

# Emergency Services Reform Amendment Bill 2023

## Explanatory Notes

### Short title

The short title of the Bill is the Emergency Services Reform Amendment Bill 2023.

### Policy objectives and the reasons for them

Queensland is the most disaster affected State in Australia, experiencing almost 90 significant natural disasters and weather events in the past decade. Research forecasts natural disasters will increase the cost to the Australian economy from \$38 billion annually in 2021 to at least \$73 billion a year by 2060. This increase is due to the three main cost drivers of population growth, climate change and rising property values.

The significant impact of disasters upon Queensland highlights the importance of emergency services agencies performing optimally and has prompted various organisational arrangements at a Local, State and Commonwealth Government level to be developed to meet the four phases of the State's emergency management and disaster response system namely Prevention, Preparedness, Response and Recovery.

Queensland's disaster management arrangements (QDMA) operate through a tiered system outlined in the *Disaster Management Act 2003* (DM Act) enabling a progressive escalation of support and assistance to affected communities. Disaster management groups are formed at a local, district and state level, and are responsible for the planning, organisation, coordination, and implementation of all measures to mitigate or prevent, prepare for, respond to, and recover from disaster events. These disaster management groups are supported by coordination centres that also operate at the local, district and state level to coordinate the information, resources, and services necessary for disaster operations.

Local governments have primary responsibility for managing a disaster at the community level through the implementation of their Local Disaster Management Plan which is managed by their Local Disaster Management Group (a local group). If a local group does not have the capacity to deal with a disaster and requires additional resources, a request for support may be made to a District Disaster Management Group (DDMG). Currently, the DM Act divides the State into 23 disaster districts, each with a DDMG which may be comprised of one or more local groups. DDMGs are responsible to the State government through the Queensland Disaster Management Committee (QDMC).

In the event the DDMG cannot facilitate a request for support from a local group, the request may be escalated onwards to the State level, via the State Disaster Coordination Centre or the State Disaster Coordination Group to the QDMC. The QDMC provides strategic leadership for disaster management in the State and performs a range of high-level disaster management functions including, for example, making a request for assistance to the Federal Government or international governments on behalf of Queensland.

The QDMC's membership consists of Ministers, supported by Directors-General, observers and invitees and is chaired by the Premier and Minister for the Olympic and Paralympic Games. The QDMC is assisted by the State Disaster Management Group which provides strategic leadership to Queensland when the QDMC is not convened.

Currently, Queensland Fire and Emergency Services (QFES) coordinates and manages various elements of Queensland's disaster response including the Fire and Rescue Service (FRS), the Rural Fire Service (RFS) and the Queensland State Emergency Service (SES).

Recent machinery of government changes have assigned the Queensland Police Service Commissioner (QPS Commissioner) as the chief executive of the DM Act responsible for:

- establishing and maintaining arrangements between the State and the Commonwealth for effective disaster management;
- ensuring disaster management and operations are consistent with the State's disaster management plans, standards, guidelines and strategic policy;
- ensuring persons performing functions under the DM Act are appropriately trained; and
- providing advice and support about disaster management and disaster operations to the local, district and State groups.

The Queensland Police Service (QPS) is now responsible for the administration of grants and service agreements to volunteer entities including Police-Citizens Youth Club Queensland (PCYC), Emergency Services Cadets, Queensland flotillas of the Australian Volunteer Coast Guard Association of Queensland (AVCGA), Volunteer Marine Rescue Association of Queensland (VMRAQ), Surf Life Saving Queensland (SLSQ) and Royal Life Saving Society Queensland (RLSSQ).

### **The State Emergency Service (SES)**

The SES provides assistance in circumstances ranging from non-life-threatening emergency situations during floods, storms or other similar events to supporting other agencies such as the QPS and the FRS with road crash rescue, emergency traffic management, flood boat rescue and urban, rural and evacuation searches. The SES is a 'not-for-profit' organisation consisting of SES units established within local government areas. These SES units may be comprised of separate SES groups depending on the local government area's specific needs. Currently, there are 75 SES units comprised of 303 SES groups. While the membership of the SES consists of State and local government employees, the SES relies heavily on the support it receives from its large cohort of about 5,400 volunteers.

The SES has evolved from its inception in response to the January 1974 Brisbane floods and historically has been closely linked with local government. In 2003, the DM Act enshrined the responsibility that local governments hold in ensuring they have a disaster response capability. Local governments have entered into various memorandums of agreement with the State government detailing the funding, training and administration of SES units.

Following the Police and Community Safety Review in 2013, Emergency Management Queensland, the SES and disaster management functions transitioned to the newly formed Department of Queensland Fire and Emergency Services. The *Fire and Emergency Services Act 1990* (FES Act) currently provides the legislative framework for the SES.

## **Marine Rescue Services**

In Queensland, marine rescue volunteers play a critical role in keeping the community safe on the water through providing general marine assistance and assisting with search and rescue operations. Marine rescue services are provided by two principal organisations namely VMRAQ which has 26 squadrons and an estimated 1,400 members and AVCGA which has 21 flotillas and an estimated 1,200 members.

VMRAQ and AVCGA are two separate independent organisations with different structures. VMRAQ consists of Volunteer Marine Rescue Queensland which is incorporated as a charitable entity and is affiliated with the 26 individual squadrons that mostly hold charitable status. A hierarchy is formed by individual squadrons providing representatives to a Volunteer Marine Rescue (VMR) zone which acts subordinate to the State body. For example, the VMR Southport Inc. squadron elect representatives to a VMR zone from which elected zone representatives become State Council members. Members of each squadron are only responsible to their squadron and do not have voting rights at the State level.

In contrast, the AVCGA is a national entity incorporated in the Australian Capital Territory. Coast Guard Flotillas are unincorporated and are full members of the AVCGA. Flotillas report through a regional flotilla arrangement. Flotilla representatives operate at a State and national level. However, State level arrangements are an administrative tool to allow funding from the various State Governments to reach flotillas. Governance is conducted by the National Executive and National Board.

VMRAQ and AVCGA have many common features. Both organisations provide similar services, place a great reliance upon volunteers and local community fundraising to operate, and are also subsidised by the Queensland Government. However, issues with the current provision of marine rescue services may arise when VMRAQ squadrons and AVCGA flotillas operate in overlapping and occasionally unclear areas. A lack of integration between these organisations may lead to inefficiencies through the duplication of services, assets and costs.

The advantages of an integrated statewide marine rescue service include:

- enhanced service delivery through better interoperability between units;
- better clarity around roles and responsibilities for the multiple agencies responsible for providing marine rescue services;
- an increase in the quality of services provided by developing standardised training, procedures and policies; and
- enhanced asset management.

## **The review of Queensland's emergency services and disaster management arrangements**

The efficiency of the delivery of emergency services in Queensland has been considered in a series of reviews including the *Review into Volunteer Marine Rescue Organisations in Queensland* and the *SES Review "Sustaining the SES – Partnering for Change"*, culminating in the *'Independent review of Queensland Fire and Emergency Services'* (the Independent Review Report) and the *'Review of Queensland's Disaster Management Arrangements (QDMA)'* (the IGEM Review).

On 26 October 2022, the Government published *Good Jobs and Better Fire and Emergency Services to Support Queensland's Great Lifestyle* accepting in principle all recommendations made in the Independent Review Report excepting recommendation 12. The Government also

announced the formation of the Reform Implementation Taskforce (RIT), led by Special Coordinator for Police and Emergency Services Reform Steve Gollschewski. The RIT has been established to oversee and coordinate the implementation of the reforms to the emergency services portfolio over a two-year period.

