

# Disaster Management and Other Legislation Amendment Bill 2024

## Explanatory Notes

### Short title

The short title of the Bill is the Disaster Management and Other Legislation Amendment Bill 2024 (the Bill).

### 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. In 2021, research forecast that the cost of natural disasters would increase from \$38 billion at that time 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: prevention, preparedness, response and recovery.

#### *The Independent Review Report*

The sustainability of the delivery of emergency services has been considered in a series of reviews. In July 2021, KPMG International Limited (KPMG) was commissioned by the Queensland Government to undertake an independent review of Queensland Fire and Emergency Services (QFES) and its associated volunteer entities. The purpose of the review was to look at the effectiveness, efficiency and sustainability of QFES and its associated volunteer entities in delivering fire and emergency services in Queensland, including through assessing the scope, functions and suitability of the QFES structure.

The resulting report, *Independent Review of Queensland Fire and Emergency Services* (the Independent Review Report), made 19 recommendations for reform for the delivery of fire and emergency services and disaster management in Queensland including by:

- simplifying efforts in relation to fire and emergency services activities by establishing a new department consisting of the current Fire and Rescue Service (including Auxiliary staff), Rural Fire Service, FireCom and appropriate elements of QFES' corporate services division;
- reallocating responsibility for Queensland's disaster management functions to the Police Commissioner;

- aligning the State Emergency Service (SES) and a new Marine Rescue Queensland (MRQ), established as the single entity responsible for blue water marine rescue, under the Queensland Police Service (QPS);
- transferring service agreements and grants arrangements for Police-Citizens Youth Club (PCYC) Emergency Service Cadets, Surf Life Saving Queensland (SLSQ) and Royal Life Saving Society Queensland (RLSSQ) to the QPS.

The Independent Review Report also recommended that a review of the *Fire and Emergency Services Act 1990* (FES Act) and the *Disaster Management Act 2003* (DM Act) be conducted with a view of modernising both pieces of legislation and (with regard to the FES Act) 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.

On 26 October 2022, the Queensland Government released its response to the Independent Review Report, *Good Jobs and Better Fire and Emergency Services to Support Queensland's Great Lifestyle*, accepting in principle all recommendations, except for recommendation 12 (legislating for a SES Levy).

As part of implementing the Government response to the Independent Review Report, work has commenced on establishing the Queensland Fire Department (QFD), consisting of Queensland Fire and Rescue (QFR) and Rural Fire Service Queensland (RFSQ); transferring disaster management functions from QFES to the QPS; establishing the SES and MRQ as entities within the QPS; and reviewing the FES Act and the DM Act.

#### *The Inspector-General of Emergency Management Review*

The Government's response to the Independent Review Report 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.

On 28 April 2023, the IGEM delivered its report, *Review of Queensland's Disaster Management Arrangements (QDMA)* (the IGEM Review), which made 10 broad recommendations for reform. The Queensland Government accepted in principle recommendations made in the IGEM Review including that: the Police Commissioner be appointed as the chief executive of the DM Act; a State Disaster Management Group (SDMG) be established within the DM Act; and disaster management legislation and policy be amended to establish the position, role and functions of the State Recovery Policy and Planning Coordinator (SRPPC).

#### *Staged reform process*

Legislative reform is being progressed in two stages. As part of stage one, three Bills were introduced into the Legislative Assembly on 28 November 2023 by the Minister for Police and Community Safety (as the then Minister for Police and Corrective Services and Minister for Fire and Emergency Services). If passed, these Bills will:

- establish MRQ as a state-wide marine rescue service (Marine Rescue Queensland Bill 2023);
- establish the SES (State Emergency Service Bill 2023); and

- make the consequential and administrative amendments necessary to transfer responsibility of MRQ and SES to the QPS and formally establish the SDMG within the DM Act (Emergency Services Reform Amendment Bill 2023).

The QPS has also assumed the responsibility for administering grants and service agreement for volunteer entities such as the PCYC Emergency Service Cadets, Queensland flotillas of the Australian Volunteer Coast Guard Association of Queensland, Volunteer Marine Rescue Association of Queensland, SLSQ and RLSSQ.

The Bill represents the second stage of legislative reform. The Bill will amend the DM Act, the *Disaster Management Regulation 2014* (DM Regulation), the FES Act, the *Fire and Emergency Services Regulation 2011* (FES Regulation), the *Queensland Reconstruction Authority Act 2011* (QRA Act) and make other consequential amendments to give effect to structural, administrative and operational reforms recommended by the Independent Review Report and IGEM Review.

A Reform Implementation Taskforce (RIT) has been established to oversee and coordinate the implementation of the reforms to the emergency services portfolio over a two-year period. The RIT has commenced work to implement the government response to the recommendations made in the Independent Review Report and the IGEM Review including recommendations about Queensland's disaster management structures, plans and guidelines, disaster management preparedness messaging and campaigns and training.

#### *Queensland's disaster management arrangements*

Queensland's disaster management arrangements (QDMA) operate through a tiered system outlined in the 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.

Local governments have primary responsibility for managing a disaster at the community level by implementing 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 requests for assistance to the Australian 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.

On 30 October 2023, machinery of government changes allocated the responsibilities of the chief executive under the DM Act from the QFES Commissioner to the QPS Commissioner (Police Commissioner). The responsibilities of the chief executive under the DM Act include:

- 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.

QFES continues to coordinate and manage various elements of Queensland's disaster response including QFR, RFSQ and the SES.

### *Amendments to the Fire and Emergency Services Act 1990*

The FES Act sets out the authorising environment for fire services to be able to deliver critical community services. Sitting behind the legislative framework is an operational structure that is reliant on command and control.

The Bill will establish QFR and RFSQ as two separate fire services (collectively called 'the fire services') to be housed within the new QFD. This will provide the foundation on which departmental arrangements can facilitate clear lines of command and control and clarity regarding the role of each service in raising, training and sustaining their respective workforces.

The Bill also provides further structure regarding key positions and their responsibilities including those of the Commissioner, the newly established Chief Fire Officer, Deputy Commissioner, Chief Officer and other executive officer and senior officer positions. Additional functions for the Commissioner will ensure effective ongoing collaboration and coordination between the fire services.

The introduction of eligibility criteria for appointment to executive and senior roles reflects the level of command and control proficiency and experience expected for making and overseeing decisions of an operational nature, including tactical decisions regarding the use of assets and human resources, often in a high risk, dynamic environment.

