

Public Safety Business Agency and Other Legislation Amendment Bill 2016

Explanatory Notes

Short title

Public Safety Business Agency and Other Legislation Amendment Bill 2016 (the Bill)

Policy objectives and the reasons for them

The *Public Safety Business Agency Act 2014* (PSBA Act) formally established the Public Safety Business Agency (PSBA) on 21 May 2014. The PSBA Act authorises the PSBA to hold all infrastructure, fleet and information and communication technology assets and manage human resourcing, financial management, legal, policy, media and strategic planning functions for the Queensland Police Service (QPS), Queensland Fire and Emergency Services (QFES) and the Inspector-General of Emergency Management (IGEM).

The PSBA Act also authorises the PSBA to perform additional functions, including the operation and management of declared public safety entities. The PSBA currently administers the State Government Protective Security Service (SGS), all Queensland Government air services and Blue Card Services.

The PSBA Act established the position of the chief executive officer (CEO) of the PSBA. The PSBA CEO has responsibility for administering the PSBA and reports directly to the Minister for Police, Fire and Emergency Services and Minister for Corrective Services.

In 2015, the Public Service Commission conducted a review of the PSBA which was overseen by a cross-agency steering committee. The review culminated in the 'Review of the Public Safety Business Agency' report (the PSBA review) which was tabled in Parliament on 17 February 2016. The Government endorsed all recommendations made in the PSBA review except for recommendation 6 which related to the Police Air Wing. The Government endorsed recommendations are:

Recommendation 1

Approve the principles of operating model option 3, the associated organisational design and board of management structure as the desired future state of the PSBA, so that the PSBA continues to operate but with a more clearly defined role, more targeted scope and clearer governance arrangements.

Recommendation 2

Approve the creation of the PSBA Board of Management to oversee the activities of the PSBA and undertake portfolio-wide planning and strategy, and approve the role of the Board of Management Chair to rotate between the QPS Commissioner, QFES Commissioner and the external member.

Recommendation 3

Support the effective operation of the PSBA and the partner agencies by mandating the development of service level agreements (or similar) between agencies.

Recommendation 4

In line with recommendation 1, approve the following services and functions as the responsibility of the respective operational agencies:

- a) operational functions;
- b) strategy;
- c) recruitment;
- d) education and training;
- e) local workplace health and safety;
- f) ethical standards;
- g) media services;
- h) legal services;
- i) right to information;
- j) ministerial services; and
- k) Cabinet legislation liaison.

Recommendation 5

To ensure the implementation of these activities, approve the appointment of a respected change leader to begin the task of transitioning the PSBA to the new model, and approve the immediate development of a comprehensive change management strategy to be executed by the change leader.

Recommendation 7

Approve the role of the PSBA to maintain responsibility for asset management and maintenance, and perform a strategic air fleet management function under the guidance of the PSBA Board of Management.

Recommendation 8

Approve the transfer of the following operational services out of the PSBA, and approve:

- a) Blue Card Services transfer to the Department of Justice and Attorney-General; and
- b) State Government Security transfer to Queensland Police Service.

The PSBA will continue to deliver to the respective operational agencies the following services:

- all information communications and technology services;
- all financial services;
- all procurement services;
- all asset management services;

- some tactical human resource services; and
- some advisory services on corporate service strategies.

Many of the changes required to implement these recommendations could occur administratively. However, the legislative amendments in the Bill are required to:

- amend the functions of the PSBA;
- establish the PSBA Board of Management (the board);
- change the role of the PSBA CEO to be the PSBA chief operating officer (COO);
- finalise the machinery of government changes that will allow Blue Card Services to transition to the Department of Justice and Attorney-General; and
- allow for the comprehensive integration of the SGS into the QPS.

The Bill establishes the board as the PSBA's governing body. The board will consist of the QPS Commissioner, the QFES Commissioner and an independent, external member appointed by the Minister (the appointed member). The role of the Chair of the board will rotate between the QPS Commissioner and the QFES Commissioner on a yearly basis.

The appointed member is to be appointed for a period of 3 years by the Governor in Council upon the recommendation of the Minister and only if the Minister is satisfied the person is appropriately qualified to perform the functions of a board member. The appointed member is to be paid the remuneration and allowances decided by the Governor in Council.

