The Bill provides for the selection and conduct of members of the Board.

The Board structure will have the capacity to provide significant business, managerial and medical expertise to the Service and will complement the community involvement effected through the Local Ambulance Committee structure, which is not affected by this Bill.

The Bill provides that the Commissioner of Ambulance Service is responsible for management of day to day operational matters.

The proposed management structure provides an operationally efficient and flexible management structure for the Queensland Ambulance Service.

Alternative Ways of Achieving the Policy Objectives

The primary policy objective is to create a more independent ambulance service. The creation of the structure involving the Minister, the statutory authority, the Board and the Commissioner, and removing the legislated role of the Director-General of the Department of Emergency Services will achieve this result.

The current powers and responsibilities of the Minister, Commissioner and Director-General are defined by the *Ambulance Service Act 1991*. The proposed changes can therefore only be effected by legislative amendment.

Estimated Cost of Government Implementation

The costs incurred as a result of the establishment of the Board of the Queensland Ambulance Service will be funded from the Queensland Ambulance Service budget. Meeting costs for up to five Board members and associated out of pocket expenses are not expected to be significant. In accordance with established government policy, the three official members will not be remunerated and neither will any other member who is on the public payroll.

Consistency with Fundamental Legislative Principles

The Bill conforms with fundamental legislative principles in every respect.

Consultation

The Commissioner of Ambulance Service was consulted extensively during the preparation of the Bill. The Government Superannuation Board was consulted in relation to the superannuation provisions of the Bill. The Office of the Public Service, Queensland Treasury and the Department of Premier and Cabinet provided advice in relevant areas.

PURPOSE AND INTENDED OPERATION OF EACH CLAUSE

Clause 1 provides for the short title of this Act to be the *Ambulance Service Amendment Act 1996*.

Clause 2 provides that this Act commences on a day to be fixed by proclamation.

Clause 3 states that this Act amends the *Ambulance Service Act 1991*.

Clause 4(1) amends Section 2 of the Act by omitting the heading ‘Interpretation’ and inserting the heading ‘Definitions’ to reflect current drafting practices.

Clause 4(2) omits the definitions for “board”, “corporation”, “director”, “employee of the board”, “employee of a previous committee”, “officer of the Queensland Ambulance Service”, “previous committee” and “repealed Act”. These definitions are no longer required because of the new structure of the Queensland Ambulance Service.

Clause 4(3) inserts:

- a definition for “**appointed member**” by reference to section 3I of the Act;
- a definition for “**approved superannuation scheme**” to mean either the Queensland Ambulance Superannuation Scheme or another superannuation scheme approved by the Governor in Council;
- a definition for “**board**” by reference to section 3F of the Act;
- a definition of “**conviction**” to include a plea of guilty or a finding of guilt by a court even though a conviction may not be recorded;
- a definition of “**service**” to mean the Queensland Ambulance Service; and
- a definition for “**service officer**” to mean a person employed under section 13(1) of the Act.

Clause 4(4) amends the definitions of “**commissioner**” and “**subscriber**” by removing the words ‘Queensland Ambulance Service’ where they appear in those definitions and substituting the word ‘service’ to reflect the new governance structure of the service.

Clause 5 inserts a new part 2, divisions 1 and 2 and division 3 heading in accordance with current drafting practice. This clause also inserts new sections 3A to 3P inclusive as follows:

Section 3A establishes the Queensland Ambulance Service (the service).

Section 3B provides the service to be a body corporate with perpetual succession and a common seal, and which may sue and be sued in its corporate name.

Section 3C states that the service represents the State, with privileges and immunities of the State, and is an exempt public authority under the Corporations Law.