It is critical that firefighters operate in an environment where the leaders of their organisation intimately understand the hazards and risks associated with firefighting and emergency operations, as well as the training, systems, and safe work procedures required to address that risk.

QFR will consist of the Commissioner, the Deputy Commissioner and fire service officers assigned to QFR by the Commissioner. RFSQ will consist of the Commissioner, the Chief Officer, fire service officers assigned to RFSQ by the Commissioner, rural fire brigades and rural fire brigade members.

Recognising the valuable role of volunteers, additional amendments to the FES Act will address issues regarding the legal status of rural fire brigades and volunteer protections.

### *Smoke alarms in caravans and motorised caravans*

Significant changes are currently being rolled out to smoke alarm legislation following a fatal Slacks Creek house fire in 2011. The changes will require all Queensland homes to have interconnected, photoelectric smoke alarms in every bedroom, in hallways, and on every level from 1 January 2027.

Currently, QFES provides guidance on, rather than mandating, fire safety in caravans and motorised caravans. As part of consideration of fire safety in different types of dwellings and places people sleep and following a number of recent fire related deaths in Queensland, the Government has decided to extend obligations for having smoke alarms to caravans and motorised caravans to enhance public safety.

## Achievement of policy objectives

The Bill achieves its policy objectives by amending:

- the DM Act to enhance Queensland’s disaster management arrangements;
- the QRA Act to expand the QRA’s functions; and
- the FES Act to establish QFR and RFSQ as dedicated fire services under the Act.

The Bill will amend the DM Act by:

- clarifying that the Police Commissioner is the chief executive of the DM Act;
- emphasising that the QDMC provides strategic leadership for Queensland during events and crises;
- expanding the existing functions of the chairperson of the QDMC to include approving the annual report and the State Disaster Management Plan;
- providing that the chief executive officer (CEO) of the QRA is the SRPPC;
- defining the SRPPC’s relationship with the State Recovery Coordinator (SRC) and State Disaster Coordinator (SDC); and
- defining the term ‘resilience’ within the DM Act to reflect the Queensland Government’s endorsed definition within the *Queensland Strategy for Disaster Resilience* and clarifying that resilience incorporates activities related to the four phases of the State’s emergency management and disaster response system: prevention, preparedness, response and recovery.

The Bill will also amend the QRA Act by:

- expanding the functions of QRA to coordinate the development and implementation of whole-of-government policies for carrying out risk assessments of potential disasters for Queensland; and
- addressing minor matters regarding the delegation of chief executive functions and the quorum of the Queensland Reconstruction Board.

The Bill will also amend the FES Act to establish a legislative framework within which the new QFD will operate. Amendments to the FES Act in the Bill include:

- renaming the FES Act the *Fire Services Act 1990* (FS Act);
- establishing QFR and RFSQ as fire services under the FS Act;
- widening the objects of the FS Act to include establishing a framework for the operation, management and administration of the fire services;
- recognising the importance of the collaboration and coordination between the fire services and the valuable role of volunteers;

- setting out the mandatory eligibility requirements for appointment of the Commissioner;
- clarifying the functions of the Commissioner to reflect the extent of the Commissioner's management responsibilities;
- consolidating the power of the Commissioner to direct certain persons under the FS Act to ensure the efficient and proper functioning of the fire services;
- establishing the role of Chief Fire Officer to provide operational advice to the Commissioner about the fire services;
- setting out the mandatory qualifications, skills and experience required for appointment to roles in QFR and RFSQ, including where acting arrangements are in place;
- establishing the roles of Deputy Commissioner, QFR and Chief Officer, RFSQ which are responsible for day-to-day service delivery;
- clarifying the appointment, powers and functions of chief fire wardens and fire wardens;
- establishing a committee to advise the Chief Officer on RFSQ and rural fire brigades matters;
- establishing rural fire brigades as part of RFSQ, with members appointed by the Commissioner, to address issues regarding the legal status of rural fire brigades and volunteer protections;
- recognising the role of office bearers in rural fire brigades, clarifying the functions of rural fire brigades, and providing for the appointment of a person in charge of operations in the absence of an available first officer; and
- making minor or consequential amendments.

Finally, the Bill will amend the FES Act, the FES Regulation and the *State Penalties Enforcement Regulation 2014*, to impose a requirement to install smoke alarms in caravans and motorised caravans.

#### **Amendments to the *Disaster Management Act 2003* and the *Disaster Management Regulation 2014***

Although a machinery of government change has allocated the responsibility of the chief executive for the DM Act to the Police Commissioner, amendments in the Bill will clarify the responsibilities that the Police Commissioner holds under the DM Act by replacing references in the DM Act to the term 'chief executive' with 'police commissioner'.

The IGEM Review recognised the QDMC as the most important and strategic committee for Queensland during significant events and disasters. The Bill recognises the status of the QDMC by providing as a function of the QDMC the responsibility of providing strategic leadership for disaster management and disaster operations for the State. However, it is not intended for this committee to be perpetually convened, and where the QDMC is not convened, the SDMG may act as a precursor to the convening of the QDMC and will provide strategic leadership for the State. The Bill provides support to the SDMG by requiring the Police Commissioner to appoint an executive officer dedicated to helping the SDMG perform its functions.

The Bill will meet further IGEM Review recommendations by:

- listing the chairperson of the Government's Crisis Communication Network as an observer to the QDMC; and
- declaring that the CEO of QRA is the SRPPC.

*The State Recovery Policy and Planning Coordinator*

The CEO of QRA is the SRPPC. If the CEO cannot perform the functions of the SRPPC, the chairperson of the QDMC may appoint another appropriately qualified person to perform the functions of the SRPPC. The appointment and termination of a SRPPC must be in writing.

These amendments strengthen Queensland's disaster management arrangements by formally establishing the role of the SRPPC within the DM Act as recommended in the IGEM Review. The Bill outlines that the functions of the SRPPC are to:

- make policies and plans for the QDMC about coordinating effective disaster recovery operations;
- liaise with the SDC and advise the SDC about disaster recovery operations;
- work with the SDC to transition from disaster response operations to disaster recovery operations;
- oversee the implementation of policies for effective disaster recovery operations and for improving resilience of the State;
- if a SRC is appointed for a disaster, liaise with and advise the SRC and advise the SRC about coordinating the disaster recovery operations for the disaster;
- report regularly to the QDMC about the coordination of disaster recovery operations; and
- otherwise coordinate disaster recovery operations for the QDMC.