The functions of the board will include providing leadership and oversight to the PSBA, reviewing and monitoring the PSBA's performance of its functions, making and reviewing policies about the administration of the PSBA Act and coordinating the provision of support services and programs to public safety entities. When performing its functions, the board must give effect to any direction of the Minister relevant to the functions.

The PSBA CEO will become the PSBA COO. The main functions of the PSBA COO will be to help the board perform its functions and be responsible for the day-to-day operation of the PSBA. Similarly to the existing PSBA CEO, the PSBA COO will be appointed by and remunerated as decided by the Governor in Council. Additionally, the Governor in Council will retain the ability to remove the PSBA COO from office upon the recommendation of the Minister. However, to be consistent with the employment conditions of chief executives in government agencies, an amendment will be sought to allow the PSBA COO to be removed from office by the Governor in Council after notice is given to the PSBA COO from the Minister at least 1 month before it is to take effect.

Additionally, the Bill will finalise machinery of government changes to transfer the responsibility of Blue Card Services to the Department of Justice and Attorney-General (DJAG) by omitting section 7 'Administration of this Act in the Public Safety Business Agency' of the *Working with Children (Risk Management and Screening) Act 2000* which states that the Act is to be administered in the PSBA.

Finally, the Bill will allow the SGS to be effectively integrated into the QPS and ensure that the objectives supporting the transfer of the SGS to the QPS in recommendation 8 of the PSBA are met.

Achievement of policy objectives

The Bill achieves the objectives by amending the following legislation:

- *Disaster Management Regulation 2014*;
- *Police Powers and Responsibilities Act 2000*;
- *Police Service Administration Act 1990*;
- *Police Service Administration Regulation 2016*;
- *Public Safety Business Agency Act 2014*;
- *Public Service Act 2008*;
- *State Buildings Protective Security Act 1983*;
- *State Buildings Protective Security Regulation 2008*; and
- *Working with Children (Risk Management and Screening) Act 2000*.

Alternative ways of achieving policy objectives

There are no alternative means of achieving the policy objectives other than by legislative reform excepting for amendments allowing for the SGS to transition to the QPS. Although administrative arrangements may allow for the transition of the SGS to the QPS, legislative amendment will allow for a more comprehensive integration of the SGS into the QPS and will ensure that the objectives supporting the recommendation for this transfer can be met.

Estimated cost for government implementation

All costs associated with implementation of these amendments will be met through existing budgets. There are no anticipated additional costs to the Government.

Consistency with fundamental legislative principles

The Bill has been drafted with due regard to the fundamental legislative principles outlined in the *Legislative Standards Act 1992*.

Consultation

The PSBA review involved extensive engagement and consultation with employees within the public safety portfolio including their unions and external stakeholders. These unions include, but are not limited to, the Queensland Police Union of Employees, Queensland Police Commissioned Officers' Union of Employees, United Firefighters Union of Queensland and Together Queensland.

Implementation teams have been established within the QPS, QFES and PSBA to ensure that any changes resulting from the implementation of the PSBA review recommendations are managed effectively. It is intended to continue consultation with affected groups including relevant unions during the implementation process.

In these circumstances, and given that the amendments made in the Bill are simply designed to bring the recommendations of the PSBA review into effect, including allowing machinery of government changes to take place, it is not considered necessary to seek community consultation on the specifics of the Bill.

Consultation was undertaken with the following Government departments during development of the Bill:

- Department of the Premier and Cabinet;
- Public Service Commission;
- Queensland Treasury;
- Queensland Police Service;
- Queensland Fire and Emergency Services;
- Public Safety Business Agency;
- Department of Justice and Attorney-General.

The Office of Best Practice Regulation advised that a Regulatory Impact Statement is not required for the Bill.

Consistency with legislation of other jurisdictions

The Bill provides legislative reform to facilitate machinery of government changes to implement recommendations from the PSBA review. The changes made by the Bill affect the Queensland Government and therefore, the Bill is unique to Queensland. The Bill does not introduce uniform or complementary legislation.

Notes on provisions

Part 1 Preliminary

1. Short title

Clause 1 provides that the Bill, once enacted, may be cited as the *Public Safety Business Agency and Other Legislation Amendment Act 2016*.