Section 3D specifies the functions conferred on the service by the Act. In particular those functions are:

- a. to provide, operate and maintain ambulance services; and
- b. for ambulance services provided during rescue and other related activities - to protect persons from injury and death, whether or not the persons are sick or injured; and
- c. to provide transport for persons requiring attention at medical or health care facilities; and
- d. to participate with other emergency services in counterdisaster planning; and
- e. to coordinate all volunteer first aid groups for major emergencies or disasters; and
- f. to adopt and put into effect all necessary measures (including systems of planning, management and quality control) to best ensure the efficient and economic operation and use of its resources in providing ambulance services; and
- g. to provide casualty room services; and
- h. to provide community and workplace education in first aid, cardiopulmonary resuscitation and other related matters; and
- i. to hold the property of each committee (other than money held in trust and money raised by each committee) whether on or subject to trusts or otherwise; and

- j. to identify and market products and services incidental to its other functions; and
- k. to perform other functions given to the service under this Act or another Act; and
- l. to perform functions incidental to its other functions.

Section 3E provides that the service has all the powers of an individual (with the limitation that the service may acquire or dispose of land only with the written approval of the Minister) and gives examples of those powers, for instance the power to enter into contracts; appoint agents and attorneys and undertake fund-raising activities to benefit the service financially. This section also specifies that the service may exercise its powers inside and outside Queensland including outside Australia.

Section 3F establishes the board of the Queensland Ambulance Service.

Section 3G describes the role and responsibilities of the board and specifically provides that the board is responsible for the way the service performs its functions and exercises its powers. In particular the board's role is to decide the objectives, strategies and policies to be followed by the service and to ensure the service performs its functions in an appropriate, effective and efficient way.

Section 3H enables the Minister to give a written direction to the board about the administration, management and control of the service if the Minister is satisfied it is necessary to give the direction in the public interest because of exceptional circumstances. However, before giving the direction the Minister must first consult with the board and ask it to advise whether, in its opinion, compliance with the direction would not be in the service's financial interest. The board must ensure the direction is complied with. The Minister must cause a copy of the direction to be published in the *Queensland Government Gazette* within 21 days after it is given.

Section 3I provides for the membership of the board which is to be comprised of the Commissioner of the Queensland Ambulance Service, the Chief Commissioner of the Queensland Fire and Rescue Authority, the chief executive of the Department of Emergency Services, and five other members (the appointed members) appointed by Governor in Council. A person may be appointed as an appointed member only if that person has knowledge of, or experience in, matters relevant to the functions of the service. The Governor in Council is also to appoint one of the members to be chairperson of the board.

Section 3J outlines the conditions relevant to an appointed member's term of office, including when an appointed member's office becomes vacant, and when an appointed member may be removed from office.

Sub-section 3J.(1) specifies the term of office for an appointed member is for the term (not longer than three years) decided by the Governor in Council. It is not the intent of this section to limit the appointment of a person to a single term of office. A member will be eligible for reappointment upon the expiry of the member's term of office but each term of office cannot exceed three years.

Sub-section 3J.(2) provides that the office of an appointed member becomes vacant if the member resigns by signed notice given to the Minister; or is absent from 3 consecutive meetings of the board without the board's leave and without reasonable excuse; or is convicted of an indictable offence ("conviction" includes a plea of guilty or a finding of guilt by a court even though a conviction may not be recorded); or becomes employed by, or a contractor of, the service; or is removed from office by the Governor in Council under sub-sections (3) or (4).

Sub-section 3J.(3) enables the Governor in Council to remove an appointed member from office if the member engages in misbehaviour; or becomes incapable of performing the duties of a member because of physical or mental incapacity; or is incompetent; or does anything else that, in the Governor in Council's opinion is a reasonable justification for removal from office; or is convicted of an offence against this Act.

Sub-section 3J.(4) provides that the Governor in Council may remove all or any of the appointed members of the board from office if the board does not comply with a direction given to it by the Minister under this Act.

Section 3K provides that a member of the board is entitled to be paid remuneration and allowances fixed by the Governor in Council.

Section 3L enables the board to meet at places and times it decides but requires the board to meet at least once every three months. The chairperson may at any time call a meeting of the board, and must call a meeting if asked by at least 4 members.