#### *The State Recovery Coordinator*

Existing provisions within the DM Act outline that the chairperson of the QDMC may appoint a person as an SRC for an event if the chairperson is satisfied it is necessary for an SRC to be appointed, and the person has the necessary expertise or experience to perform the functions of the SRC. Any appointment or termination of the appointment of the SRC must be in writing.

The Bill strengthens the appointment process for the SRC by requiring the chairperson of the QDMC to consult with the SRPPC prior to appointing an SRC. This allows the SRPPC to provide input to the chairperson about a potential appointment. The Bill also expands the functions of the SRC to ensure there are appropriate reporting arrangements between the SRC, the QDMC and the SRPPC. The functions of the SRC are to:

- coordinate the disaster recovery operations for the disaster;
- liaise with the SRPPC about disaster recovery operations;
- report regularly about disaster recovery operations to the SRPPC and to report to the chairperson of the QDMC as directed;
- ensure, as far as reasonably practicable, that any strategic directions from the QDMC relevant to the disaster recovery operations are implemented; and
- provide strategic advice on the disaster recovery operations to government agencies performing disaster recovery operations for the disaster.

During a disaster, it is conceivable that more than one SRC may be appointed to deal with different areas of the State or different disaster events. In this case, the Bill will allow each SRC to report to the SRPPC so that the SRPPC is in a better position to provide a state-wide view on the impacts of the disaster to the QDMC.

#### *The definition of 'resilience'*

The Bill will amend section 4A (Guiding principles) of the DM Act to emphasise that a guiding principle of the DM Act is that consideration should be given to the improvement of the resilience of a community across the four phases of prevention, preparedness, response and

recovery when planning disaster management.

The Bill inserts a definition of ‘resilience’ into the schedule (Dictionary) that mirrors the definition outlined in the QRA Act. ‘Resilience’ of a community means the ability of the community and its systems to recover from the impacts of a disaster, including, for example, the ability to restore essential infrastructure and community functions, and to accommodate or adapt to the impacts of a disaster.

The Bill meets an IGEM Review recommendation that the term ‘resilience’ should be defined within the DM Act to reflect the Queensland Government’s endorsed definition within the Queensland Strategy for Disaster Resilience.

### **Queensland Reconstruction Authority Act 2011**

QRA was established under the QRA Act following unprecedented natural disasters in 2010-2011. QRA was made a permanent part of the Queensland Government in 2015, and then had its functions amended in 2019 to reflect QRA’s roles and responsibilities for all hazards, and to lead resilience and recovery policy.

The IGEM Review recommended that QRA should lead state level hazard and risk functions. The Bill expands the functions of QRA by including the function of coordinating the development and implementation of whole-of-government policies for carrying out risk assessments of potential disasters.

Further, the IGEM Review recommended that QRA should be Queensland’s lead agency coordinating Disaster Recovery Funding Arrangements. The Bill will expand upon the functions of QRA by including the administering of financial assistance for communities in relation to mitigating against, recovering from, or improving resilience for disasters.

### *Quorum of the Queensland Reconstruction Board*

The QRA Act establishes a board of management (the Queensland Reconstruction Board or the board) that sets the strategic priorities for QRA, makes recommendations to the Minister about specific issues and ensures that QRA exercises its powers and functions in an appropriate, effective and efficient way.

Section 30 (Membership of board) of the QRA Act requires the board to consist of seven members including two members nominated by the Commonwealth. Section 36 (Quorum) of the QRA Act provides that the quorum for a meeting of the board is at least half of the members. These members must be appointed by the Governor in Council.

However, both Commonwealth-nominated positions were vacant from early 2020 to August 2023, awaiting suitable nominations, meaning that the number of appointed board members was less than seven for a considerable period. To reduce the risk of any vacancies impacting on reaching a quorum for a meeting of the board, the Bill provides that the quorum for a meeting of the board is to be the majority of the board members for the time being.

### *Delegation by the CEO of QRA*

Currently, the CEO of QRA can only delegate their functions under the QRA Act to an appropriately qualified senior executive under the *Public Sector Act 2022* (PS Act). As the



entire cohort of QRA senior executive is employed under the QRA Act, the CEO has no ability to delegate any of their functions to these persons.

The Bill provides that the CEO may delegate their functions under the QRA Act to any of the following persons who is appropriately qualified:

- a person appointed under section 24 of the QRA Act;
- a person employed by QRA under section 26 of the QRA Act;
- a person whose services are made available to QRA under section 27(1) of the QRA Act;
- a senior executive under the PS Act.

### **Fire and Emergency Services Act 1990**

Currently, the FES Act and the responsibilities of the Commissioner appointed under the Act reflect QFES functions in relation to both fire and emergency services. The Bill will make key amendments to the FES Act to establish a legislative framework within which the new QFD will operate.

#### *Change of Act name*

The Bill will change the short title of the FES Act to the *Fire Services Act 1990* to reflect the QFD's focus on fire service delivery.

#### *Establishment of fire services*

QFR and RFSQ will be established as separate fire services to be housed within the QFD with the objects of the FS Act widened to include establishing a framework for the operation, management and administration of the fire services. The ongoing collaboration and coordination between the fire services will be facilitated by providing direction on how QFR and RFSQ will continue to work together to ensure the effective delivery of contemporary fire and emergency services for the community. The Bill also acknowledges the valuable role of volunteers in supporting the delivery of fire and emergency services.

The Commissioner will be a member of both fire services. QFR membership will include the Commissioner, Deputy Commissioner and fire service officers assigned to QFR by the Commissioner. RFSQ membership will include the Commissioner, the Chief Officer, fire service officers assigned to RFSQ by the Commissioner, rural fire brigades and rural fire brigade members.

#### *Commissioner*

The Bill will amend the Commissioner's functions to reflect the establishment of QFR and RFSQ, inclusive of rural fire brigades.

The Bill provides that the Commissioner's main functions will be to manage the fire services in a way that ensures each fire service performs its functions under the Act effectively and efficiently, and to make recommendations to the Minister about any matter relating to the performance of functions or exercise of powers by the Commissioner or the fire services, or that may help the Minister in the proper administration of the Act. A number of additional functions are also provided for in the Bill. These additional functions are representative of the Commissioner's responsibility for the effective operation of both fire services and the ongoing

collaboration and coordination of the services.