2. Commencement

Clause 2 provides that part 3, division 8 will commence on proclamation. This will allow for administrative arrangements to be finalised to facilitate the transfer of Blue Card Services from the PSBA to DJAG.

Part 2 Amendment of Public Safety Business Agency Act 2014

3. Act amended.

Clause 3 provides that this part amends the *Public Safety Business Agency Act 2014*.

4. Amendment of s 7 (Agency's functions)

Clause 4 amends the functions of the PSBA to omit the following functions:

- to develop, in consultation with each public safety entity, performance measures that apply to the entity in carrying out the entity's functions;
- to review, assess and report on the performance of public safety entities against the measures mentioned in the above function; and
- to report to and advise the Minister about resourcing public safety entities.

This amendment meets recommendation 1 of the PSBA review by limiting the services of the PSBA to include:

- all information communications and technology services;
- all financial services;
- all procurement services;
- all asset management services;
- some tactical human resource services; and
- some advisory services on corporate service strategies.

This clause also amends the example in s 7(2) to remove reference to the SGS being declared a public safety entity as the PSBA will no longer be responsible for the operation and management of the SGS.

5. Replacement of pt 2, div 3 (Membership of the agency)

Clause 5 provides for the establishment of the board through inserting new Divisions 3 'Constitution of agency' and 3A 'Board of Management'. New section 8 'Constitution' outlines that the PSBA will consist of the board, the PSBA COO and PSBA staff. New division 3A, subdivision 1 'Establishment and functions' inserts new section 8A 'Establishment' that provides that the board will be the PSBA's governing body. New section 8B 'Functions' outlines the functions of the board and provides that when performing its functions, the board must give effect to any direction given by the Minister relevant to the functions.

New division 3A, subdivision 2 'Board members' outlines that the board will consist of the police commissioner, the fire commissioner and a person appointed by the Governor in Council (the appointed member). New section 8D 'Appointed member' provides that the Minister may recommend a person as the appointed member only if satisfied the person is appropriately qualified to perform the functions of a board member. This appointment is limited to no more than 3 years, but the person may be reappointed. New section 8E 'Conditions of appointment' outlines the remuneration to be paid to the appointed member and new section 8F 'Vacancy in office of appointed member' outlines the circumstances in which the office of the appointed member may be vacated. Finally, this subdivision provides that the chairperson of the board will be

either the police commissioner or fire commissioner who will alternate performing this role on an annual basis.

Division 3A, subdivision 3 'Board business' authorises through section 8H 'Conducting business' that the board may conduct its business in the way the board considers appropriate. Further, the board may, pursuant to new section 8I 'Committees', appoint committees to provide advice to the board on particular matters.

6. Amendment of s 11 (Functions of chief executive officer)

Clause 6 amends section 11 to provide that the PSBA COO's main functions are:

- to help the board to perform its functions; and
- to be responsible for the day-to-day operation of the PSBA.

This reflects the new structure of the PSBA and the change in role of the PSBA CEO in becoming the PSBA COO.

7. Replacement of s 12 (Ministerial direction)

Clause 7 inserts a new section 12 'Relationship between chief operating officer and board' which outlines that the PSBA COO, in performing his or her functions, must comply with any direction of the board that relates to those functions. Additionally, the PSBA COO is required to report regularly to the board.

8. Amendment of s 14 (Vacancy in office of chief executive officer)

Clause 8 aligns the employment conditions of the PSBA COO with other chief executives within the public service by allowing the Minister to remove the PSBA COO from office by signed notice given at least 1 month before the removal is to take effect.

9. Amendment of s 18 (Police officers working for the agency)

Clause 9 makes a minor technical amendment to rename the 'commissioner of the Queensland Police Service' as the 'police commissioner' as a result of definition changes made by clause 13.

10. Amendment of s 21 (Delegations)

Clause 10 expands section 21 'Delegations' to allow the board to delegate a function of the board to an appropriately qualified person. Section 21(3) will operate to permit the subdelegation of the function.

11. Replacement of pt 4 hdg (Transitional provision)

This clause makes a technical amendment by inserting a new heading 'Division 1 Transitional provision for Public Safety Business Agency Act 2014' to reflect that the Bill introduces another division in part 4 of the PSBA Act.