### **The Independent Review Report**

In July 2021, the Queensland Government commissioned an independent review of QFES and its associated volunteer entities. The Independent Review Report examined the effectiveness, efficiency, and sustainability in the delivery of fire and emergency services in Queensland, including assessing the scope, functions, and suitability of the QFES structure and funding arrangements.

The Government has accepted in principle the following recommendations made in the Independent Review Report. These recommendations address various facets of emergency services management in Queensland:

#### Function and Structure

1. To simplify, emphasise and focus efforts in relation to fire and emergency services activities in Queensland, establish a new, integrated department consisting of the current Fire and Rescue Service (including Auxiliary staff), Rural Fire Service, FireCom and appropriate elements of QFES' current Corporate Services Division.
2. The State Emergency Service and Disaster Management functions be transferred through a machinery-of-government change to the Queensland Police Service.
3. In-line with the Queensland Government's commitment to the creation of a single Marine Rescue entity, the Marine Rescue functions within QFES (including grants arrangements for Surf Life Saving Queensland and the Royal Life Saving Society Queensland) be transferred through a machinery-of-government change to the Queensland Police Service.
4. Establish a future-focused service planning capability that supports data driven, risk adjusted resource allocation decisions, including workforce planning with a focus on increased use of auxiliary, that cascade across all services within the new organisation including but not limited to, budget allocations, station and fleet locations, staffing levels, and technology investments.
5. Create the new entity as a department of the Queensland Government, with the [QFES] Commissioner maintaining all powers of the chief executive under the [then] *Public Service Act 2008*.
6. Establish a specific Project Management and Cultural Reform Office to drive the implementation of recommendations and focus specifically on the cultural and organisational reforms necessary to give effect to the structural changes, ongoing integration of the new entity and drive collaboration between the elements of the new agency.
7. Conduct a detailed functional and structural review prior to the separation of functions from QFES, focused on: reducing duplicated functions and organisational layers to allow more effective decision making; examining opportunities to centralise administrative processes to reduce their impact on front line service delivery; and considering ways in which the existing workforce could

be better utilised to address any latency that may be present in current staffing models.

### Culture

8. Establish a specific leadership program to support continued focus on a diverse and inclusive culture that is representative of the community, with a clear emphasis on continuing to modernise, diversify and establish operational and strategic leadership capabilities in a way that break down silos, drives on inclusive fire and emergency service and which ensures ethical decision-making and acceptable workplace conduct is central to operations.
9. Develop and publish performance against (on a regular basis, ideally quarterly) an Outcomes Framework setting out:
  - Outcomes-based fire (and broader emergency) services' performance measures;
  - Strategic effectiveness measures across the Prevention, Preparedness, Response and Recovery (PPRR) framework, but focussed within the remit of the new organisation;
  - A formal interoperability plan, focused in two specific parts to drive interoperability between elements within the new organisations and more broadly to clarify the new entity's role within the emergency and disaster management system in Queensland;
  - A clear link between resource planning/service analysis and community outcomes; and
  - Goals to (and progress against) improve(d) operability across professional, auxiliary and volunteer firefighter organisations.

The Outcomes Framework should emphasise the breadth of the PPRR framework, adopting an 'all hazards' approach, and not be solely focused on traditional fire and rescue response activities'.

10. The new agency undertakes a detailed workforce culture assessment, inclusive of volunteers, to improve collaboration, performance and workforce experience, as the basis for establishing reforms to support integration of fire and emergency services activities in a manner that aligns to the requirement of the community articulated through data driven, risk-based service planning.
11. In light of the significant need for a continued focus on establishing a diverse workforce, representative of the community the organisation serves and where all staff feel safe, respected and included, specific targets be established in-line with the Queensland Government's Inclusion and Diversity Strategy 2021-2025 for women, people with a disability, Aboriginal and Torres Strait Islander peoples, culturally and linguistically diverse people and the LGBTIQ+ community for each of the services and the corporate support functions within the new agency.

### Efficiency and Funding

13. Work with local government to establish a reporting requirement for Councils' funding, costs, assets and liabilities that support services currently provided by Queensland Fire and Emergency Services, including the Rural Fire Service Levy and local government expenditure for the State Emergency Service, to create a 'full financial picture' of the services operated by the new entity and the Queensland Police Service.

14. As part of the machinery-of-government changes to relocate State Emergency Services, Disaster Management and Marine Rescue functions, subject to the extent to which the State Emergency Service Levy ameliorates the cost impact of moving those functions to the Queensland Police Service, conduct a zero-base budgeting exercise to determine the elements (if any) of the Service Delivery Statement funding breakdowns (as set out in KPMG's report) to be re-allocated, focussing on budgeting within agencies to clarify the cost of service delivery. This should occur following the establishment of a State Emergency Service Levy which would likely offset the funding requirements relating to the State Emergency Service, Disaster Management and existing Marine Rescue moving to the Queensland Police Service.
15. Following the necessary budget adjustments arising through machinery-of-government changes, adopt a staged process - using a risk-based approach that considers the changing nature of fire services, the impact of climate change and which leverages the newly created service planning capability recommended in this Report - to prioritise funding for the Rural Fire Service to address bushfire, landscape fire and broader rural and seasonal risks into the future.
16. Reduce the senior executive structure (Deputy Commissioner and Assistant Commissioner levels) of the new department to reflect the streamlined, more focussed nature of the new entity, informed by the detailed structural and functional review set out in Recommendation 7. The structure should support a geographic leadership model that clarifies command and control arrangements.

#### Sustainability

17. In recognition of both the substantive changes arising because of the recommendations contained within the Report, and the age of the statutes, undertake the following legislative and policy reform projects:
  - Review the *Fire and Emergency Services Act 1990* and the *Disaster Management Act 2003*, with a view to modernising both pieces of legislation and (with regard to the *Fire and Emergency Services Act 1990*) clearly addressing the role of professional and volunteer firefighters (including providing the same legislative protections to auxiliary and volunteer firefighters as afforded to professional firefighters);
  - Move the provisions of the *Fire and Emergency Services Act 1990* relating to the State Emergency Service into the *Disaster Management Act 2003*;
  - Clarify the Commissioner of Police as the Chief Executive for the purposes of the *Disaster Management Act 2003*;
  - Clarify that the Commissioner of Fire continues to play a key leadership role as part of the State's emergency response and disaster arrangements where they relate to fire or emergency services activities within the remit of the new agency;
  - Update [the] *Public Safety Preservation Act 1986* to reflect the importance of protecting economic, heritage and cultural sites (in addition to current considerations relating to life and property);
  - Examine the role of landholders in relation to prevention, preparation and response activities, with a specific focus on determining whether additional powers are required for firefighters to address at-risk circumstances and more rapid action as fire events escalate;

- Make consequential amendments arising as a result of the recommendations in this Review, where necessary; and
  - Review and update the Queensland State Disaster Management Plan, following the machinery-of-government changes.
18. Develop a formal interoperability plan for the new organisation, supported through an appropriate legislative remit developed as part of legislative review activities recommended by this Review, with a long-term vision of clearly defining, drawing together and empowering the services provided by professional, auxiliary and volunteer firefighters. This plan should recognise the histories and respect the differing levels of expertise required of different services types and ultimately acknowledge the need to modernise approaches across the PPRR framework - specifically relating to fire and emergency activities. This should be done in a manner to address changing risk profiles, harmonise training activities and provide a more coordinated approach (across urban and rural operations) to planning, funding and support, to achieve a more integrated approach that meets the needs of the Queensland community into the future.
19. The implementation of reforms set out in this Report should adopt an approach that is staged, planned and that recognises certain high priority recommendations can be expedited, while others will require further consultation and engagement as part of the implementation process.

