



# Community Ambulance Cover Levy Repeal Act 2011

Current as at 1 January 2012—revised version

## Reprint note

Powers under the *Reprints Act 1992* have been used in this reprint to bring the legislation into line with current drafting practice.

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Queensland

# Community Ambulance Cover Levy Repeal Act 2011

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# Community Ambulance Cover Levy Repeal Act 2011

## An Act to amend and repeal the Community Ambulance Cover Act 2003

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Community Ambulance Cover Levy Repeal Act 2011*.

#### 2 Commencement

- (1) Part 9 commences on 30 June 2011.
- (2) The following provisions commence on 1 July 2011—
  - (a) part 2, divisions 1 to 3;
  - (b) part 4;
  - (c) part 6, other than—
    - (i) part 6, division 1, subdivision 3; and
    - (ii) part 6, division 2, subdivision 3; and
    - (iii) part 6, division 3, subdivision 3.
  - (d) part 7, divisions 1 and 2;
  - (e) part 10, division 3;
  - (f) part 11;
  - (g) part 12, division 3.
- (3) The following provisions commence on 2 July 2011—

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- (a) part 5;
  - (b) part 6, division 1, subdivision 3;
  - (c) part 6, division 2, subdivision 3;
  - (d) part 6, division 3, subdivision 3.
- (4) Part 7, division 3 commences on 1 August 2011.
- (5) Part 2, division 4 commences on 1 January 2012.

## **Part 2**                      **Matters relating to repeal of Community Ambulance Cover Act 2003**

### **Division 1**                **Preliminary**

#### **3**            **Definitions for pt 2**

In this part—

*assessable period* means a period ending before 1 July 2011.

*pre-repeal matter* means—

- (a) a levy liability or an exempt arrangement for an assessable period; or
- (b) the imposition or collection of the levy relating to a levy liability mentioned in paragraph (a); or
- (c) the use of the system of supply and sale of electricity as the basis for the imposition or collection of the levy mentioned in paragraph (b); or
- (d) anything done or not done under the repealed Act relating to a matter mentioned in paragraph (a), (b) or (c).

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*repealed Act* means the repealed *Community Ambulance Cover Act 2003*.

#### **4 Words have meanings given by repealed Act**

Words defined under the repealed Act immediately before its repeal and used in this part have the same meanings as they had under the repealed Act.

### **Division 2 Savings and transitional provisions**

#### **Subdivision 1 General provisions**

#### **5 Acts Interpretation Act, s 20 not limited**

This division does not limit the *Acts Interpretation Act 1954*, section 20.

#### **6 Saving provision for pre-repeal matters**

- (1) The repealed Act, as in force immediately before 1 July 2011, continues to apply for rights, privileges, liabilities and obligations that would have been acquired, accrued or incurred on or after 1 July 2011 relating to a pre-repeal matter as if the repealed Act had not been repealed.

*Examples of how the repealed Act continues to apply under this section—*

On or after 1 July 2011—

- an electricity retailer continues to be the agent of the commissioner for collection of the levy for an assessable period
- the commissioner may give a written direction to an electricity retailer or authorised subcontractor under the repealed Act for the administration or enforcement of that Act relating to a pre-repeal matter
- the commissioner may act in the place of an electricity retailer to enforce compliance with a direction or an obligation to perform a function relating to a pre-repeal matter

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- an electricity retailer may be required to pay the commissioner a levy amount collected for an assessable period
  - an electricity retailer may be required to refund an amount of the levy for an assessable period that has been overpaid
  - an electricity retailer may be required to recover an unpaid levy amount for an assessable period
  - a person who was required to keep records under the repealed Act about another person's levy liability or an on-supply arrangement or power card arrangement is required to continue to keep the records.
- (2) Subsection (1) is subject to subdivisions 2 and 4.
- (3) Without limiting subsection (1), a provision of the repealed Act providing for an offence continues to apply for anything done or not done on or after 1 July 2011 relating to a pre-repeal matter.
- (4) To remove any doubt, it is declared that the reference in subsection (1) to the repealed Act as in force immediately before 1 July 2011 includes the statutory instruments in force under the repealed Act immediately before 1 July 2011.