The Bill also provides the Commissioner with a consolidated directions power in respect of the Chief Fire Officer, fire service officers and rural fire brigade members.

A person is eligible for appointment as Commissioner only if the person has professional firefighting experience, incident control expertise, and fire prevention expertise.

#### *Chief Fire Officer*

The role of Chief Fire Officer will be established as a statutory position responsible for providing advice to the Commissioner on matters relating to service delivery, operational culture, best practice and innovation and research as well as other functions given to the Chief Fire Officer under the FES Act or another Act. To preserve independence from the fire services, the Chief Fire Officer is not a member of either service, however, the position is subject to the direction of the Commissioner in performing the Chief Fire Officer's functions.

The fire services will be required to provide information relevant to the Chief Fire Officer's advisory functions, as the Chief Fire Officer requests.

#### *Deputy Commissioner*

The role of Deputy Commissioner will be established as a statutory position responsible for managing the day-to-day service delivery of QFR. The Deputy Commissioner's functions will be to:

- support the Commissioner in the delivery of the Commissioner's functions;
- manage the service delivery of QFR to ensure the effectiveness and efficiency of QFR;
- ensure the development of QFR capability including the systems, frameworks and resources required to support service delivery;
- ensure minimum standards and training for fire service officers assigned to QFR are in place to the satisfaction of the Commissioner; and
- perform any other function given to the Deputy Commissioner by the Commissioner.

The Bill provides that the Commissioner is to appoint a person to the role of Deputy Commissioner. A person is eligible for appointment as Deputy Commissioner only if the person has professional firefighting experience, incident control expertise, and fire prevention expertise.

#### *Chief Officer*

The role of Chief Officer will be established as a statutory position responsible for the day-to-day management of RFSQ.

The Bill provides that the Commissioner is to appoint a person to the role of Chief Officer. A person is eligible for appointment as Chief Officer only if the person has rural firefighting experience, or rural incident control expertise, or rural fire prevention expertise.

The functions of the Chief Officer will be to: support the Commissioner in the delivery of the Commissioner's functions; to manage the service delivery of RFSQ, including fire service

officers assigned to RFSQ; to ensure the effectiveness and efficiency of RFSQ; to ensure the development of the capability of RFSQ, including the systems frameworks and resources required to support the delivery of services; to ensure minimum standards and training for fire service officers assigned to RFSQ, and rural fire brigade members, are in place to the satisfaction of the Commissioner; and to perform any other function given to the Chief Officer by the Commissioner.

### *Rural Fire Service Queensland*

RFSQ will be established as a fire service. In addition to the general functions of the fire services, the functions of RFSQ will be to:

- carry out activities for the prevention of, preparedness for, response to, and recovery from, bushfires;
- control and prevent bushfires;
- investigate bushfires;
- manage chief fire wardens and fire wardens;
- manage the administration of the granting of notifications, notices and permits under the FES Act for the lighting of fires;
- manage rural fire brigades;
- support other entities providing emergency services to help communities respond to and recover from disasters;
- support communities to improve resilience to bushfires; and
- perform other functions given to RFSQ by the Commissioner.

### *Rural Fire Brigades*

The Bill recognises the role of volunteer members of rural fire brigades in supporting the delivery of fire and emergency services in the State. Proposed amendments will operate to address issues regarding the legal status of brigades, ensure consistency of volunteer protections across services, and strengthen support and management options of rural fire brigades.

The Bill provides for:

- the inclusion of rural fire brigades and their members as part of RFSQ;
- the Commissioner to make model rules for the proper management and operation of rural fire brigades;
- the recognition of office bearers in supporting the operation and administration of rural fire brigades; and
- the appointment of a ‘person in charge of operations’ for controlling and extinguishing a fire or for controlling another incident by the Commissioner if no first officer is available and the Commissioner considers it appropriate and necessary. A person in charge of operations may be appointed for the duration of an event or for a stated or indefinite period.

The functions of a rural fire brigade will be clarified in the Bill to include:

- carrying out firefighting and fire prevention;
- using fire for land management;
- carrying out other activities to help communities or other entities prepare for, respond to, and enhance resilience to, an event or a disaster;
- carrying out activities to raise the profile of RFSQ (including its rural fire brigades),

promote bushfire safety or raise funds to support rural fire brigades in the performance of the brigades' other functions;

- providing services or assistance if required by any Act or the reasonable expectations of the community; and
- performing any other function given to the rural fire brigade by the Commissioner.

#### *RFSQ advisory committee*

A committee will be established to provide advice to the Chief Officer on matters relating to the performance of the functions of RFSQ, including the administration and management of rural fire brigades. Members of the advisory body are to be appointed by the Minister in consultation with the Chief Officer.

#### *Appointment of executive and senior officers*

The Bill provides that the Commissioner may employ such number of executive officers or senior officers as the Commissioner considers necessary for the effective administration of the FS Act and the performance of the fire services' functions.

However, an executive officer or senior officer may only be appointed in QFR if the Commissioner is satisfied that the person has professional firefighting experience, and incident control expertise, and fire prevention expertise. Professional firefighting experience must be obtained by employment as a firefighter in QFR or a fire service in another State (including a Territory) or New Zealand (NZ) equivalent to QFR.

An executive officer may only be appointed in RFSQ if the Commissioner is satisfied that the person has rural firefighting experience, or rural incident control expertise, or rural fire prevention expertise.

#### *Employment on merit*

The Bill provides those mandatory qualifications, skills or experience the Commissioner considers necessary for a position are to be of primary consideration when undertaking recruitment and selection, in recognition of the operational nature of roles within the services.

#### *Smoke alarms in caravans and motorised caravans*

The Bill provides requirements for smoke alarms in caravans and motorised caravans. The requirement to install a working, photoelectric smoke alarm will apply to newly registered caravans and motorised caravans, those for which the registration is transferring and, from 1 January 2027, all remaining registered caravans and motorised caravans in Queensland. Amendments to the FES Regulation will provide for requirements for the positioning of smoke alarms and the requirements for the alarm, including that they comply with the relevant Australian Standard (AS 3786-2014). Failure to comply with the provision will be an offence with a maximum penalty of five (5) penalty units. The Bill amends the *State Penalties Enforcement Regulation 2014* to include the new offence as a prescribed infringement notice offence.