The Government's response also requested the Inspector-General of Emergency Management (IGEM) review Queensland's disaster management arrangements and propose any necessary legislative reforms and updates to the State Disaster Management Plan.

### **The IGEM Review**

On 28 April 2023, the IGEM delivered its *Review of Queensland's Disaster Management Arrangements (QDMA)* which made 10 broad recommendations that were subsequently accepted in principle by the Government. These recommendations are:

1. The Inspector-General of Emergency Management recommends the following changes to Queensland's Disaster Management legislation:
  - a. That the Commissioner of the Queensland Police Service be appointed as the Chief Executive of the *Disaster Management Act 2003*;
  - b. That the *Disaster Management Act 2003* be amended to reflect the new role and function of the Queensland Disaster Management Committee;
  - c. That a State Disaster Management Group is established within the *Disaster Management Act 2003*.
  - d. That the *Disaster Management Act 2003* be amended to establish the position, role and functions of the State Recovery Policy and Planning Coordinator.
2. The Inspector-General of Emergency Management recommends the following changes to Queensland's Disaster Management structures:
  - a. That the State Disaster Coordination Group revert to a single Chair arrangement (chaired by a Senior Queensland Police Officer), focussed on response and the aspect of preparedness for, and resilience in, response. The Terms of Reference should be amended to incorporate this and other changes to its role and functions.

- b. That a State Recovery and Resilience Group be established and embedded in the Queensland Disaster Management Arrangements alongside the State Disaster Coordination Group, to focus on disaster management functions outside of response. The Queensland Reconstruction Authority should lead the establishment of the State Recovery and Resilience Group, develop the Terms of Reference and chair the group.
  - c. That, to support the State Recovery and Resilience Group, the Functional Recovery Groups expand their remit to incorporate resilience and be renamed Functional Recovery and Resilience Groups.
  - d. That clear lines of reporting be established between any appointed State Recovery Coordinator and the State Recovery Policy and Planning Coordinator.
  - e. That an Emergency Relief Subcommittee of the State Disaster Coordination Group and the State Recovery and Resilience Group be established to reflect a strong partnership arrangement to address all aspects of Emergency Relief. The roles of Chair and Deputy Chair are to be determined via consultation between the Queensland Police Service, the Queensland Reconstruction Authority, and the Department of State Development, Infrastructure, Local Government and Planning.
  - f. That the final composition of the Emergency Relief subcommittee's inner and outer core membership be a joint responsibility of the Queensland Police Service, the Queensland Reconstruction Authority and the Department of State Development, Infrastructure, Local Government and Planning, in consultation with the State Disaster Coordinator and the State Recovery Policy and Planning Coordinator.
  - g. That the Queensland Reconstruction Authority leads state-level hazard and risk function, including the design and delivery of a risk assessment tool that is locally appropriate, cost-effective and fit for purpose.
3. The Inspector-General of Emergency Management recommends the following changes to Queensland's disaster management plan and guidelines:
    - a. That there should be one State Disaster Management Plan that succinctly describes all of Queensland's Disaster Management Arrangements, supported by separate sub-plans across the Prevention, Preparedness, Response and Recovery comprehensive model, including Resilience, mirroring the new governance structure. The State Disaster Management Plan should be reviewed biannually and/or following debriefs from significant disaster operations where relevant.
    - b. That the term 'Emergency Supply' be changed to 'Emergency Relief' in the State Disaster Management Plan.
    - c. That the Queensland Police Service, Queensland Reconstruction Authority and the Department of State Development, Infrastructure, Local Government and Planning develop an Emergency Relief strategy.
  4. The Inspector-General of Emergency Management recommends the following changes to the ways that Queensland's Disaster Management Arrangements support cross-border collaboration:
    - a. That documents and plans that support the operationalisation of Queensland's Disaster Management Arrangements is updated to encourage and enable cross-border disaster management engagement and relationships at officer-level, council to council, and district to district.



- b. That all Local and District Disaster Management Groups who share a border or borders with other States or Territories conduct collaborative disaster management planning and exercising.
5. The Inspector-General of Emergency Management recommends the following changes to the ways that ‘resilience’ is reflected in Queensland’s Disaster Management Arrangements:
  - a. That the *Disaster Management Act 2003* be amended to include a definition of ‘resilience’ that reflects the Queensland Government’s endorsed definition within the Queensland Strategy for Disaster Resilience, clarifying that Resilience functions incorporate activities related to the phases of Prevention, Preparedness, Response and Recovery.
6. The Inspector-General of Emergency Management recommends the following change to the way that Disaster Recovery Funding Arrangements are supported through Queensland’s Disaster Management Arrangements:
  - a. That the Queensland Reconstruction Authority be Queensland’s lead agency coordinating Disaster Recovery Funding Arrangements. Ministerial responsibility for activation of Disaster Recovery Funding Arrangements should transfer from the Minister for Police and Corrective Services and Minister for Fire and Emergency Services to the Minister responsible for the Queensland Reconstruction Authority.
7. The Inspector-General of Emergency Management recommends the following action linked to disaster management preparedness messaging:
  - a. That the Queensland Reconstruction Authority ‘Get Ready Queensland’ brand expands to include bushfire awareness campaigns and ‘If It’s Flooded Forget It’.
8. The Inspector-General of Emergency Management recommends the following actions linked to Disaster Management sector capability and accreditation:
  - a. That all training associated with the Queensland Disaster Management Training Framework should, wherever possible, identify and utilise pathways to achieve nationally recognised qualifications.
  - b. That the Queensland Police Service undertake a capability assessment of the State Emergency Service, Marine Rescue Queensland, and the broader disaster management sector, for the present and future. This should include a review of the Queensland Disaster Management Training Framework.
9. The Inspector-General of Emergency Management recommends the following actions to support a seamless transition of Disaster Management responsibilities from Queensland Fire and Emergency Services to the Queensland Police Service:
  - a. That the roles and Terms of Reference of all current state and national disaster management committees that are non-hazard specific, and that reflect state disaster management arrangements and policy, be tabled at the Reform Implementation Taskforce for discussion and consideration of future representation.
  - b. That the Reform Implementation Taskforce seeks clarity on all Memorandum of Understanding and agreements that are currently in scope as a result of the proposed Machinery of Government changes.
  - c. That any open Queensland Fire and Emergency Services recommendations made by the Inspector-General of Emergency Management, that are not hazard specific, transition to the Queensland Police Service at a time to be

- identified by the Reform Implementation Taskforce. Queensland Fire and Emergency Services should continue to progress implementation of recommendations, in consultation with the Queensland Police Service, until Machinery of Government changes are implemented.
- d. That the Reform Implementation Taskforce determines the most appropriate agency to manage the ongoing whole-of-government coordination of implementation and reporting on the recommendations of the Royal Commission into National Natural Disaster Arrangements. Until this time, Queensland Fire and Emergency Services should continue to progress implementation of recommendations, in consultation with the Reform Implementation Taskforce.
10. The Inspector-General of Emergency Management recommends the following actions linked to the effective implementation and evaluation of the changes to Queensland's Disaster Management Arrangements accepted from this Review:
- a. That, in the 2027/28 financial year, the Inspector-General of Emergency Management partner with the Queensland Police Service and Queensland Reconstruction Authority to review the implementation of the Machinery of Government changes, and revised Queensland Disaster Management Arrangements.
  - b. That, for the recommendations arising from this review, the Office of the Inspector-General of Emergency Management is involved in consultation prior to the finalisation of the government action plan, to align intended actions with the intent of the recommendations.
  - c. That this Review report be returned to the Office of the Inspector-General of Emergency Management to monitor, evaluate and report on progress and implementation of the recommendations that are accepted in whole or in part by government.