## **Subdivision 2      Levy liability and amount**

### **7      No levy liability for purported levy amount for a non-assessable period**

To remove any doubt, it is declared that—

- (a) there is no levy liability for an amount purporting to be a levy amount for a period other than an assessable period; and
- (b) a statement of levy liability can not issue for an amount to the extent the amount purports to be a levy amount for a period other than an assessable period.

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## **8 Statement of levy liability**

- (1) Section 87(2) and (3) of the repealed Act applies to a statement of levy liability only to the extent the statement shows a levy amount for an assessable period.
- (2) For section 87(5) of the repealed Act, the reference to the period to the end of the electricity sale arrangement is taken to be a reference to the assessable period before the end of the electricity sale arrangement.
- (3) An electricity retailer is required to give an electricity customer a statement of levy liability to replace a statement of levy liability previously given to the customer if the previous statement purports to relate to a period other than an assessable period.

*Note—*

Section 108 of the repealed Act, as applied subject to section 9, applies to a statement of levy liability issued under subsection (3).

- (4) Subsection (3) does not limit the continued operation of section 89 of the repealed Act under section 6.
- (5) For section 101(5) of the repealed Act, as continued under section 6, the electricity customer is required to pay only that part of the total levy amount shown in the statement of levy liability relating to an assessable period.

## **9 Refund of purported levy amount for non-assessable period**

For section 108 of the repealed Act, the reference to a replacement statement of levy liability includes a reference to a statement of levy liability issued under section 8(3).

## **10 Restriction on issue of replacement statement of levy liability**

- (1) This section applies to an electricity retailer on or after 1 July 2012.
- (2) Despite section 89 of the repealed Act, the electricity retailer can not give an electricity customer of the retailer a

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replacement statement of levy liability relating to a circumstance mentioned in section 89(b) of the repealed Act unless the customer has, before 1 July 2012, asked the retailer for a replacement statement of levy liability relating to the circumstance.

- (3) To remove any doubt, it is declared that this section does not apply to a statement of levy liability issued under section 8(3).

## **11 End of entitlement to refund of levy**

- (1) The entitlement to a refund of a levy amount under part 7, division 8 of the repealed Act ends—
- (a) for an entitlement relating to a claim that a customer sale arrangement is, or has been for a particular period, an exempt customer sale arrangement—if, before 1 July 2012, the relevant customer—
    - (i) has not given the relevant electricity retailer for the arrangement a notice under section 90(2) or 90A(2) of the repealed Act; or
    - (ii) has not been taken, under section 99 of the repealed Act, to have given the electricity retailer a notice under section 90(2) of that Act; or
  - (b) for an entitlement relating to a power card arrangement to which section 92 of the repealed Act applies—if the responsible person has not given the relevant electricity retailer, or owner, for the arrangement a notice under section 92(2) or (3) of the repealed Act before 1 July 2012; or
  - (c) for an entitlement relating to a power card arrangement to which section 92B of the repealed Act applies—if the responsible person has not given the owner for the arrangement a notice under section 92B(1)(d) of the repealed Act before 1 July 2012; or
  - (d) for an entitlement relating to an on-supply arrangement to which section 94 of the repealed Act applies—if the responsible person has not given the on-supplier for the

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arrangement a notice under section 94(2) of the repealed Act before 1 July 2012.

- (2) To remove any doubt, it is declared, for a person claiming a refund under section 107 or 107A of the repealed Act, that—
  - (a) if the 1 year mentioned in section 107(5)(a) or 107A(5)(a) of the repealed Act (the *1-year limit*) has elapsed and the person has not claimed the refund under the section, subsection (1) does not operate to extend the person's entitlement to a refund under the section; and
  - (b) if the 1-year limit has not elapsed and the person has not claimed the refund under the section before 1 July 2012, the entitlement to the refund ends under subsection (1) despite the section.
- (3) Also, to remove any doubt, it is declared that sections 117(3), 122(3) and 124A(2) of the repealed Act apply subject to this section.
- (4) In this section—

*responsible person* means—

  - (a) for a power card arrangement—the person who has direct knowledge of the circumstances causing the power card arrangement to be, or to have been, an exempt power card arrangement; or
  - (b) for an on-supply arrangement—the person who has direct knowledge of the circumstances causing the on-supply arrangement to be, or to have been, an exempt power on-supply arrangement.