12. Insertion of new pt 4, div 2

Clause 12 inserts a new heading for part 4, division 2 of the PSBA Act. This clause also inserts new section 25 'Chief executive officer'. This section is a transitional provision that outlines that in an Act or document, a reference to the PSBA CEO is taken, if the context permits, to be a reference to the PSBA COO. Additionally, a decision made by the PSBA CEO is taken to be a decision made by the PSBA COO.

13. Amendment of sch 1 (Dictionary)

This clause inserts relevant definitions into the PSBA Act. These definitions include defining 'fire commissioner' to mean the commissioner under the *Fire and Emergency Services Act 1990* and 'police commissioner' to mean the commissioner under the *Police Service Administration Act 1990*. The clause also replaces the definition of 'chief executive officer' with the definition of 'chief operating officer' and amends the definition of 'support services' to reflect the reduced services that the PSBA will provide to the QPS and QFES.

14. Amendment of various sections

Clause 14 makes consequential amendments to various sections to change references from 'Chief executive officer' to 'Chief operating officer', 'chief executive officer' to 'chief operating officer' and 'chief executive officer's' to 'chief operating officer's'.

Part 3 Amendment of other legislation

Division 1 Amendment of Disaster Management Regulation 2014

15. Regulation amended

Clause 15 states that this division amends the *Disaster Management Regulation 2014*.

16. Amendment of s 3 (Persons to assist or carry out other activities relating to the State group – Act, s 19A)

Clause 16 makes a consequential amendment as a result of the PSBA CEO becoming the PSBA COO.

Division 2 Amendment of Police Powers and Responsibilities Act 2000

17. Act amended

Clause 17 provides that this division amends the *Police Powers and Responsibilities Act 2000*.

18. Amendment of sch 6 (Dictionary)

Clause 18 makes consequential amendments as a result of the PSBA CEO becoming the PSBA COO. The clause amends the definition of 'property point' by replacing PSBA chief executive officer with PSBA chief operating officer. This clause also amends the definition of 'PSBA chief executive officer' to refer to the 'PSBA chief operating officer'.

19. Amendment of various sections

Clause 19 makes consequential amendments to various sections of the *Police Powers and Responsibilities Act 2000* by changing references from 'PSBA chief executive officer' to 'PSBA chief operating officer'.

Division 3 Amendment of Police Service Administration Act 1990

20. Act amended

Clause 20 provides that this division amends the *Police Service Administration Act 1990*.

21. Amendment of s 1.4 (Definitions)

Clause 21 makes a consequential amendment as a result of the PSBA CEO becoming the PSBA COO. The clause replaces the definition of 'PSBA chief executive officer' with the definition of 'PSBA chief operating officer'.

22. Amendment of s 10.24 (Representation in court)

Section 10.24 'Representation in court' of the *Police Service Administration Act 1990* authorises any police officer or service legal officer to appear for and represent a police officer for certain proceedings in a Magistrates Court or Childrens Court. Further, this section allows any police officer or service legal officer to appear in a Magistrates Court in relation to a prosecution instituted by a fire service officer under the *Disaster Management Act 2003* or the *Fire and Emergency Services Act 1990*. This section defines a service legal officer to mean a government legal officer within the meaning of the *Legal Profession Act 2007* who is a QPS staff member or employed in the PSBA.

Recommendation 4 of the PSBA review provides that responsibility for legal services currently performed by the PSBA is to return to respective operational agencies. Consequently, reference to government legal officers employed in the PSBA is no longer necessary. Clause 22 meets this recommendation by omitting reference to government legal officers who are employed in the PSBA.

23. Amendment of various sections

Clause 23 makes consequential amendments to various sections of the *Police Service Administration Act 1990* by changing references from 'PSBA chief executive officer' to 'PSBA chief operating officer'.

Division 4 Amendment of Police Service Administration Regulation 2016

24. Regulation amended

Clause 24 provides that this division amends the *Police Service Administration Regulation 2016*.

25. Amendment of s 7 (Particular matters within scope of prescribed responsibility)

This clause prescribes that a responsibility of the police commissioner will be the provision of services under the *State Buildings Protective Security Act 1983* for the security of state buildings. This clause is necessary to allow the SGS to comprehensively transition to the QPS.

26. Amendment of various sections

Clause 26 makes consequential amendments to various sections of the *Police Service Administration Regulation 2016* by changing references from 'PSBA chief executive officer' to 'PSBA chief operating officer'.