Undertaking the recommended emergency services reform requires the successful completion of a multitude of tasks including amendments to legislation, machinery-of-government changes and policy development including the negotiation and preparation of service agreements and grants allocations. Legislative amendments are also required to either specifically meet these reforms or to allow later administrative processes to achieve that outcome.

## **Achievement of policy objectives**

Legislative reform of Queensland's emergency services and disaster management arrangements will be progressed in two stages. The first stage consists of three Bills that will make the legislative amendments necessary to restructure emergency service arrangements as recommended in the Independent Review Report and meet certain recommendations made in the IGEM Review. This will be achieved by:

- establishing Marine Rescue Queensland (MRQ) as a state-wide marine rescue service through the Marine Rescue Queensland Bill 2023;
- establishing the SES through the State Emergency Service Bill 2023;
- aligning MRQ and SES under the control of the QPS through the Emergency Services Reform Amendment Bill 2023 which will make the necessary administrative and consequential amendments for this to occur; and
- formally establishing the State Disaster Management Group (SDM group) within the DM Act through the Emergency Services Reform Amendment Bill 2023.

The importance of SES and marine rescue volunteers to the success and effectiveness of the SES and MRQ is acknowledged through the State Emergency Service Bill 2023 and the Marine Rescue Queensland Bill 2023. These Bills will establish the SES and MRQ in ‘standalone Acts’ which will emphasise the value of each organisation, promote volunteer engagement and provide a framework that outlines the purpose, functions and command structures of each organisation and the roles of their members.

The Emergency Services Reform Amendment Bill 2023 (the Bill) will achieve its objectives by amending the following Acts and Regulations:

- the *Civil Liability Regulation 2014*;
- the *Disaster Management Act 2003*;
- the *Disaster Management Regulation 2014*;
- the *Fire and Emergency Services Act 1990*;
- the *Nature Conservation (Animals) Regulation 2020*;
- the *Police Service Administration Act 1990*;
- the *Workers’ Compensation and Rehabilitation Act 2003*;
- the *Workers’ Compensation and Rehabilitation Regulation 2014*; and
- the *Working with Children (Risk Management and Screening) Act 2000*.

### **The Civil Liability Regulation 2014**

There are various Acts that provide civil liability protections for specific persons. Section 26 ‘Protection of persons performing duties for entities to enhance public safety’ of the *Civil Liability Act 2003* provides that civil liability does not attach to a person for an act done, or omission made, while giving first aid or other assistance to a person in distress if:

- the first aid is given by a person performing duties to enhance public safety for an entity prescribed under a regulation that provides services to enhance public safety; and
- the first aid or other assistance is given in an emergency; and
- the act or omission is in good faith without reckless disregard for the safety of the person in distress or another.

Section 27 ‘Protection of prescribed entities performing duties to enhance public safety’ of the *Civil Liability Act 2003* provides that civil liability does not attach to a prescribed entity in relation to an act done, or omission made, while giving first aid or other assistance to a person in distress if:

- the first aid is given by the entity while performing duties to enhance public safety; and
- the first aid or other assistance is given in an emergency; and
- the act or omission is in good faith without reckless disregard for the safety of the person in distress or another.

Schedule 1 and 2 of the *Civil Liability Regulation 2014* lists the SES under the FES Act, the Queensland flotillas of the Australian Volunteer Coast Guard Inc., and Volunteer Marine Rescue Association Queensland Inc. and affiliated bodies as prescribed entities extending the civil liability protections under the *Civil Liability Act 2003* to these entities.

This Bill will ensure current civil liability protections will continue to apply to the SES, as an organisation, and to its members. The Bill will also apply these protections to the new MRQ and its members.

The Bill will not amend the current references to ‘the Queensland flotillas of the Australian Volunteer Coast Guard Inc.’ and ‘Volunteer Marine Rescue Association Queensland Inc. and affiliated bodies’ which will allow these organisations to rely on the existing civil liability protections under the *Civil Liability Act 2003* into the future.

**The Disaster Management Act 2003**

The Bill will formally establish the SDM group within the DM Act as recommended in the IGEN Review. The SDM group is designed to support the QDMC by providing strategic oversight and flexible, agile leadership early in a disaster event cycle and acting as a precursor prior to the convening of the QDMC, if considered necessary. The SDM group will also be able to provide advice or recommendations on disaster management strategies and policies to the QDMC.

The membership of the SDM group is limited and includes only the core Ministers, departmental officials and holders of statutory positions responsible for disaster management in Queensland. This restricted membership will allow the SDM group to be convened on short notice to ensure it is highly responsive to any emerging disasters or similar events.

**The Fire and Emergency Services Act 1990** (FES Act)

The Bill will make consequential amendments to the FES Act arising from the realignment of Queensland’s disaster management arrangements and the relocation of provisions relating to the SES to the new *State Emergency Service Act 2023* and other Acts.

Provisions within the FES Act referring to an emergency service unit (ESU) will be omitted. ESUs were created to provide an amalgam of SES functions, RFS firefighting and prevention activities and Queensland Ambulance Service (QAS) first responder activities to remote or rural locations. Currently, there are two ESUs operating in Queensland at Rolleston and Tambo. However, these ESUs have been operating as SES groups. Consequently, the Bill will not provide for the continuation of ESUs and they will be replaced, in consultation with relevant local governments, with SES units.

**The Nature Conservation (Animals) Regulation 2020** (NCA Regulation)

Section 30 ‘Emergency service officers dealing with dead protected animals’ of the NCA Regulation authorises an emergency service officer to carry out certain activities in relation to a dead protected animal for the purposes of training members of the emergency service. The section allows the officer to:

- buy, accept or receive the animal from a person authorised to sell or give away the animal;
- keep the animal; and
- use the animal (except to process it or use it commercially).

This section currently defines an emergency service officer to mean officers from:

- QAS;
- QFES;
- QPS; and
- SES.

The Bill will expand the list of emergency service officers who may rely on this section to deal with dead protected animals to include MRQ members. This will allow MRQ personnel to deal with dead protected animals when delivering training to other emergency service officers about, for example, dangerous protected animals unique to the marine environment.

**The Police Service Administration Act 1990** (PSA Act)

The PSA Act establishes the legislative framework for the QPS by providing for its administration, maintenance, membership, development and administration. MRQ and SES personnel will form part of the QPS by amendments in the Bill that will list them as staff members. This will ensure that:

- the QPS Commissioner (Commissioner) can deliver consistent governance and command structures for these personnel;
- IT systems can be employed with consistent security settings and frameworks;
- information may be shared readily to members; and
- efficiency gains may be made through reducing duplicated policies and procedures.

