

# **EMERGENCY SERVICES LEGISLATION AMENDMENT BILL 2002**

## **EXPLANATORY NOTE**

### **GENERAL OUTLINE**

#### **Policy Objectives of the Bill**

The policy objective of the Bill is to make range of miscellaneous amendments to improve the administration of the *Fire and Rescue Service Act 1990* (the Fire Act) the *Ambulance Service Act 1991* (the Ambulance Act), and the *State Counter-Disaster Organisation Act 1975* (the SCDO Act). The Bill authorises the Minister to appoint persons to act as Commissioner under the Fire and Ambulance Act improves community representation on the Emergency Services Advisory Council under the Fire Act, updates the functions of the Queensland Fire and Rescue Service (QFRS) to better reflect current operational realities, improves the administration of Local Ambulance Committees under the Ambulance Act and puts beyond doubt the ability to exercise emergency powers to minimise the impact of impending disasters under the SCDO Act.

#### **How the policy objectives will be achieved**

The Fire and Ambulance Acts currently require the Governor-in-Council to appoint a person to act as Commissioner. It is proposed to authorise the Minister to make acting appointments to the Commissioner positions whilst preserving the appointment powers of the Governor-in-Council.

The Emergency Services Advisory Council is established under the Fire Act and is a non-policy making community based body reporting to the Minister on the extent to which the delivery of fire, ambulance and other disaster management and emergency services meets community needs. It is proposed to provide for the nomination of two additional members to allow more adequate community representation.

The statutory responsibilities of the QFRS include the protection of persons, property and the environment from fire and chemical incidents. The types of incidents attended by the QFRS extend beyond “chemical”

incidents, to include hazardous materials incidents resulting from the physical and biological properties of substances. It is proposed that the “chemical incident” statutory responsibilities of the QFRS be expanded to clearly include all hazardous materials emergencies, to adequately reflect current operational realities.

A new model constitution for Local Ambulance Committees (LACs) established under the Ambulance Act has been developed for adoption by Queensland’s 175 LACs. It is proposed to amend the Ambulance Act to facilitate the replacement of the current constitutions with the new constitution.

The Bill makes a range of amendments to facilitate the more efficient administration of LACs. These amendments relate to LAC member numbers, qualifications and dismissal provisions

The SCDO Act establishes the framework for disaster management in Queensland. There is a lack of clarity as to the actions authorised to be taken to minimise or prepare for disasters which are anticipated but which have not yet occurred. It is proposed to amend the SCDO Act to put beyond doubt the authority to exercise emergency powers to minimise the impact of impending disasters, prior to a disaster occurring. The proposed amendments do not represent a shift in Government policy, and are by way of clarification only.

### **Estimated cost for Government implementation**

The Bill is not expected to result in any government implementation costs save that the increase of the membership of ESAC by two will result in a small increase in the expenses for ESAC.

### **Consistency with Fundamental Legislative Principles**

The policy issues progressed in the Bill are consistent with the Fundamental legislative principles.

## **CONSULTATION**

### **Fire Act**

Consultation has occurred with relevant Government Agencies.

**Ambulance Act**

The proposed changes to the Local Ambulance Committee provisions are made at the request of Local Ambulance Committees and arise from a committee review process that has been ongoing for five years.

**SCDO Act**

All relevant state agencies and the Local Government Association of Queensland have been consulted concerning the amendments.

**NOTES ON PROVISIONS****PART 1—PRELIMINARY**

*Clause 1* sets out the short title of the Bill which is the *Emergency Services Legislation Amendment Act 2002*.

*Clause 2* provides the Bill commences on a day fixed by proclamation.

**PART 2—AMENDMENT OF AMBULANCE SERVICE  
ACT 1991**

*Clause 4* transfers the definition section of the Bill to a schedule at the back of the Bill, in accordance with current drafting practice. It also inserts a new definition of “Constitution”.

*Clause 5* amends section 4A to provide that the Minister can appoint a person to act as Commissioner, Queensland Ambulance Service.

*Clause 6* amends Section 28 of the Ambulance Act to remove provisions dealing with the Ministerial approval of constitutions for Local Ambulance Committees (LAC’s). New provisions dealing with these matters are inserted by *Clause 9*; and

*Clause 7* amends Section 29 of the Ambulance Act which deals with the membership of LAC’s.