## **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.

## **Consistency with fundamental legislative principles**

Fundamental legislative principles are the guiding principles relating to the drafting of legislation that underlie a parliamentary democracy based on the rule of law. The fundamental legislative principles in section 4 of the *Legislative Standards Act 1992* (LS Act) require that legislation has sufficient regard to:

- the rights and liberties of individuals – LS Act section 4(2)(a); and
- the institution of Parliament – LS Act section 4(2)(b).

The amendments have been drafted with due regard to the fundamental legislative principles and the amendments that may impact upon those principles are addressed below.

### **The rights and liberties of individuals**

**Legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review – LS Act, section 4(3)(a)**

#### *The appointment and removal of rural fire brigade members*

The Bill provides that members of rural fire brigades are to be appointed by the Commissioner. The amendment seeks to create consistency with other emergency service volunteers and remove ambiguity about the relationship of brigades and brigade volunteers with the State, thus enhancing applicable protections.

It is noted however, that under section 25 of the *Acts Interpretation Act 1954*, powers of appointment to an office imply certain incidental powers, including the power to remove or suspend a person from the office. Therefore, the Commissioner will have the power to suspend or remove brigade members, which is not currently available.

The proposed amendment raises issues about whether the legislation has sufficient regard to the rights and liberties of individuals in accordance with section 4(2)(a) of the LS Act. However, the proposal is considered justified to ensure that if required the Commissioner can effectively and expediently discharge their duty of care obligations to the community and other rural fire brigade members.

The administrative decision to remove or suspend the membership of a rural fire brigade member will be subject to judicial review.

#### *Officers of rural fire brigades*

Currently section 81 of the FES Act provides that a brigade must elect a first officer to be in charge of the brigade and such other officers (e.g. second, third officer etc) as it considers necessary. Section 81(5) further provides that the Commissioner may dismiss or disqualify a person from holding any office with a rural fire brigade. The power may be exercised where the first or other officer is not fulfilling the requirements of the office or the person is not suitable for the office.

Currently, brigades also elect office bearers such as the chairperson, secretary or treasurer of a rural fire brigade. The Bill seeks to also recognise these roles. In doing so, it also extends the power to dismiss or disqualify office bearers. This may infringe the fundamental legislative principle that administrative power should be sufficiently defined and subject to appropriate review.

It is anticipated that brigades will manage the election of its officers and office bearers in most cases. However, it is considered appropriate and necessary for the Commissioner to be able to both remove a person from holding an office and to also disqualify them from re-applying for the same position or another position within a brigade in some circumstances, especially where the Commissioner has information relevant to the decision the brigade may not. Where the Commissioner does decide to dismiss or disqualify an officer or office bearer, natural justice is to be observed.

#### *Commissioner's directions*

The Bill provides that the Commissioner may give directions to the Chief Fire Officer, fire service officers or rural fire brigade members that the Commissioner considers necessary or convenient to ensure the efficient and proper functioning of the fire services. This may infringe on the fundamental legislative principle that administrative power should be sufficiently defined and subject to appropriate review. The proposed amendment will provide a clear power to support the Commissioner in carrying out the functions of the Commissioner to manage the fire services in a way that ensures the services perform their functions under the FES Act effectively and efficiently. To do this, it may be necessary to give directions to the Chief Fire Officer, fire service officers (inclusive of the Chief Officer and Deputy Commissioner) or members of rural fire brigades about the functioning of the fire services.

In recognition of the Commissioner's functions under the FES Act in relation to the management of the fire services, there is no appeal process provided in regard to a direction. However, the administrative decision to give a direction under the proposed amendment may be subject to judicial review.

#### **Legislation allows for the delegation of administrative power only in appropriate cases and to appropriate persons – LS Act, section 4(3)(c)**

##### *Delegation by the CEO of QRA*

Section 4(3)(c) of the LS Act outlines that sufficient regard to the rights and liberties of individuals is dependent on whether the legislation allows the delegation of administrative power only in appropriate cases and to appropriate persons. As a generalisation, powers should be delegated only to appropriately qualified officers or employees of the administering department.

Currently, the CEO of QRA can only delegate functions to a person employed under the PS Act, thereby precluding other staff employed under the QRA Act. The Bill will remedy this by expanding the scope of persons that may be delegated CEO functions to include persons who are employed by QRA and officers or employees that have been made available by other entities to staff QRA.

This amendment is considered appropriate as it is needed to ensure that the CEO of QRA can delegate CEO functions so that QRA may operate effectively and efficiently. Concerns about the impact on fundamental legislative principles are mitigated as the amendments allowing for delegations are nuanced. The Bill does not allow for a wide scope of delegates by restricting delegations to a limited scope of persons who must be appropriately qualified and either working within QRA or as a senior executive under the PS Act. This amendment is consistent with other delegations commonly used in public administration.

#### *Model Rules*

The Bill provides that the Commissioner may make model rules for the proper management and operation of rural fire brigades. These model rules will apply to all brigades, although brigades will be able to adopt additional rules with the prior written approval of the Commissioner. Additional rules must not be inconsistent with the Act, regulations or model rules.

The model rules will be approved by the Commissioner which may infringe the fundamental legislative principle that legislation should allow for the delegation of legislative power only in appropriate cases and to appropriate persons.

The model rules will set out procedural and administrative matters only which are not appropriate to address in legislation. The Commissioner is the appropriate person to make the model rules, given their function of managing the fire services, including rural fire brigades. It is therefore considered that these detailed matters are appropriate for delegation and that the delegation will be exercised by the appropriate person.

#### **Legislation does not adversely affect rights and liberties – LS Act, section 4(3)(g)**

##### *Eligibility requirements*

For some roles, it is necessary for appointees to possess certain qualities to perform their role. This is particularly relevant where a role requires the appointee to rely on their professional qualifications, knowledge and/or experience when providing advice and/or performing operational duties designed to mitigate risk.

In particular, it is expected that certain fire service officers, including the Commissioner, Chief Fire Officer, Deputy Commissioner, Chief Officer, executive officers and senior officers of QFR, have experience in firefighting in Queensland or another jurisdiction including as a professional firefighter. The positions for which mandatory experience is required are only those in the fire services, not in the support structure for the new department. Public sector executives in the support functions for QFD will not require the same experience.

As a professional firefighter, the appointee is expected have a high level of technical knowledge and practical experience in firefighting, incident control and fire prevention. This background

knowledge and experience will ensure the appointee has a deep understanding of operational matters to support the provision of high-level advice across the range of prescribed functions for the role. Other than the Chief Fire Officer position (which is a specialist advisory position requiring significant experience in firefighting to provide authoritative advice) these officers occupy roles which include direct operational command of fire services officers and they are expected to take operational command and control of major incidents.