The PSA Act imposes certain responsibilities and obligations on QPS staff members. The following table summarises the effect that relevant provisions of the PSA Act will have on all MRQ and SES personnel by deeming these persons as QPS staff members:

<b>PSA Act provision</b>	<b>Effect on MRQ and SES personnel as QPS staff members</b>
Section 4.6 'Communications between Minister and commissioner'	The Minister, having regard to the advice of the Commissioner, may give written directions to the Commissioner about the number and deployment of staff members and the number and location of police establishments and police stations.
Section 4.9 'Commissioner's directions'	In discharging the prescribed responsibility, the Commissioner may issue directions to staff members as the Commissioner considers necessary or convenient for the efficient and proper functioning of the police service.
Section 4.10 'Delegation'	The Commissioner may delegate powers of the Commissioner under the PSA Act or any other Act to a staff member.
Section 6A.1 'Duty concerning misconduct and other grounds for disciplinary action'	If a staff member knows or reasonably suspects that conduct of a police officer or police recruit (whether on or off-duty) is misconduct, the staff member is to report the occurrence of the conduct as soon as practicable to the Commissioner and to the chairperson of the Crime and Corruption Commission.
Section 10.3 'Protection from liability for reports'	This section declares it is lawful for a staff member to, in good faith and in the execution of duty report their opinion, judgement or recommendation. Further, neither the Crown nor the staff member will be liable for reports made in good faith and in the execution of duty about the efficiency, conduct or character of any officer or staff member.
Section 10.5 'Civil liability of police officers and others for engaging in conduct in official capacity'	A staff member does not incur civil liability for engaging in conduct in an official capacity. Liability attaches instead to the Crown. If liability attaches to the Crown, the Crown may recover contributions from the staff member if the conduct was not in good faith and was grossly negligent.

<p>Section 10.7 ‘Provision of legal representation’</p>	<p>The Commissioner may provide legal representation on behalf of a staff member who was acting in the execution of duty for an action, claim, demand or offence bought by a party other than the Crown. If the staff member is found to be not acting in the execution of duty, the Commissioner may recover costs.</p>
<p>Section 10.11 ‘Ownership of official property’</p>	<p>For the purpose of legal proceedings anything (that is not private property) that is appropriated to the use of, or is used, by a staff member is taken to be the property of the Commissioner.</p>
<p>Section 10.12 ‘Legal Proceedings’</p>	<p>In a proceeding, an allegation or statement in a complaint or another initiating process that a stated thing is appropriated for the use of, was used by, a staff member in their capacity as a staff member is evidence of the thing alleged or stated. This section also provides that in a proceeding, the Commissioner may sign a document proving that at a stated time and place a staff member was authorised to operate a saliva analysing instrument.</p>
<p>Section 10.20 ‘Bribery or corruption of officers or staff members’</p>	<p>This section prohibits a person from corruptly giving, conferring on or procuring for a staff member property or a benefit of any kind with a view to:</p> <ul style="list-style-type: none"> <li>• the staff member neglecting their duty;</li> <li>• influencing the staff member in the performance of their duty; or</li> <li>• the staff member using or taking advantage of their position in the QPS to facilitate the commission of an offence, or to providing the person with any information, a service or advantage whether or not the person would be entitled thereto.</li> </ul> <p>The maximum penalty for this offence is 100 penalty units.</p>

Additionally, the PSA Act provides a legislative framework for the random alcohol testing and targeted alcohol and drug testing of relevant persons. These relevant persons include police officers, watch-house officers and QPS staff who work in a critical area. A critical area is defined in the PSA Act to include a wide range of places where a staff member performs functions for the police service including areas such as a communications centre. Relevant persons may be tested in various circumstances including if they are involved in a critical incident such as a death in custody or the discharge of a firearm in circumstances that caused, or could have caused, injury to a person. The Bill will expand the list of relevant persons to include MRQ and SES members who are employed under the *Public Sector Act 2022*. Other MRQ and SES members will not be subject to the QPS alcohol and drug testing program.

Currently, under section 5A.21A ‘Agreements about counselling and rehabilitation’ of the PSA Act, all QPS members can request assistance from the QPS Alcohol and Drug Testing Coordinator to obtain treatment, counselling and rehabilitation for their personal use of alcohol or other drugs. The Bill will expand the list of staff members to include MRQ and SES members employed under the *Public Sector Act 2022*. Other MRQ and SES members will not be eligible for assistance from the QPS Alcohol and Drug Testing Coordinator.

Finally, the PSA Act outlines the information that must be disclosed to the Commissioner by a person who is or is seeking to be engaged by the QPS. The purpose of the disclosure requirement is to determine the person’s suitability to be, or continue to be, engaged by the QPS. The Bill will amend the PSA Act to require an MRQ or SES member employed under the *Public Sector Act 2022* to disclose the same information required of a QPS staff member currently employed within the service.

To ensure consistency with the vetting practices currently undertaken by the SES, MRQ and SES volunteers, and SES members employed by local government will be required to hold a Blue Card and the Bill will amend the PSA Act to require the following changes of circumstances to be notified:

- information about the volunteer's criminal history; and
- a suspension of working with children authority or a negative notice under the *Working with Children (Risk Management and Screening) Act 2000*.

**The Workers' Compensation and Rehabilitation Act 2003** (the WCR Act)

Section 13 of the WCR Act authorises the Commissioner of the Queensland Fire and Emergency Service (the Fire Commissioner) to enter into Workcover insurance contracts for the following persons:

- an SES member; or
- a person required to give reasonable help under section 77(1)(q), 107(2)(h) or 112(3)(g) of the DM Act; or
- another person performing a function or exercising a power under the DM Act.

This section provides that a person covered by the contract is entitled to compensation for an injury only while engaged in disaster operations or performing an emergency function, or participating in an activity arising out of, or in the course of, disaster operations or performing an emergency function, including training.

The Bill will implement significant reform to the QDMA by transferring the responsibility of certain functions from the Fire Commissioner to the QPS Commissioner. One function is the ability to enter into insurance contracts for SES members and others. The Bill will also expand the range of persons to whom these contracts may relate to include MRQ members.

**The Workers' Compensation and Rehabilitation Regulation 2003** (the WCR Regulation)

Additionally, subdivision 3BA 'PTSD sustained by first responders and other particular persons' of chapter 1, part 4, division 6 of the WCR Act provides presumptive legislation for specific occupations and professions. Under this subdivision, if a person is a worker or relevant volunteer employed in an occupation or profession prescribed under the WCR Regulation the person suffers post-traumatic stress disorder, it will be presumed that the injury arose as a consequence of the person's employment if certain criteria are met.

The categories of persons who are deemed first responders are listed in schedule 6A 'First responders' of the WCR Regulation. This list includes a fire service officer, SES member and a RFS brigade member. The Bill will expand the list of persons to include MRQ members.

**The Working with Children (Risk Management and Screening) Act 2000** (the WWC Act)

Currently, SES volunteers and SES members employed by local government are required to obtain a Blue Card under the WWC Act when applying to join the SES. The Bill will maintain this requirement and expand this obligation to include MRQ volunteers. As the Bill deems MRQ and SES members as QPS staff members, a further amendment will be made to the WWC Act to clarify that the exemption from the requirement to obtain a Blue Card that applies to QPS staff members will not apply to these classes of SES and MRQ members. To maintain efficiencies, MRQ employees and SES members employed by the State will have the same

vetting requirements as QPS staff members and will be excluded from Blue Card requirements when performing their duties.

The second stage of legislative reform of Queensland's emergency services and disaster management arrangements is intended to meet the remaining recommendations made in the Independent Review Report and the IGEM Review that require legislative amendments.

The Government is committed to implementing these reforms by 30 June 2024 without diminishing the delivery of emergency services.