Division 5 Amendment of Public Service Act 2008

27. Act amended

Clause 27 provides that this division amends the *Public Service Act 2008*.

28. Amendment of sch 1 (Public service offices and their heads)

Clause 28 makes a consequential amendment as a result of the PSBA CEO becoming the PSBA COO.

Division 6 Amendment of State Buildings Protective Security Act 1983

29. Act amended

Clause 29 provides that this division amends the *State Buildings Protective Security Act 1983*.

30. Amendment of s 3 (Definitions)

This clause omits the definition of 'protective security service'. Reference to this term will no longer be required as the SGS will become part of the QPS and will no longer operate as a distinct entity. Additionally, the clause omits the term 'administrator' as the police commissioner will perform all tasks previously undertaken by the administrator.

The clause also inserts definitions for 'police service', 'protective security officer', 'security officer', 'senior protective security officer' and 'senior protective security officer (in training)'. These definitions are required based on other amendments being made to the Act by the Bill.

31. Replacement of pt 2, hdg (Protective security service)

Clause 31 replaces the heading of part 2 to 'Security of state buildings'.

32. Replacement of s 5 (Establishment of protective security service)

With the transfer of the SGS to the QPS, the SGS will not continue as a separate entity. Clause 32 formally disbands the SGS as a distinct entity and reallocates the function of providing services for the security of state buildings to the QPS.

33. Insertion of new pt 2A, hdg

Clause 33 inserts a heading for new Part 2A to reflect that this part provides for security officers under this Act.

34. Omission of s 6 (Administration of protective security service)

As amendments in the Bill will transfer responsibility of the SGS to the QPS, the ability for the Minister to appoint an administrator for the SGS is no longer required. Consequently, clause 34 omits section 6.

35. Amendment of s 7 (Appointment of protective security officers)

Clause 35 authorises the police commissioner to appoint persons as protective security officers and senior protective security officers (in training) provided these persons are:

- fit and proper persons for that appointment; and
- are not police officers.

This clause also provides that a person appointed under this section is a staff member under the *Police Service Administration Act 1990*.

36. Replacement of s 8 (Training of senior protective security officers)

Clause 36 provides that the police commissioner may arrange for:

- a senior protective security officer (in training);
- a protective security officer; or
- another person, other than a police officer;

to take a training course to qualify for appointment as a senior protective security officer.

This clause authorises the police commissioner to appoint an officer or person who successfully finishes the training course as a senior protective security officer.

This clause also provides that a person who has been appointed a senior protective security officer or is taking a training course to qualify for appointment as a senior protective security officer is a staff member under the *Police Service Administration Act 1990*.

37. Amendment of s 9 (Standard of fitness and propriety)

This clause makes consequential amendments to section 9 which provides for standards of fitness and propriety for security officers.

38. Omission of s 10 (Appointment of senior protective security officers)

Clause 38 omits section 10 which is no longer required as the police commissioner, rather than the Minister, will appoint senior protective security officers.

39. Amendment of s 10A (Identity cards for security officers)

This clause makes a minor technical amendment to replace 'administrator' with 'commissioner' to reflect that the police commissioner will be responsible for functions previously undertaken by the administrator.

40. Amendment of s 13 (Oath of protective security officer)

This clause makes a minor technical amendment to the oath taken by a protective security officer to ensure consistency between the oaths taken by protective security officers and senior protective security officers and to reflect that the SGS will cease to exist as a distinct entity upon commencement of the Bill.

41. Amendment of s 15 (Justice to administer oaths)

As the police commissioner may appoint security officers, the requirement of forwarding subscribed oaths of protective security officers and senior protective security officers to the Minister becomes superfluous. Consequently, clause 41 omits this requirement.

42. Amendment of s 18 (Functions of security officers)

Clause 42 makes a minor technical amendment to replace 'protective security service' with 'security officers' to reflect that the SGS will cease to exist as a distinct entity upon commencement of the Bill.

43. Amendment of s 29A (Security services provided by other than the protective security service)

Clause 43 makes a minor technical amendment to replace 'the protective security service' with 'security officers' to reflect that the SGS will not continue to exist as a distinct entity upon commencement of the Bill.