Section 3M describes the procedures governing the conduct of Board meetings. The chairperson must preside at all board meetings but if the chairperson is absent the member chosen by those present must preside. Five members form a quorum; questions are decided by a majority of the

votes of the members present and the member presiding has a casting vote. The board may otherwise conduct its meetings as it considers appropriate. This section also deals with other minor procedural matters relevant to meetings of the board and the passing of resolutions by the board.

Section 3N provides that a document made by the board for the purposes of this Act is sufficiently made if signed by the chairperson, or a person so authorised by the board.

Section 3O applies to a member of the board who has a direct or indirect financial interest in an issue being considered or to be considered by the board and the interest could conflict with the proper performance of the member's duties about the consideration of the issue. The member must disclose the nature of the interest to a meeting of the board as soon as practicable after the relevant facts come to the member's knowledge. The member must not be present when the board considers the issue or take part in any decision the board makes on the issue unless the board directs otherwise. In addition, the member, or a member with a similar interest in the issue, must not be present when the board is considering whether the member can take part in the board's deliberations on the issue. When a member is required to be absent from a meeting of the board in such circumstances, the remaining members are considered to form a quorum. Any such disclosures must be recorded in the board's minutes.

Section 3P requires the board to keep minutes of its proceedings.

Clause 6 inserts a new section 4A which provides for the appointment by the Governor in Council of an acting commissioner to act in the office in the event of vacancy in the office or for periods where the commissioner is absent from duty or cannot perform the functions of the office.

Clause 7 omits Section 7 and 8 of the Act which relate to the establishment of the Queensland Ambulance Service and its functions. Equivalent provisions are now contained in sections 3A and 3B respectively.

Clause 8 replaces section 9 with a new section clarifying the role of the commissioner in the new governance structure. The commissioner is to be responsible for managing the service's operations in accordance with its objectives, strategies and policies. The commissioner is also to prepare an annual corporate plan incorporating performance targets developed in consultation with the board and approved by the Minister.

Clause 9 omits sections 10 to 12.

The provisions of section 10 which related to the development of the budget of the service now appear in a new section 19 appropriately reworded to reflect the new governance structure of the board.

Section 11 of the Act dealt with the authentication of documents. These matters are now addressed by section 3N.

Section 12 enabled the commissioner to delegate his powers (other than the power of delegation). A new section 22 deals with the powers of delegation.

Clause 10 replaces section 17 of the Act with a new section 17. The new section expands the provisions of the existing section by enabling the Governor in Council to approve a superannuation scheme other than the Queensland Ambulance Service Superannuation Scheme for service officers or classes of service officers.

The provisions of the existing sub-section 17.(2) are broadened and clarified by the new sub-section 17.(3). Previously only a service officer who became an employee of the Bureau of Emergency Services could elect (by notice in writing given to the commissioner within two months from the date of commencing such employment) to continue to contribute to the Queensland Ambulance Service Superannuation Scheme. However, the new 17(3) provides that a service officer who becomes a public service officer must elect (by notice in writing given to the commissioner within two months after starting employment with the public service) either to contribute to an superannuation scheme approved under this Act or to contribute to the superannuation scheme to which persons who become public service officers would normally contribute. The effect of the provision is to allow for movement not just from the service to the Bureau, but to allow for movement from the service to any part of the public service without detriment to superannuation conditions.

Service officers (other than an honorary service officers) will still be required to become a contributor (and continue to contribute) to an approved superannuation scheme in accordance with the scheme's terms.

Clause 11 inserts a new division 4 of Part 2 in accordance with current drafting practices. This clause also inserts:

- a new section 19 which provides that the commissioner must, before the commencement of each financial year, submit to the

board a budget for the service showing the estimated receipts and disbursements for the year. The section also provides that the board is to approve the budget as submitted by the commissioner or as amended in a way the board considers appropriate. The Minister also may specify terms and conditions under which a budget may be amended.

The Budget as approved and where necessary as amended as provided for by this section is to be the budget for the service for the relevant financial year.

