

# **EMERGENCY SERVICES LEGISLATION AMENDMENT BILL 2001**

## **EXPLANATORY NOTE**

### **GENERAL OUTLINE**

#### **Policy objectives of the bill**

The Bill will change the status of the Queensland Fire and Rescue Authority (QFRA) and the Queensland Ambulance Service (QAS) from statutory authorities to become divisions of the Department of Emergency Services (DES). The principal objective is to improve co-ordination and effective utilisation of resources in the emergency services portfolio and strengthen corporate governance arrangements.

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

The Bill will abolish the two statutory authorities and provide for greater collaboration and coordination across the emergency services department. The chief executive will continue to be responsible for the objectives, strategies and policies to be followed by the services and ensure the services perform their functions in an appropriate, effective and efficient way. The commissioner of each service will continue to manage it in accordance with the objectives, strategies and policies determined by the chief executive. The Bill confirms a direct line of strategic management from the commissioners to the chief executive.

Removing the corporate structures and placing responsibility for all emergency services in one department of government will enhance service delivery coordination and collaboration for the benefit of Queenslanders. It will also provide:

- greater clarity about the role of Fire and Ambulance and their relationship to government and the responsible minister;
- the basis for improved and focussed financial and managerial accountability;
- the opportunity for improved policy coordination and focus; and

- the opportunity to eliminate unnecessary duplication thereby making available additional funding for operational service delivery.

The chief executive of DES already has responsibility for counter disaster and rescue services, including the State Emergency Service, and corporate and significant policy support to Fire and Ambulance. This change will strengthen effective management and operational interaction across all these services. Many incidents affecting the lives and well being of Queenslanders are responded to by more than one of these services. The more integrated management enabled by this Bill will, in time, facilitate a more effective response to these emergency situations.

Both Services will be led by a commissioner with assistant commissioners heading regional fire and ambulance management. This overall senior management structure will be the same as that of the Queensland Police Service, thus facilitating a common approach to operational management structures between DES and Police.

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

There will be some minor costs associated with changing the name of QFRA to the Queensland Fire and Rescue Service (QFRS) with progressive changes to insignia on vehicles and equipment. The QAS name will not change. Opportunities will exist for identifying greater synergies across DES through a greater collaborative approach implemented in the Bill.

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

The central policy issues progressed in the Bill are consistent with the fundamental legislative principles. However, because of the complexity of the transitional arrangements, the Bill contains a regulation making power which allows regulations to deal with any unforeseen consequences from the abolition of the statutory authorities. This regulation making power may prevent the need for urgent legislation to fix technical drafting issues and is subject to the safeguard of automatically expiring within 12 months from the commencement of the Act.

**Consultation**

Consultation was confined to government agencies. The Bill will have no adverse impact on operational fire and ambulance officers and service delivery at community level, and is essentially a change to the legal entities which are responsible for fire and ambulance services. Officers from the Department of the Premier and Cabinet, Queensland Treasury, Crown Law and the Department of Industrial Relations assisted to ensure that transitional matters such as retention of employee rights and entitlements, including superannuation, were effected appropriately in the Bill.

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

*Clause 1* sets out the short title of the Bill.

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

*Clause 2* provides that Part 2 and Schedule 1 Part 1 amend the *Ambulance Service Act 1991 (ASA)*. The issues covered in Part 2 are discussed in clauses 4 to 10 below. Schedule 1 Part 1 provides an extensive list of minor amendments to the ASA where a minor amendment is made to reflect the new structure.

*Clause 3* amends section 2 of the ASA by omitting the definition of “chief executive officer”.

*Clause 4* omits existing sections 3A, 3B and 3C of the ASA thereby abolishing the Queensland Ambulance Service as a corporate entity and inserts new sections 3A and 3B.

New section 3A establishes the Queensland Ambulance Service as a non-corporatised entity.

New section 3B provides that the membership of the Queensland Ambulance Service will consist of the commissioner and ambulance officers, medical officers and other staff members.

*Clause 5* removes owning property as one of the functions of the Service. As the Service will no longer be a legal entity it cannot own property.

*Clause 6* omits Part 2, Division 2 and replaces section 3E with a new section which establishes the chief executive's responsibility for the Service in addition to any other responsibilities under other legislation.

*Clause 7* amends section 9 which establishes the role of the commissioner. The commissioner must perform his duties in a manner which is consistent with the objectives, strategies and policies decided by the chief executive. The Bill removes the head of power for the commissioner found in subsection (3).

*Clause 8* amends section 13 to provide that the chief executive is responsible for employing such persons as ambulance officers, medical officers and other staff members as are necessary for the effectual administration of the Act. Officers and staff employed under section 13 will not be public servants as section 15 of the ASA provides that service officers are employed under the ASA and not the *Public Service Act 1996*.

*Clause 9* replaces section 19 and omits sections 20 and 21 as these two sections are no longer necessary given that the Service will be part of the DES and no longer a corporate entity.