44. Amendment of s 30 (Officer to surrender equipment)

Clause 44 makes a minor technical amendment to replace 'member of the protective security service' with 'security officer' to reflect that the SGS will cease to exist as a distinct entity upon commencement of the Bill. This clause also replaces references to 'administrator' with 'commissioner' to reflect that the police commissioner will be performing the role previously undertaken by the administrator.

45. Amendment of s 33 (Regulation-making power)

Clause 45 makes a minor technical amendment to replace 'members of the protective security service' with 'security officers' to reflect that the SGS will cease to exist as a distinct entity upon commencement of the Bill.

46. Insertion of new pt 5, div 1, hdg

This clause restructures the current transitional provisions by inserting a new heading 'Division 1 Transitional provision for Law Courts and State Buildings Protective Security Amendment Act 1998' before the current section 34.

47. Insertion of new pt 5, div 2

Clause 47 inserts a new heading 'Division 2 Transitional provisions for Public Safety Business Agency and Other Legislation Amendment Act 2016'. This clause also inserts a new section 35 'References' which outlines that a former reference in an Act or document to the 'protective security service' will be taken to be a reference to the QPS and a reference to the 'administrator' will be taken to be a reference to the police commissioner. This will ensure a seamless transition of the SGS into the QPS.

Further, new section 36 'Oath of security officers' also provides that an oath taken by a protective security officer will continue to have effect regardless of the amendments made by the Bill. Finally, new section 37 'Administrator' provides that a person who holds an appointment as the administrator will vacate that appointment upon commencement of the Bill.

Division 7 Amendment of State Buildings Protective Security Regulation 2008

48. Regulation amended

Clause 48 provides that this division amends the *State Buildings Protective Security Regulation 2008*.

49. Amendment of s 4 (Security officers to serve in state buildings as directed)

Clause 49 makes a minor technical amendment to replace 'manager' with 'commissioner' as the police commissioner is to perform the role of the manager.

50. Amendment of s 6 (Uniforms)

Clause 50 makes a minor technical amendment to replace 'administrator' with 'commissioner' as the police commissioner is to perform the role of the administrator.

51. Amendment of s 8 (Hand over of duties)

Clause 51 makes a minor technical amendment to replace 'manager' with 'commissioner' as the police commissioner is to perform the role of the manager.

52. Amendment of s 9 (Emergency duties)

Clause 52 makes a minor technical amendment to replace 'manager' with 'commissioner' as the police commissioner is to perform the role of the manager.

53. Amendment of s 11 (Security officers in uniform not to obtain liquor)

Clause 53 makes a minor technical amendment to replace 'State Government Protective Security Service motor vehicle' with 'motor vehicle used to provide services for the security of state buildings' to reflect that the SGS will no longer exist as a distinct entity upon commencement of the Bill.

54. Amendment of sch 2 (Dictionary)

Clause 54 omits the term 'manager' as the police commissioner is to perform the role of the manager.

Division 8 Amendment of Working with Children (Risk Management and Screening) Act 2000

55. Act amended

Clause 55 provides that this division amends the *Working with Children (Risk Management and Screening) Act 2000* (WCRMS Act).

56. Omission of s 7 (Administration of this Act in the Public Safety Business Agency)

On 1 July 2014, the WCRMS Act was amended to introduce a new section 7 'Administration of this Act in the Public Safety Business Agency'. This section stated that the Act is to be administered in the PSBA. This clause will omit section 7 of the WCRMS Act. This will allow Blue Card Services to be transferred to DJAG through administrative arrangements thereby giving effect to recommendation 8 of the PSBA review.

57. Insertion of new ch 11, pt 18

This clause inserts new part 18 into the WCRMS Act to reflect the insertion of transitional provisions for the Bill. These transitional provisions include new section 548 'Applications and notices' that provides that an undecided application is taken to

have been made to the chief executive rather than to the PSBA COO and that a notice issued by the PSBA CEO is taken to have been issued by the chief executive.

58. Amendment of sch 7 (Dictionary)

This clause omits the definition of 'chief executive', 'department' and 'Public Safety Business Agency' as they are no longer required. Definitions for the terms 'chief executive' and 'department' are provided in the *Acts Interpretation Act 1954*. The clause also replaces references to 'the commissioner' with 'the chief executive' within the definitions of 'disciplinary information' and 'notifiable person'.

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