In addition to imposing these requirements for qualifications, skills and knowledge, new section 25B confirms that the attainment of requisite skills, experience or qualifications are of primary consideration when determining an applicant's ability to perform the requirements of a position for the purpose of section 45(2)(a) of the PS Act.

Section 45 of the PS Act provides that a person employed in or to a public sector entity must be the eligible applicant best suited to the position. In deciding the eligible applicant best suited to a position, a person undertaking a recruitment and selection process must consider each eligible applicant's ability to perform the requirements of the position. They may also consider factors, including the way each eligible applicant carried out any previous employment, each eligible applicant's potential to make a future contribution to the entity, and the extent to which the proposed decision would contribute to fulfilment of the entity's obligations, including, the objectives, strategies and targets stated in the entity's equity and diversity plan. A directive may also be made about recruitment and selection including, for example, providing for the way in which the principles underpinning recruitment and selection in the public sector are to be applied, and matters related to determining the suitability of applicants to positions in public sector entities.

It could be argued that this provision adversely affects the rights and liberties of persons who are seeking employment with QFR or RFSQ and impacts their rights to have certain matters, including those relating to equity, diversity, respect and inclusion, considered in recruitment and selection processes. Confirming that the attainment of requisite skills, experience or qualifications are of primary consideration does not preclude consideration of these matters. Rather, it clarifies that in applying broader public sector principles to an operational, public safety environment focussed on prevention of and response to fires and other emergencies, the first consideration must be to ensure that persons occupying operational roles in the fire services have the requisite experience and expertise.

Due to the complex, operational nature of these roles, it is considered to be a reasonable and legitimate requirement for recruitment and selection.

### *False calls offence*

The LS Act does not explicitly provide a fundamental legislative principle for offence provisions. However, the creation of an offence potentially breaches the fundamental legislative principle that legislation has sufficient regard to the rights and liberties of individuals as they impose a penalty upon the person for a breach of the provision. Section 150B of the FES Act provides that it is an offence for a person to ask QFES to provide a fire and emergency service at a place unless the service is required at the place and must not give a false alarm of fire. The maximum penalty for this offence is 100 penalty units or one year imprisonment. If the offence is committed during a state of fire emergency at a place to which the declaration of emergency applies, the maximum penalty for this offence increases to 250



penalty units or one year imprisonment. The Bill extends the offence in section 150B of the FES Act to include a false alarm of a hazardous materials emergency.

The expanded offence provision is considered justified, as the same considerations apply in terms of wasted QFD resources and the inappropriate diversion of emergency response capability for a false call involving a fire as one involving a hazardous materials emergency.

*Restricted expressions offence*

Legislation should not, without sufficient justification, unduly restrict ordinary activities. This includes unduly interfering in a person's conduct of business. The former Scrutiny of Legislation Committee considered provisions regulating the use of a title or name for a business and restrictions on advertising as raising an issue about the rights and liberties of an individual. However, such restrictions can be justified, particularly if the rationale for the restrictions is the promotion of public health and safety or fair trading.

Section 150H of the FES Act restricts the use by a person of restricted expressions such as 'QFES', 'Queensland Fire Service' and related expressions without the Commissioner's written approval or in a way that suggests that they are connected with the services when they are not. The maximum penalty for this offence is 40 penalty units.

The Bill amends the definition of 'restricted expression' in section 150H to include references to 'Queensland Fire and Rescue', 'Rural Fire Service Queensland', 'QFR', 'RFSQ', 'rural fire brigade' or another expression that includes any of those terms. The expansion of the existing offence to include these additional expressions is considered justified to ensure that the use of these expressions in business or to promote goods or services is only permitted where it does not damage the reputation or integrity of the fire services in the community.

*Failing to ensure smoke alarm is fitted to a caravan or a motorised caravan*

The offence of failing to ensure a smoke alarm is fitted to a caravan or a motorised caravan potentially breaches the fundamental legislative principle that legislation has sufficient regard to the rights and liberties of individuals, as it imposes a penalty upon the person for a breach of the provision. The proposed amendment aligns the penalty for failing to ensure that a smoke alarm is fitted to a caravan or a motorised caravan with that applying to smoke alarms in domestic dwellings.

Adopting a penalty equivalent to that applying for domestic dwellings is considered to be reasonable and proportionate given that equivalent risks are associated with persons sleeping in a caravan or a motorised caravan or a dwelling where a smoke alarm is not fitted. QFES will also be putting in place community education and information to ensure that people are aware of the requirement and the timeframes for compliance.

**Legislation does not confer immunity from proceeding or prosecution without adequate justification – LS Act, section 4(3)(h)**

*Protection from liability for rural fire brigades*

The Bill potentially departs from the principle that legislation should not confer immunity from proceeding or prosecution without adequate justification.

Due to the status of rural fire brigades and the way they are formed, volunteer members of rural fire brigades do not have the same protections as, for example, volunteers of the SES. This includes protections from civil liability that are available under chapter 7, part 1 of the PS Act and section 39 of the *Civil Liability Act 2003*. The establishment of RFSQ and the inclusion of rural fire brigades and rural fire brigade members as part of RFSQ will enhance the protections that apply to volunteer members and reduce the risk to the State that exists under the current framework.

The amendments are considered justified on the basis that volunteer members of rural fire brigades perform statutory functions, such as firefighting and fire prevention, and there is a significant public safety benefit in them doing so.

### **The institution of Parliament**

The Bill makes a number of amendments that allow for new or additional matters to be prescribed under regulation. These provisions may be considered to breach the fundamental legislative principle that legislation must have sufficient regard to the institution of Parliament.

Section 152B of the FES Act currently provides for the use of unregistered vehicles on roads in certain circumstances. Specifically, the section provides that an unregistered vehicle may be used on a road by a rural fire brigade for carrying persons or equipment for the purpose of preventing, controlling or extinguishing a fire; or for the purpose of training relating to fire fighting or fire prevention; or for another purpose authorised in writing by the Commissioner.