## **Alternative ways of achieving policy objectives**

There are no alternative ways of achieving the policy objectives other than by legislative reform.

## **Estimated cost for government implementation**

The Government has allocated a total funding package of up to \$578 million over 5 years from 2023-2024 and \$142 million per annum ongoing.

This will be achieved by:

- allocating up to \$10 million over two years (2022-2032 and 2023-2024) and providing 30 temporary full-time equivalent (FTE) positions to the RIT;
- allocating approximately \$142 million per annum ongoing from 2023-2024 through the following distributions:
  - \$60 million per annum for the SES;
  - \$27 million per annum for the establishment of MRQ;
  - \$20 million per annum for disaster management functions in the QPS;
  - \$11 million per annum to contribute to the cost of 143 additional firefighters;
  - \$10 million per annum for QPS corporate support;
  - \$9 million per annum for service level agreements with SLSQ, RLSSQ and PCYC Emergency Service Cadets;
  - \$4 million per annum to the Queensland Reconstruction Authority (QRA); and
  - \$1 million per annum for the Office of the Chief Fire Officer; and
- allocating up to 550 FTE positions to support implementation of the Independent Review Report recommendations which includes the provision of an additional 60 FTE positions for the SES.

Finally, an additional 30 FTE positions have been allocated to the QRA to support further disaster preparedness and resilience programs and initiatives.

## **Consistency with fundamental legislative principles**

The amendments have been drafted with due regard to the fundamental legislative principles (FLPs) in section 4 of the *Legislative Standards Act 1992* (LSA). The principles include requiring that legislation has sufficient regard to:

- the rights and liberties of individuals; and
- the institution of Parliament.

The amendments that may impact upon those principles are considered further in these notes.



## **Whether a Bill has sufficient regard to the rights and liberties of individuals**

The Bill introduces new offence provisions and relocates existing offence provisions which may be considered to impact upon the rights and liberties of individuals by making the subject person liable to criminal sanctions for non-compliance. For brevity, the offence provisions will be listed, immediately followed by commentary about their potential impact upon FLPs.

- Offences involving the unauthorised use of confidential information held by the QPS (section 10.1 of the PSA Act).

The Bill expands the current cohort of QPS staff members to include MRQ and SES members which widens the application of the offence prohibiting the misuse of confidential information held by the QPS to include MRQ and SES members. The offence provision will impose a maximum penalty of 100 penalty units or two years imprisonment.

In determining whether this amendment is consistent with the FLPs, consideration should be given to whether the consequences imposed by legislation are proportionate and relevant to the actions to which the consequences are applied by the legislation. Penalties should be proportionate to the offence and legislation should provide a higher penalty for an offence of greater seriousness than for a lesser offence. Additionally, penalties within legislation should be consistent with each other.

The QPS maintains personal and confidential information on a range of matters. The unlawful disclosure or use of such information could cause great detriment to the individuals to whom the information relates as well as compromise police investigations and damage the QPS's reputation.

The proposed increase in maximum penalty is considered warranted to reflect the potential serious consequences of disclosing confidential information. This is particularly so, given the contemporary means available to widely disseminate information such as the internet or social media. Furthermore, the proposed penalty is consistent with equivalent offences in other Acts.

The potential breach of FLPs is justified by the need to protect the confidential information held by the QPS and to protect the rights to privacy of individuals to whom that information relates.

- Bribery or corruption of officers or staff members (section 10.20 of the PSA Act)

Section 10.20 'Bribery or corruption of officers or staff members' of the PSA Act prohibits a person from corruptly giving property or a benefit to a QPS staff member to entice the staff member to neglect their duty, influence the staff member in the performance of their duty or to provide the person with information, a service or an advantage. This offence provision carries a maximum penalty of 100 penalty units.

The Bill will deem MRQ and SES members as QPS staff members, expanding the application of this offence to persons who attempt to bribe or corrupt MRQ or SES members.

MRQ and SES members hold an important role in the community. They are relied upon to provide an essential emergency service to the public and in some instances are vested with specific powers that differentiate them from other public officials. The extension of an offence

to deter offenders from attempting to bribe or corrupt these personnel is in the public interest and outweighs the concern about the infringement of an individual's right to liberty.

*Legislation should not confer immunity from proceedings or prosecution without adequate justification (section 4(3)(h) of the LSA) (section 10.5 of the PSA Act)*

The previous Scrutiny Committee stated that one of the fundamental principles of the law is that everyone is equal before the law, and each person should therefore be fully liable for their acts or omissions. However, the Committee did recognise that the conferral of immunity is appropriate in certain situations.

Section 10.5 'Civil liability of police officers and others for engaging in conduct in official capacity' of the PSA Act provides that the following persons do not incur civil liability for engaging in, or the result of engaging in, conduct in an official capacity. These persons include:

- a police officer;
- a staff member;
- a recruit; and
- a volunteer.

Amendments in the Bill will confer civil liability on MRQ and SES members by virtue of these members becoming QPS staff members. Section 10.5 of the PSA Act further provides that if liability does not attach to a person through the operation of this section, the liability will instead attach to the Crown.

This amendment is considered justifiable on the basis that it is consistent with existing civil liability provisions that apply to QPS staff members and others within the PSA Act.

The previous Scrutiny Committee has considered immunity provisions conferred to parties involved in disaster management. Although not surprised at the level of immunity conferred, having regard to the nature of the legislation which provided for disaster management, the Scrutiny Committee has referred to Parliament, without express objection, provisions that conferred immunity of the State and local governments and on 'officials' to the extent of things done under the legislation 'in good faith and without reckless disregard'.

In the context of these amendments, the provision of civil liability protections is justified as SES and MRQ members, many of whom are volunteers, are participating in activities that are of significant benefit to the public interest including activities in response to a natural disaster. The exposure of these persons to potential civil liability under these circumstances would be inappropriate and may lead to a reduction in volunteer participation which would be deleterious to the SES and the MRQ as organisations.

## Consultation

A consultation draft of the Bill was circulated with the following stakeholders:

- Crime and Corruption Commission;
- Inspector-General of Emergency Management;
- Local Government Association of Queensland;
- Office of the Information Commissioner;
- PCYC Queensland;
- Queensland Auxiliary Firefighters Association;

- Queensland Fire and Emergency Service Senior Officers Union of Employees;
- Queensland flotillas of the Australian Volunteer Coast Guard Association Inc;
- Queensland Police Commissioned Officers' Union of Employees;
- Queensland Police Union of Employees;
- Queensland Recreational Boating Council;
- Royal Life Saving Society Queensland;
- Rural Fire Brigade Association Queensland;
- State Emergency Service Volunteer Association;
- State Emergency Service Volunteer Consultative Committee;
- Surf Life Saving Queensland;
- Together Union;
- United Firefighters Union Queensland;
- Volunteer Marine Rescue Association Queensland Inc and affiliated bodies; and
- Volunteering Queensland.

Stakeholder feedback was taken into account in finalising the Bill.

## **Consistency with legislation of other jurisdictions**

The amendments in the Bill are specific to the State of Queensland and are not uniform with, or complementary to, the legislation of the Commonwealth or any other State.

## Notes on provisions

### Part 1 Preliminary

#### 1. Short title

Clause 1 provides that, when enacted, the Act may be cited as the *Emergency Services Reform Amendment Act 2023*.

#### 2. Commencement

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

### Part 2 Amendment of Disaster Management Act 2003

#### 3. Act amended

Clause 3 states that this part amends the *Disaster Management Act 2003*.