It is also specified that the service is to observe the budget.

- a new section 20 which specifies that the service is a unit of public administration under the *Criminal Justice Act 1989*; and an agency under the *Equal Opportunity in Public Employment Act 1992*; and a public authority under the *Libraries and Archives Act 1988*; and a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.
- a new section 21 which provides that judicial notice must be taken of the imprint of the service's seal appearing on a document and that the document must be presumed to have been properly sealed unless the contrary is proved; and
- a new section 22 enabling the service to delegate its powers to the commissioner or an appropriately qualified service officer. This section also enables the commissioner to delegate the commissioner's powers to an appropriately qualified service officer. For the purposes of this section, the meaning of 'appropriately qualified' includes having the qualifications, experience or standing appropriate to exercise the power.

Clause 12 omits Part 3 of the Act. The removed sections pertain to the previous corporate entity and are replaced by Division 1 of Part 2.

Clause 13 amends section 40(2) to clarify the wording of the section and to reflect the amended governance of the service.

Clause 14 omits the current heading of Part 8 and inserts a new heading 'PART 8 - SAVINGS AND TRANSITIONAL PROVISIONS'.

Clause 15 inserts a new section 54A which defines terms used in part 8. These include "amendment Act", "commencement", "corporation", "former service", and "transferred officer".

Clause 16 amends section 56 to reflect the new governance structure of the service and inserts definitions of “board” and “previous committee” for the purposes of clarity.

Clause 17 inserts new sections 58 to 68 inclusive.

Section 58 provides that a reference to either the corporation or the former service in a document or Act in existence immediately before the commencement of this amending Act is taken to be a reference to the service.

Section 59 provides that the assets, rights and liabilities of the corporation or former service vest in the new statutory authority upon commencement of this Act.

Section 60 enables a legal proceeding by or against the corporation or former service that has not been finished before the commencement of this amending Act to be continued and finished by or against the service.

Section 61 provides that, on the commencement of the amending Act, a person who was employed as an ambulance officer of the former service is taken to be employed as an ambulance officer of the service. This section does not apply to a person holding office as an honorary ambulance officer.

Section 62 provides that, on the commencement of the amending Act, a person who was employed as a medical officer of the former service is taken to be employed as a medical officer of the service.

Section 63 provides that, on the commencement of the amending Act, a person who was employed as an administrative or service officer of the former service is taken to be employed as an administrative officer of the service.

Section 64 provides that the conditions of employment applying to a transferred officer (a person taken to be employed as an ambulance, medical or administrative officer of the service under section 61, or section 62 or section 63) must be no less favourable than the conditions that applied to the officer immediately before the commencement of the amending Act. A transferred officer remains entitled to all rights accrued or accruing to the officer as an employee of the former service. This section also specifies that a transferred officer is entitled to receive annual, sick and long service leave accrued or accruing to the officer as an employee of the former service. Provision is also made for to ensure that the recognised service of a transferred officer is taken to include, for the purpose of any law dealing

with entitlements or rights mentioned in the section, the officer's service as an employee of the former service including any previous service of the officer taken to be service with the previous service.

Section 65 provides that every person who was an honorary ambulance officer with the former service is taken to be an honorary ambulance officer with the service.

Section 66 ensures that any property that was held in trust by the former service or the corporation immediately before the commencement of the amending Act, vests in the service on the same trust to which the property was subject before the commencement.

Section 67 provides that the registrar of titles and all persons who keep registers of dealings in property must, if asked by the service, make all entries necessary in the registers to record the vesting of property in the service as provided for by this part of the Act. Provision is also made that a request under this part is not liable to fees or stamp duty.

Section 68 provides for the making of transitional regulations within the next year about matters which are necessary or convenient to assist in the transition from the previous governance structure with its associated functions to the new structure and its associated functions, and where this Act does not make adequate provision.

Schedule

The Schedule to the Act provides for minor amendments to various sections throughout the Act to update terms used and to reflect the new governance structure of the service.