New section 19 establishes the Queensland Ambulance Service Fund to replace the Ambulance Service Fund established previously under the *Financial Administration and Audit Act 1977*.

*Clause 10* inserts a new Part 8, Division 3 which contains transitional provisions.

New section 69 contains definitions for Division 3.

New section 70 provides that the corporate entity which is the former Service is dissolved.

New section 71 ensures that the transfer of employment of staff from the former Service to the State does not in any way affect their superannuation entitlements or rights.

New section 72 provides that references in documents to the former Service will be a reference to the State.

New section 73 vests the assets, rights and liabilities of the former Service in the State.

New section 74 is intended to preserve the rights of people or other legal entities who may have a claim against the former Service by allowing them to commence or continue their claim against the State. In the same manner, the State can commence or continue a claim of the former Service. The Bill will not affect current disciplinary action or the potential to bring disciplinary proceedings for past conduct. Any conduct which may be the subject of disciplinary action prior to the commencement of the Bill may be the subject of a disciplinary proceeding by the chief executive after the Bill has commenced.

New section 75 provides that the suspension of a suspended officer will continue in force after the commencement of the Bill.

New section 76 provides officers under the new structure will be employed at an equivalent level.

New section 77 ensures that the employment conditions of officers transferred from the former Service to the State will be the same and that officers will suffer no detriment as a result of the transfer.

New section 78 provides that existing Honorary Ambulance Officers will continue in that capacity after the commencement of the Bill.

New section 79 provides that property held on trust by the former service will be held by the State subject to the same trusts.

New section 80 provides that the Registrar of Titles and other persons who keep registers or dealings in property must if requested record the vesting of property in the State and without a liability for stamp duty arising.

New section 81 preserves the effect of anything declared, done, given, granted made or issued by the commissioner under a provision of the ASA where the commissioner retains that responsibility after the commencement of the Bill. It does this by declaring anything declared etc. by the commissioner of the former service is taken to have been declared etc. by the commissioner of the non-corporatised service.

New section 82 is necessary because certain responsibilities of the commissioner will be transferred to the chief executive. This section preserves the effect of anything declared, done, given, granted made or issued by the commissioner under a provision of the ASA where the chief executive would now have that responsibility. It does this by

declaring that anything declared etc. by the commissioner where the chief executive will now have that responsibility is taken to have been declared etc. by the chief executive.

New section 83 preserves the effect of anything declared, done, given, granted made or issued by the former Service where the chief executive would now have that responsibility. It does this by declaring that anything declared etc. by the former Service is taken to have been declared etc. by the chief executive.

New section 84 preserves the effect of anything declared, done, given, granted made or issued by the former Service where the State would now have that responsibility. It does this by declaring that anything declared etc. by the former Service is taken to have been declared etc. by the State.

New section 85 provides that upon commencement, the Ambulance Service Fund will be closed and all funds transferred to the Queensland Ambulance Service Fund with appropriate entries to be made in the accounts of the new fund.

New section 86 provides for a regulation making power which allows regulations to deal with any unforeseen consequences from the abolition of the statutory authority. This regulation making power may be used to achieve a smooth transition from the existing to the amended Act and is subject to the safeguard of automatically expiring within 12 months from the commencement of the Act.

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

*Clause 11* provides that Part 3 and Schedule 2 amend the *Fire and Rescue Authority Act 1990 (FRA)*. The amendments dealt with in Part 3 are covered in clauses 12 to 24 below. Schedule 2 provides an extensive list of minor amendments to the FRA where a minor amendment is made to reflect the new structure.

*Clause 12* amends the title of the FRA by omitting the word ‘Authority’ and inserting the word ‘Service’.

*Clause 13* changes the short title of the FRA to ‘*Fire and Rescue Service Act 1990*’.

*Clause 14* amends the definition of various words in the FRA, reflecting the changes from Authority to Service and that the Service will be led by a commissioner rather than a chief commissioner.

*Clause 15* replaces headings in Part 2 of the FRA to reflect the name change from Authority to Service and omits Divisions 1 and 2 which dealt with establishment and control of the Authority. Reflecting the change from statutory authority status to a Service within DES, the following sections are inserted.

New section 8 establishes the Queensland Fire and Rescue Service as a non-corporatised entity.

New section 8A provides that the membership of the Queensland Fire and Rescue Service will consist of the commissioner and fire service officers.

New Section 8B provides for the function of the Service. These are unchanged from the functions of the Authority.

New section 8C establishes the chief executive’s responsibility for the Service in addition to any other responsibilities under other legislation.

*Clause 16* amends section 12 of the FRA which dealt with the role of the chief commissioner. After commencement of the Bill, section 12(1) will require that the commissioner must perform his duties in a manner which is consistent with the objectives, strategies and policies decided by the chief executive. This establishes a clear line of management for the Service. The Bill removes the head of power found in subsection 3.