## 12 **Restriction on recovery of unauthorised amount by owner of power card premises**

- (1) Subsection (2) applies if the owner of power card premises has paid an amount purporting to be a levy amount for a period other than an assessable period (an *unauthorised amount*) for a power card arrangement.

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- (2) To remove any doubt, it is declared that the owner can not recover the unauthorised amount under section 115(2) of the repealed Act.
- (3) Subsection (2) does not stop the owner from seeking a refund of the unauthorised amount from the electricity retailer.

*Note—*

See, in particular, section 8(3) and section 108 of the repealed Act, as applied subject to section 9.

### **13 Restriction on recovery of unauthorised amount by on-supplier**

- (1) Subsection (2) applies if the on-supplier for an on-supply arrangement has paid an amount purporting to be a levy amount for a period other than an assessable period (an *unauthorised amount*) for the arrangement.
- (2) To remove any doubt, it is declared that the owner can not recover the unauthorised amount under section 120 of the repealed Act.
- (3) Subsection (2) does not stop the on-supplier from seeking a refund of the unauthorised amount from the electricity retailer.

*Note—*

See, in particular, section 8(3) and section 108 of the repealed Act, as applied subject to section 9.

### **14 Limit of liability of Commissioner and State**

- (1) On and from 1 July 2012, neither the commissioner nor the State is liable to pay an electricity retailer an amount claimed to be overpaid under the repealed Act if the retailer has not given the commissioner a notice in the approved form about the amount before 1 July 2012.
- (2) Subsection (1) does not apply to an amount relating to an appropriate refund paid or payable by an electricity retailer to the extent the electricity retailer is not able to pay the amount out of levy amounts it has collected.

*Note—*

See section 103(3) of the repealed Act regarding an electricity retailer's authorisation to pay a refund out of levy amounts collected.

- (3) To remove any doubt, it is declared that neither subsection (1) nor subsection (2) confers a right, or imposes an obligation, for the payment of an amount.
- (4) Subsection (1) applies despite anything to the contrary in the repealed Act or another Act.
- (5) In this section—

*appropriate refund* means a refund to which the electricity customer is, or was, entitled, under part 7, division 8 of the repealed Act as changed under this subdivision.

*Note—*

See, in particular, section 8(3) and section 108 of the repealed Act, as applied subject to section 9.

## **Subdivision 3 Administration agreements generally**

### **15 Administration agreement continues**

Subject to subdivision 4, an administration agreement in force immediately before 1 July 2011 continues in force until it is ended in accordance with its terms.

## **Subdivision 4 Administration fees**

### **16 Application of sdiv 4**

This subdivision applies—

- (a) to an administration agreement continued in force under section 15; and
- (b) despite—
  - (i) section 83 of the repealed Act; and

(ii) the terms of the administration agreement.

## **17 Definition for sdiv 4**

In this subdivision—

*assessable electricity sale arrangement* means an electricity sale arrangement for which a statement of levy liability was issued for an assessable period.

## **18 Base annual fee from July 2011**

On and from 1 July 2011, the base annual fee for calculating the administration fee under the administration agreement is the base annual fee under the agreement for the financial year that ended on 30 June 2011.