The amendments:—

- replace the concept of “Administrative area” served by a LAC with the concept of “area” served by a LAC. LAC’s do not “administer” the areas they serve. This is done by the Queensland Ambulance Service;
- provide that a person cannot be a member of more than one LAC;
- increase the total membership of LAC’s from the current nine to fifteen, with an increase beyond fifteen allowed if the Minister is satisfied that additional members are required to ensure adequate community representation on the committee.
- remove the requirement for members of LAC’s to be sought exclusively from community organisations. LAC members can now be sought from subscribers who are members of the public generally;
- make clear the authority of the Minister to remove any LAC member from office where it is in the public interest to do so.

*Clause 8* inserts a new Section 29A which provides that a LAC can elect a subscriber to fill a casual vacancy.

*Clause 9* inserts a new Part 4, Division 3 dealing with the Ministerial approval and distribution of LAC constitutions. LAC’s, in conjunction with the Queensland Ambulance Service, have developed a new simplified model constitution. It is intended that the new constitution be approved under Part 4, Division 3. New clauses have been inserted as follows.

Section 31A provides that the Minister may approve or amend a LAC constitution.

Section 31B provides that the Commissioner must give a copy of the approved constitution, or any amendments to the approved constitution, to the relevant LAC.

*Clause 10* inserts a new Part 9, Division 4 which provides for the cessation of the old constitution, commencement of the new constitution and the transition of LAC members and office bearers from the old constitution to the new constitution. New clauses are inserted as follows.

New *Clause 87* contains definitions of “approval day” of the new constitution and “former constitution”.

New *Clause 88* provides that the former constitution ceases to apply on the day the new constitution is approved by the Minister.

New *Clause 89* and *90* provide that LAC members and office bearers appointed under the old constitution continue their role and position under the new constitution.

New *Clause 91* provides that the Minister must notify the approval date of the new constitution by a gazette notice.

### **PART 3—AMENDMENT OF FIRE AND RESCUE SERVICE ACT 1990**

*Clause 12* transfers the definitions section of the Fire Act to a schedule of the back of the Act, in accordance with current drafting practice. It also omits the definition of “chemical incident” and inserts new definitions of “ADG Code”, “chemical”, “combustible liquid”, “dangerous goods”, “environment”, “flammable and combustible liquids standard”, “hazardous material”, and “hazardous materials emergency”.

*Clause 13* amends Section 8B of the Fire Act which establishes the functions of the Queensland Fire and Rescue Service (QFRS) by replacing responsibilities of the QFRS for chemical incidents with responsibilities covering hazardous materials emergencies. The definition of “hazardous materials emergency” is broader than the definition of “chemical incident” and covers the biological and physical, in addition to the chemical, properties of potentially harmful substances. The broader concept of hazardous materials emergencies better reflects current operational functions of the QFRS.

*Clause 14* amends section 11 of the Fire Act to provide that the Minister can appoint a person to act as Commissioner, QFRS.

*Clause 15* amends Section 36 of the Fire Act which deals with the membership of the Emergency Services Advisory Council. The amendment increases the membership of the Council from fourteen to sixteen.

*Clauses 16* and *17* omit the definition of “chemical incident” and replace it with the new definition of “hazardous materials emergency”. These amendments are a consequence of the amendment of the function of the QFRS to include hazardous materials emergencies instead of chemical incident made by *Clause 13*.

*Clause 18* amends Section 94 to omit the definition of “ADG Code” and “dangerous goods”. These definitions are not required as more succinct versions of the definitions are included in the general definition section in the Act by *Clause 12*.

*Clauses 19* and *20* amend Sections 97 and 144 to replace the term “chemical incident” with the term “hazardous materials emergency”. These amendments are a consequence of the amendment of the function of the QFRS to include hazardous materials emergencies instead of chemical incident made by *Clause 13*.

#### **PART 4—AMENDMENT OF STATE COUNTER DISASTER ORGANISATION ACT 1975**

*Clause 22* amends section 25 of the SCDO Act to provide that specified emergency powers can be exercised to minimise the potential effects of impending disasters. The amendment puts beyond doubt the existence of emergency powers to deal with the potential effects of impending disasters.

*Clause 23* amends the Fire Act and the Ambulance Act to make the minor and consequential amendments listed in the Schedule.