The Bill will include reference to fire service officers assigned to RFSQ as persons who may use an unregistered vehicle on a road provided the other requirements of the section are met. This reflects the establishment of RFSQ, as including rural fire brigades and fire service officers assigned to RFSQ. The Bill will also include a new regulation making power to provide that an unregistered vehicle may be used on a road for a purpose and by a person set out in a regulation. The use of the vehicle would still need to meet the other requirements of the section, namely that the vehicle is clearly identified as a vehicle of a rural fire brigade, and that an insurance policy, of the kind mentioned in section 23(1) of the *Motor Accident Insurance Act 1994*, is in force for the vehicle.

The regulation making power will provide some flexibility to deal with changing and uncertain situations that may arise with significant fire events. For example, it may be used to authorise interstate fire officers who are deployed to Queensland to assist with the control and extinguishment of a significant fire and who may be required to take control of and move a fire fighting vehicle on a road. It could also, for example, cater for circumstances such as where a mechanic is required to drive a vehicle on a road during the servicing and repair of the vehicle.

This may be considered a breach of the fundamental legislative principle that legislation must have sufficient regard to the institution of Parliament as the provision will allow for a regulation to expand the circumstances in which an unregistered vehicle may be used on a road. However, the breach is considered justified on the basis that the regulation making power is appropriately constrained in requiring that any further uses prescribed under regulation will need to specify the vehicle type, person and use that is proposed. Any vehicle will also need to be identifiable as a rural fire brigade vehicle and covered by an appropriate insurance policy. It is proposed that any regulation would be the subject of consultation with the Department of Transport and

Main Roads to ensure that only necessary use is prescribed. Further, a regulation when made will sufficiently subject the exercise of the delegated legislative power to Parliamentary scrutiny.

Currently, section 104S of the FES Act provides a power to make a regulation for Part 9A of the FES Act. Part 9A provides for building fire safety, including ensuring persons can safely escape from a building in the event of a fire, and fire safety systems that are required to be installed in particular buildings. Section 104S(k) of the FES Act allows a regulation to be made for matters necessary to protect persons, property and the environment from fire and hazardous materials emergencies. However, there are a number of specific matters in section 104S for which the FES Act only provides that regulations may be made relating to fire. Therefore, section 104S could be clearer about the extent to which a regulation made under the FES Act can provide for hazardous materials emergencies in addition to fire. A review of the FES Act, the current *Building Fire Safety Regulation 2008* and QFES practices has identified a number of heads of power in section 104S that should also include a reference to hazardous materials.

The Bill expands the current matters for which regulations can be made under the FES Act to include hazardous materials emergencies in addition to fires. This may be considered a breach of the fundamental legislative principle that legislation must have sufficient regard to the institution of Parliament as the provision will broaden the authority the FES Act currently provides for the making of a regulation. It is considered that the potential breach is justified on the basis that any regulation will be subject to scrutiny by the Legislative Assembly. In addition, the making of the regulation will be subject to the operation of the provisions which prescribe the objects of the FES Act and the definition of hazardous materials emergency which will inform the scope of any regulation. This will require any subordinate legislation to be developed within the boundaries of these provisions.

The amendments in the Bill relating to smoke alarms in caravans and motorised caravans will also provide for a regulation to prescribe details about the requirements for the positioning of smoke alarms and the relevant Australian Standard the alarm must comply with. It is appropriate to provide that these matters may be delegated to subordinate legislation to provide for flexibility if there are changes required in future about the positioning of alarms or updates to the appropriate standard. Further, a regulation when made will sufficiently subject the exercise of the delegated legislative power to Parliamentary scrutiny.

The Bill also amends the regulation-making power in section 154E of the FES Act to provide that a regulation may provide for matters relating to the administration of the fire services. The amendment is considered justified on the basis that it will support the Commissioner in the discharge of their prescribed functions, which includes the management and administration of the fire services.

## Consultation

In preparing the Bill, consultation was undertaken with relevant government agencies. A consultation draft of the Bill was also provided to key stakeholders including:

- Inspector-General of Emergency Management;
- Local Government Association of Queensland;
- Queensland Police Union of Employees;
- Queensland Police Commissioned Officers' Union;

- Together Union, including Together Union, RFS;
- Rural Fire Brigade Association Queensland;
- United Firefighters Union Queensland;
- Queensland Auxiliary Firefighters Association;
- Queensland Fire and Emergency Service Senior Officers Union of Employees;
- State Emergency Service Volunteer Association;
- Queensland flotillas/squadrons of the Australian Volunteer Coast Guard Inc; and
- Volunteer Marine Rescue Association Queensland Inc and affiliated bodies.

Stakeholder feedback was taken into account in finalising the Bill.

Motoring organisations such as Caravanning Queensland and the Royal Automobile Club of Queensland have been informed of the proposed amendments relating to smoke alarms in caravans and motorised caravans and will be further consulted in ensuring the caravanning and motorhome community are educated about the reforms and their commencement.

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

The Bill is specific to the State of Queensland and is 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 states that the Act may be cited as the *Disaster Management and Other Legislation Amendment Act 2024*.

#### 2. Commencement

Clause 2 states the Act commences on a date to be fixed by proclamation.

### Part 2 Amendment of Disaster Management Act 2003

#### 3. Act amended

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

#### 4. Amendment of s 4A (Guiding principles)

Clause 4 inserts new paragraph (aa) that provides that a guiding principle of the Act is that ‘consideration should be given to the improvement of the resilience of a community to a disaster in all 4 phases of disaster management planning under paragraph (a)’.

The clause renumbers section 4A(aa) to (d) as section 4A(b) to (e).

The clause also removes references to ‘State group’ and replaces them with ‘QDMC’.

The clause also makes technical changes to highlight the four phases of disaster management consist of prevention, preparation, response and recovery.

#### 5. Amendment of s 17 (Establishment)

Clause 5 clarifies that the Queensland Disaster Management Committee (QDMC) is a disaster management group.

#### 6. Amendment of s 18 (Functions)

Clause 6 expands the functions of the QDMC. The clause inserts new paragraph (aa) which provides that a function of the QDMC is ‘to provide strategic leadership for disaster management and disaster operations for the State’.

The clause also makes a technical amendment by re-numbering this section.

The clause also removes references to ‘State group’ and replaces these references with ‘QDMC’.

**7. Amendment of s 20A (Functions of chairperson of State group)**

Clause 7 makes a technical amendment to confirm that the functions of the Chairperson of the QDMC will include other functions given to the chairperson under the *Disaster Management Act 2003* or another Act.

The clause also removes references to ‘State group’ and replaces them with ‘QDMC’.