#### 4. Insertion of new pt 2, div 1A

Clause 4 inserts the new Division 1A (State Disaster Management Group) which consists of the new sections 21F to 21K that are explained below:

#### **Division 1A State Disaster Management Group**

##### **21F Establishment**

The new section 21F establishes the State Disaster Management Group (SDM group).

##### **21G Functions and powers**

The new section 21G outlines the functions of the SDM group as:

- to provide timely strategic oversight and support for disaster management and disaster operations for the State;
- to consider strategies and policies for managing a disaster and the giving of advice to the QDMC;
- to perform other functions given to the group under this Act or another Act; and
- to perform any functions incidental to a function mentioned above.

This new section also confirms that the SDM group has the power to do anything necessary or convenient for the performance of its functions.

##### **21H Membership**

The new section 21H provides for the membership of the SDM group. The membership is:

- the persons prescribed by regulation; and
- other persons invited by the Chairperson of the SDM group.

This new section confirms that a person invited to be a member of the SDM group by the chairperson will be subject to any conditions decided by the chairperson.

### **21I Chairperson and deputy chairperson**

The new section 21I outlines that the membership of the chairperson and deputy chairperson of the SDM group will be prescribed by regulation.

The chairperson of the SDM group may appoint another member to act as chairperson of the SDM group during a vacancy.

The deputy chairperson of the SDM group must act as the chairperson if:

- the chairperson is not available; or
- the chairperson's appointee is not available.

### **21J Functions of chairperson**

The new section 21J provides that the chairperson of the SDM group is to manage and coordinate the business of the SDM group and to ensure that the SDM group performs its functions.

### **21K Conduct of business and meetings**

The new section 21K provides that the SDM group may conduct its business, including its meetings, in the way it considers appropriate.

## **5. Amendment of schedule (Dictionary)**

Clause 5 defines the SDM group as the group established under section 21F of the DM Act.

This clause also provides a definition of 'chairperson' of the SDM group to mean the person prescribed by regulation under section 21I(1) of the DM Act.

## **Part 3 Amendment of Disaster Management Regulation 2014**

### **6. Regulation amended**

Clause 6 states that this part amends the *Disaster Management Regulation 2014*.

### **7. Insertion of new ss 4A and 4B**

Clause 7 inserts the new sections 4A and 4B which are explained below:

#### **4A Members of SDM group—Act, s 21H**

The new section 4A lists the membership of the SDM group as:

- the Premier;
- the Minister recognised as the deputy for the Premier;
- the Ministers administering:
  - the *Local Government Act 2009*; and

- the *Public Safety Preservation Act 1986*;
- the chief executives of the departments that administer:
  - the *Constitution of Queensland 2001*;
  - the *Local Government Act 2009*; and
  - the *Public Safety Preservation Act 1986*;
- the QPS Commissioner;
- the Fire Commissioner;
- the State Disaster Coordinator; and
- the chief executive officer of the Queensland Reconstruction Authority.

#### **4B Chairperson and deputy chairperson of SDM group—Act, s 21I**

The new section 4B lists:

- the Premier as the chairperson of the SDM group; and
- the Minister recognised as the deputy for the Premier as the deputy chairperson of the SDM group.

## **Part 4 Amendment of Fire and Emergency Services Act 1990**

### **8. Act amended**

Clause 8 states that this part amends the *Fire and Emergency Services Act 1990* (FES Act).

### **9. Amendment of s 2 (Objects of Act)**

Clause 9 omits the current section 2(c) and inserts new section 2(c) to clarify that the objects of the Act are to establish a framework for the management of the Queensland Fire and Emergency Service.

### **10. Amendment of s 7A (Functions of commissioner)**

Clause 10 omits section 7A(1)(b) and renumbers section 7A(1)(c) as section 7A(1)(b). This amendment confirms that the main functions of the Fire Commissioner no longer include the management and support of the SES and ESUs.

### **11. Omission of ch 4 (State Emergency Service, emergency service units and authorised rescue officers)**

Clause 11 omits chapter 4 which established the SES, ESUs, codes of practice for SES units and ESUs, and authorised rescue officers. This is to facilitate the SES transitioning to the *State Emergency Service Act 2023*.

### **12. Amendment of s 150D (Failure to assist or give reasonable help)**

Clause 12 omits the heading of section 150D and inserts new heading ‘150D Failure to assist’. This clause also omits the phrase ‘or give reasonable help under section 149(2)(h)’. These amendments are necessary following the omission of chapter 4 in an earlier amendment.

### **13. Amendment of s 150G (Impersonating authorised rescue officer etc.)**

Clause 13 omits the heading of section 150G and inserts new heading ‘150G Impersonating officer or member’.

Clause 13 omits section 150G(1)(b) to (1)(e), and renumbers subsection 150G(1)(f) as subsection 150G(1)(b).

The new *State Emergency Service Act 2023* will include an offence for impersonating an SES member and an authorised rescue officer which will have a maximum penalty of 100 penalty units.

**14. Replacement of s 150H (Using restricted expressions etc.)**

Clause 14 replaces the current section 150H with the new section ‘150H Using restricted expressions’ which omits references to ‘emergency service unit’, ‘ESU’, ‘ES unit’, ‘State Emergency Service’, and ‘SES’ as restricted expressions.

The new *State Emergency Service Act 2023* includes an offence relating to the use of restricted expressions relating to the SES which will have a maximum penalty of 40 penalty units.

**15. Omission of s 150I (Warning device or lights on SES or ES vehicle)**

Clause 15 omits section 150I. The new *State Emergency Service Act 2023* will include a provision addressing warning devices or lights on SES vehicles.

**16. Amendment of s 151I (Appointments and authority)**

Clause 16 omits section 151I(1)(h) to (m) to omit references to ‘an SES member’, ‘a local controller of an SES unit’, ‘an SES coordinator’, ‘an ESU member’, ‘an ES unit coordinator’, and ‘a fire coordinator for an ES unit’.

The new *State Emergency Service Act 2023* will include a provision addressing the appointments and authority of SES members.

**17. Replacement of s 152 (Exemption from toll)**

Clause 17 omits section 152 (Exemption from toll) and replaces it with new section 152. The effect of the replacement is that the exemption from toll will be limited to a fire officer driving a fire engine or a similar vehicle and will no longer extend to an SES member or an ESU member. This section provides that a fire officer is exempt from the payment of a toll on a road, bridge or ferry.

The new *State Emergency Service Act 2023* will include a provision addressing exemption from tolls for SES members.

**18. Amendment of s 152B (Use of unregistered vehicles on roads)**

Clause 18 amends the heading of s 152B to state ‘Use of unregistered vehicle on road by rural fire brigade’ to reflect that the section applies to a vehicle used by the rural fire brigade. The clause makes consequential amendments to sections 152B(1)(a) and (b) by omitting references to ‘or an ES unit’, ‘or ES unit’, and ‘Example for paragraph (b)—a vehicle carrying a sign with the words ‘emergency service unit vehicle’.

**19. Omission of ss 153C and 154C**

Clause 19 omits sections 153C and 154C which contain provisions for civil liability protection for SES members. The Bill will provide civil liability protection for SES members in other legislation such as the *Civil Liability Act 2003* and the *Police Service Administration Act 1990*.

**20. Amendment of s 154E (Regulation-making power)**

Clause 20 omits section 154E(2)(b) and inserts new section 154E(2)(b) to remove the regulation-making power under this Act in relation to the SES.

The new *State Emergency Service Act 2023* will include a provision to authorise the making of regulations in relation to the SES under that Act.