## **19 Levy statistics statement from October 2011**

- (1) This section and section 20 apply to the administration agreement, if it is still in force, on or after 1 October 2011.
- (2) The electricity retailer under the administration agreement must give the commissioner a levy statistics statement, within 14 days after the end of the month, for each month the administration agreement continues in force.
- (3) The levy statistics statement is required to state only the following—
  - (a) the number of assessable electricity sale arrangements for which the electricity retailer was the relevant electricity retailer in the month;
  - (b) the number of the assessable electricity sale arrangements—
    - (i) to which an exemption under the Act applied; and
    - (ii) to which each type of exemption under the Act applied;

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- (c) the number and value of adjustments made during the month;
- (d) other relevant information, if any, required by the commissioner.
- (4) In this section—  
*levy statistics statement* means the levy statistics statement under the administration agreement as subject to this section.

## 20 Administration fee from October 2011

- (1) For October 2011 and each later month the administration agreement continues in force, the administration fee payable under the agreement must be calculated using the formula—

$$\frac{\mathbf{BAF} \times \mathbf{AESA}}{12}$$

where—

*BAF* is the base annual fee under the agreement for the financial year that ended on 30 June 2011.

*AESA* is the number of assessable electricity sale arrangements for which the electricity retailer was the relevant electricity retailer in the month for which the administration fee is being calculated.

- (2) If the administration agreement is not in force for an entire month for which the administration fee is being calculated, the administration fee payable under the agreement for the month must be calculated using the formula—

$$\mathbf{AFP} \times \frac{\mathbf{NDM}}{\mathbf{TDM}}$$

where—

*AFP* is the administration fee payable for the month under subsection (1).

*NDM* is the number of days in the month during which the agreement was in force.

*TDM* is the total number of days in the month.

**21 Electricity retailer may elect not to claim administration fee**

- (1) This section applies if, on or after 1 October 2011, the electricity retailer under the administration agreement gives the commissioner a written notice electing not to claim the administration fee.
- (2) The commissioner is no longer liable to pay the administration fee that would, other than for this section, have been payable.
- (3) Sections 19(2) and 20 no longer apply to the electricity retailer for the administration agreement.

**Subdivision 5 Other transitional provisions**

**22 Proceedings for a review by QCAT**

- (1) This section applies to a proceeding for a review by QCAT of a decision of the commissioner relating to an objection, whether the decision was made before 1 July 2011 or is made on or after that day.
- (2) Part 9, division 2 of the repealed Act, as in force immediately before 1 July 2011, continues to apply to the proceeding as if the repealed Act had not been repealed.

**23 Confidentiality**

The following provisions of the repealed Act continue to apply as if the repealed Act had not been repealed—

- (a) section 142;
- (b) section 143, for using information for the administration or enforcement of the repealed Act in relation to a pre-repeal matter.

*Editor's note—*

sections 142 (Application of Administration Act, s 111) and 143 (Use of information obtained under taxation law) of the repealed Act

## **Division 3                    Other provisions—general**

### **24            This Act as a revenue law for Administration Act**

Only the following provisions of the Administration Act apply to this Act as a revenue law under the Administration Act—

- (a) parts 7 and 8;
- (b) section 117;
- (c) part 10;
- (d) section 150.

*Note—*

The Administration Act, section 172 declares that this Act is taken to be a revenue law under section 6 of that Act.

## **Division 4                    Other provisions—offences**

### **25            Statement of levy liability must not be issued for non-assessable period**

An electricity retailer must not give an electricity customer of the retailer a statement of levy liability showing an amount that purports to be a levy amount for a period other than an assessable period.

Maximum penalty—100 penalty units.

### **26            Owner not to recover purported levy amount for non-assessable period**

An owner for a power card arrangement must not recover, or try to recover, from a person, an amount for the arrangement

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that purports to be a levy amount for a period other than an assessable period.

Maximum penalty—100 penalty units.

**27 On-supplier not to recover purported levy amount for non-assessable period**

An on-supplier must not recover, or try to recover, from a person, an amount for an on-supply arrangement that purports to be a levy amount for a period other than an assessable period.

Maximum penalty—100 penalty units.

**Part 4 Repeal of Community Ambulance Cover Act 2003**

**33 Repeal**

The Community Ambulance Cover Act 2003, No. 34 is repealed.