*Clause 17* omits Sections 19A and 19B of the RFA. Section 19A defined the application of other Acts such as the *Criminal Justice Act 1989* and the *Libraries and Archives Act 1988* to the Authority. These are no longer required as DES is already covered by these Acts and the Service will therefore be covered. Section 19B dealt with the recognition and use of the official Seal of the Authority, which will no longer be required.

*Clause 18* amends section 20 to establish the Queensland Fire and Rescue Fund and provides that prescribed property levies, amounts received by DES for the fund, money raised from QFRA asset disposals, and interest must be paid into the fund. Other sections are then renumbered and a new section 20(5) is inserted to provide for disbursements from the fund.

*Clause 19* omits sections 22 to 24 of the FRA which dealt with preparation and observance of the budget and treatment of any surplus or deficit in the old fund. As the new Service will be part of DES these sections are no longer necessary.

*Clause 20* omits the current section 25 and inserts a section providing that upon commencement, the chief executive will be the employing authority.

*Clause 21* amends the current section 26 to provide that the chief executive will determine the conditions of employment of the persons employed by the Service.

*Clause 22* amends section 107 which deals with liability for contributions to the old fund and ensures that amounts which would be paid into the current fund will be deposited in the new fund, even if the contributions are directed through DES.

*Clause 23* inserts a new Division 3 into Part 12 which deals with savings and transitional provisions. The new division 3 makes provision for the impact of this Bill and provides a number of new sections.

New section 172 provides appropriate definitions to ensure the smooth transition to the new structure.

New section 173 dissolves the legal entity that is the Authority.

New section 174 ensures that superannuation entitlements are not affected by the amendments.

New section 175 ensures that any reference to the Authority in any other Act or document will now be a reference to the State.

New section 176 provides that all assets, rights and liabilities of the authority are duly transferred to the State.

New section 177 is intended to preserve the rights of people or other legal entities who may have a claim against the Authority by allowing them to commence or continue their claim against the State. In the same manner, the State can commence or continue a claim of the Authority. The Bill will not affect current disciplinary action or the capacity to bring disciplinary proceedings for past conduct. Any conduct which may be the subject of disciplinary action prior to the commencement of the Bill may be the subject of a disciplinary proceeding by the chief executive after the Bill has commenced.

New section 178 provides that any suspension of a fire authority officer in force immediately before the commencement will continue in force.

New section 179 provides for the continuation of employment of all fire authority officers as an equivalent class of fire service officer.

New section 180 ensures that the employment conditions of officers transferred from the Authority to the State will be the same and that officers will suffer no detriment as a result of the transfer.

New section 181 provides that property held on trust by the Authority service will be held by the State subject to the same trusts.

New section 182 provides that the Registrar of Titles and other persons who keep registers or dealings in property must if requested record the vesting of property in the State and without a liability for stamp duty arising.

New section 183 provides that any appeal to the chief commissioner which was started but not finalised before the commencement of the Bill may be continued and decided upon by the chief executive.

New section 184 preserves the effect of anything declared, done, given, granted made or issued by the chief commissioner under a provision of the FRA where the commissioner retains that responsibility after commencement. It does this by declaring anything declared etc. by the chief commissioner of the Authority is taken to have been declared etc. by the commissioner of the Service.

New section 185 is necessary because certain responsibilities of the chief commissioner are transferred to the chief executive. This section preserves the effect of anything declared, done, given, granted made or issued by the chief commissioner under a provision of the FRA where the chief executive would now have that responsibility. It does this by declaring that anything declared etc. by the chief commissioner where the chief executive will now have that responsibility is taken to have been declared etc. by the chief executive.

New section 186 preserves the effect of anything declared, done, given, granted made or issued by the Authority where the chief executive will now have that responsibility. It does this by declaring that anything declared etc. by the Authority is taken to have been declared etc. by the chief executive.

New section 187 preserves the effect of anything declared, done, given, granted made or issued by the Authority where the State would now have that responsibility. It does this by declaring that anything declared etc. by the Authority is taken to have been declared etc. by the State.

New section 188 provides that upon commencement, the QFRA Fund will be closed and all funds transferred to the Queensland Fire and Rescue Fund

New section 189 provides for a regulation making power which allows regulations to deal with any unforeseen consequences from the abolition of the statutory authority. This regulation making power may be used to achieve the smooth transition from the old to the amended Act and is subject to the safeguard of automatically expiring within 12 months from commencement.

*Clause 25* provides that Schedule 3 amends the Financial Administration and Audit Act and the *Fire and Rescue Authority Regulation 2001*.

*Schedule 1* makes minor amendments to the Ambulance Service Act.

*Schedule 2* makes minor amendments to the Fire and Rescue Authority Act.

*Schedule 3* makes minor amendments to the Fire and Rescue Authority Regulation and the Financial Administration and Audit Act.