**21. Amendment of sch 6 (Dictionary)**

Clause 21 omits the following definitions from Schedule 6:

- authorised rescue officer;
- emergency-related function;
- emergency service area;
- ESU function;
- ESU member;
- ES unit;
- ES unit coordinator;
- ES vehicle;
- local controller;
- relevant ES unit;
- SES;
- SES coordinator;
- SES function;
- SES member;
- SES unit; and
- SES vehicle.

The clause also amends the definition of ‘code of practice’ by omitting the words ‘or 147D’.

**Part 5                      Amendment of Police Service Administration Act 1990**

**22. Act amended**

Clause 22 states that this part amends the *Police Service Administration Act 1990* (PSA Act).

**23. Amendment of s 2.5 (Administration of staff members)**

Clause 23 inserts new subsections 2.5(1)(d) and (e) to include MRQ and SES members as QPS staff members.

Clause 23 amends subsection 2.5(2) by omitting ‘in the service’ and inserting the words ‘in or for the service’ to clarify that a staff member can provide duties in or for the police service.



**24. Amendment of s 4.8 (Commissioner's responsibility)**

Clause 24 omits the existing subsection 4.8(1) and inserts new subsection 4.8(1) which expands the QPS Commissioner's responsibilities to include the efficient and proper administration, management and functioning of MRQ and the SES under the *Marine Rescue Queensland Act 2023* and the *State Emergency Service Act 2023* respectively.

**25. Amendment of s 5.18 (Appointment of watch-house officers)**

Clause 25 makes a technical amendment by replacing the first sentence of the note in section 5.18(3) with a new first sentence that states: 'Staff members may include persons appointed under the *Public Sector Act 2022* or section 8.3(5) but do not include police officers'.

**26. Amendment of s 5A.3 (Person to whom pt 5A applies)**

Section 5A.3 outlines the relevant persons who are subject to the QPS alcohol and drug testing regime contained in part 5A.

Clause 26 replaces subsection 5A.3(1)(b) with the new 5A.3(1)(b) which exempts MRQ volunteers, SES volunteers and SES local government employees from the random and targeted alcohol and drug testing requirements that applies to QPS personnel working in critical areas.

**27. Amendment of s 5A.21A (Agreements about counselling and rehabilitation)**

Clause 27 replaces the existing subsection 5A.21A(1) with the new subsection 5A.21A(1) which states that an eligible member of the police service may make a written request to a prescribed person for the provision of counselling or rehabilitation about the member's personal use of alcohol or a drug.

This clause provides that an 'eligible member' means a member of the police service other than an MRQ volunteer, SES volunteer or SES local government employee. This clause clarifies that the section applies only to an SES or MRQ member who is employed by the *Public Sector Act 2022*.

**28. Amendment of s 5AA.3 (Meaning of engaged by the service)**

Clause 28 amends section 5AA.3(g) of the PSA Act to clarify that a volunteer means one engaged under section 10.5(6) of the PSA Act.

**29. Amendment of s 5AA.10A (Information about disciplinary action to be given by chief executive)**

Clause 29 is a technical amendment which replaces the words 'as a member of the service' with 'by the service'.

**30. Amendment of s 10.5 (Civil liability of police officers and others for engaging in conduct in official capacity)**

Clause 30 amends the definition of 'volunteer' in section 10.5(6) of the PSA Act. The clause inserts 'but does not include an MRQ volunteer or SES volunteer' after 'decided by the Commissioner' to clarify that for the purposes of section 10.5 a volunteer does not include an

MRQ volunteer or SES volunteer. This amendment maintains the current civil liability protections available to an SES volunteer under the *Public Sector Act 2022*.

**31. Insertion of new pt 11, div 17**

Clause 31 inserts the new division 17 (Transitional provision for Emergency Services Reform Amendment Act 2023) of part 11 which consists of section 11.55 (Advising MRQ and SES members engaged by service of duties of disclosure etc.):

The new section 11.55 applies to a person who, on the commencement of this Act is both an MRQ or SES member and a QPS staff member. In these circumstances, the QPS Commissioner is obliged to provide the relevant information outlined in section 5AA.5(1)(a) and give the guidelines mention in section 5AA.5(1)(b) as soon as practicable after the commencement of this Act. The obligation exists if the QPS Commissioner considers that the terms of the engagement would have required this obligation to be met.

**32. Amendment of sch 1 (Relevant information)**

Clause 32 amends the heading of schedule 1 that relates to relevant information about staff members, applicants to become staff members, volunteers and staff members on work experience to reflect that this schedule does not apply to MRQ and SES volunteers or SES local government employees, or applicants to become those persons.

Clause 32 amends schedule 1 to list the relevant information for MRQ volunteers, SES volunteers and SES local government employees, and applicants to these positions. The relevant information is set out as:

1. Information in a database kept by the ACC about the person's criminal history
2. Information about—
  - the suspension or cancellation of the person's working with children authority under the *Working with Children (Risk Management and Screening) Act 2000*
  - the issue of a negative notice to the person under the *Working with Children (Risk Management and Screening) Act 2000*

**33. Amendment of sch 2 (Dictionary)**

Clause 33 amends the dictionary in schedule 2 to omit the definition for 'prescribed responsibility'.

Clause 33 inserts definitions for the following:

- MRQ member;
- MRQ volunteer;
- prescribed responsibility;
- SES local government employee;
- SES function;
- SES member; and
- SES volunteer.

## **Part 6                      Amendment of Workers' Compensation and Rehabilitation Act 2003**

### **34.     Act amended**

Clause 34 states that this part amends the *Workers' Compensation and Rehabilitation Act 2003*.

### **35.     Amendment of s 13 (Particular persons under Disaster Management Act 2003)**

Clause 35 omits existing subsection 13(2) and (3) and inserts new subsection 13(2) and (3) which provide that an insurance contract may cover a person required to give reasonable help under sections 77(1)(q) or 112(3)(g) of the DM Act or another person performing a function or exercising a power under that Act. This clause also provides that a person covered by the contract is entitled to compensation for injury sustained only while engaged in disaster operations, or participating in an activity arising out of, or in the course of, disaster operations, including training.

### **36.     Insertion of new ss 13A and 13B**

Clause 36 inserts the new sections 13A (Marine Rescue Queensland volunteer) and 13B (State Emergency Service volunteer). These sections provide that WorkCover may enter into a contract of insurance with the QPS Commissioner as a consequence of the QPS Commissioner's prescribed responsibility for administering the MRQ and the SES. The contract entitles an MRQ volunteer and an SES volunteer to compensation for an injury sustained when performing an authorised function, or participating in an activity arising out of, or in the course of, performing an authorised function, including training, for their respective organisation.

## **Part 7                      Amendment of Working with Children (Risk Management and Screening) Act 2000**

### **37.     Act amended**

Clause 37 states that this part amends the *Working with Children (Risk Management and Screening) Act 2000* (the WWC Act).

### **38.     Amendment of sch 1, s 26 (Person engaged in employment for the police service)**

Section 26 of schedule 1 of the WWC Act declares that chapter 7 of the Act does not apply to a person who is employed under the PSA Act or is engaged by the QPS to the extent the person is performing a function of the QPS.

Clause 38 confirms that MRQ or SES volunteers and SES local government employees cannot rely on the exemption provided under section 26 of the schedule.

## **Part 8                      Other amendments**

### **39.      Legislation amended**

Clause 39 provides for schedule 1 which makes minor and consequential amendments for the legislation that it mentions.

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