**8. Insertion of new ss 21CA and 21CB**

Clause 8 inserts new sections 21CA and 21CB that are explained below:

**21CA State recovery policy and planning coordinator**

The new section 21CA provides for the role of the SRPPC. The CEO of QRA is the SRPPC. If the CEO of QRA is not available, the acting CEO of the QRA is the SRPPC. If neither the acting CEO nor CEO of QRA can perform the function of the SRPPC, the chairperson of the QDMC may appoint another appropriately qualified person as the SRPPC.

**21CB Functions of State recovery policy and planning coordinator**

The new section 21CB provides the functions of the SRPPC are:

- a) to make policies and plans for the QDMC about coordinating effective disaster recovery operations;
- b) to liaise with, and advise, the SDC about disaster recovery operations;
- c) to work with the SDC to transition from disaster response operations to disaster recovery operations;
- d) to oversee the implementation of policies for effective disaster recovery operations and for improving resilience of the State;
- e) if a SRC is appointed for a disaster, to liaise with and advise the SRC about coordinating the disaster recovery operations for the disaster;
- f) to report regularly to the QDMC about the coordination of disaster recovery operations; and
- g) to otherwise coordinate disaster recovery operations for the QDMC.

If a SRC is appointed, it is intended that they will liaise with and provide advice about coordinating disaster recovery operations for a disaster to the SRPPC and the SRPPC will advise the SDC and QDMC accordingly.

The clause, by making reference to section 21C(2), defines ‘disaster response operations’ to mean the phase of disaster operations that relates to responding to a disaster.

**9. Amendment of 21D (State recovery coordinator)**

Clause 9 clarifies the SRC may only be appointed for a disaster event by the chairperson of the QDMC after consultation with the SRPPC.

The clause also removes references to ‘State group’ and replaces them with ‘QDMC’.

**10. Replacement of 21E (Functions of State recovery coordinator)**

Clause 10 omits the existing section 21E and replaces it with new section 21E which provides that the SRC has the following functions for a disaster:

- a) to coordinate the disaster recovery operations for the disaster;
- b) to liaise with, and advise, the SRPPC about the disaster recovery operations;
- c) to report regularly about the disaster recovery operations to the SRPPC;
- d) to report about the disaster recovery operations to the chairperson of the QDMC as directed by the chairperson;
- e) to ensure, as far as reasonably practicable, that any strategic decisions of the QDMC relevant to the disaster recovery operations are implemented; and
- f) to provide strategic advice on the disaster recovery operations to government agencies performing disaster recovery operations for the disaster.

**11. Insertion of new ss 21L and 21M**

Clause 11 inserts new sections 21L and 21M which provide for the Police Commissioner to appoint an executive officer to provide support to the SDM group and are explained below:

**21L Police Commissioner to appoint executive officer of SDM group**

New section 21L provides the Police Commissioner must appoint an executive officer of the SDM group.

**21M Executive officer to provide support**

New section 21M provides the executive officer must provide support to the SDM group, as directed by the chairperson of the group, to help the group perform its functions, including the following—

- a) calling meetings of the group;
- b) providing executive support at meetings of the group; and
- c) providing any other executive support the chairperson considers necessary.

**12. Amendment of s 44 (Annual report)**

Clause 12 amends section 44 to clarify that as soon as practicable after the end of each financial year, the QDMC must prepare a written report about disaster management in the State, present the report to the chairperson of the QDMC, and publish the report on an appropriate website providing information to the public.

The clause inserts subsection (3) which allows the chairperson of the QDMC to approve the annual report if the chairperson considers it appropriate. Otherwise, the annual report may be approved by the QDMC itself.

The clause also removes references to ‘State group’ and replaces them with ‘QDMC’.

**13. Amendment of s 49 (State plan for disaster management)**

Clause 13 amends section 49 to insert new subsection (2A) which allows the chairperson of the QDMC to approve the State plan for disaster management if the chairperson considers it appropriate. Otherwise, the plan may be approved by the QDMC itself.

The clause re-numbers section 49(2A) to (3) as section 49(3) to (4).

The clause also removes references to ‘State group’ and replaces them with ‘QDMC’.

#### **14. Insertion of new pt 14, div 3, sdiv 5**

Clause 14 inserts new subdivision 5 ‘Transitional provision for Disaster Management and Other Legislation Amendment Act 2024’ into division 3 of part 14. New subdivision 5 consists of new section 183 ‘References to State group’ which is explained below.

### **Subdivision 5                      Transitional provision for Disaster Management and Other Legislation Amendment Act 2024**

#### **183      References to State group**

New section 183 applies if, in a document, the QDMC is referred to as the ‘State group’. The reference to the State group may, if the context permits, be taken to be a reference to the QDMC. In this section, *Queensland Disaster Management Committee* means the entity of that name established under section 17 of the *Disaster Management Act 2003*.

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

Clause 15 amends the dictionary to omit the definition of ‘State group’.

The clause amends the dictionary to insert definitions for the following terms:

- a) disaster recovery operations;
- b) phase;
- c) police service;
- d) QDMC;
- e) resilience; and
- f) State recovery policy and planning coordinator.

In the definitions of ‘chairperson’ and ‘disaster management group’, the clause replaces the words ‘State group’ with ‘QDMC’.

In the definition of ‘disaster management guidelines’, the clause replaces the words ‘chief executive’ with ‘police commissioner’.

In the definition of ‘executive officer’, the clause inserts new paragraph (aa) stating ‘for part 2, division 1A—see section 21L; or’. The clause renumbers paragraphs (aa) to (b) as paragraphs (b) to (c).

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



**16. Regulation amended**

Clause 16 states this part amends the *Disaster Management Regulation 2014*.

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

Clause 17 inserts into section 3(2) new paragraph (c) which states that where a Crisis Communication Network has been established for a disaster, the Chair of the Crisis Communication Network is to assist the QDMC in carrying out the QDMC's functions.

The clause inserts new subsection (3) which defines 'Crisis Communication Network' to mean 'a group of that name established under an administrative arrangement to help to coordinate public information relating to a disaster'.

The clause also amends subsection (1) to omit the words from 'State group' to 'functions' and replaces them with 'QDMC in carrying out its functions'. The clause will also update references to the 'commissioner of the police service' with 'police commissioner', and to the 'State group' with 'QDMC'.

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

**18. Act amended**

Clause 18 provides this part amends the *Fire and Emergency Services Act 1990*.

**19. Amendment of long title**

Clause 19 amends the long title of the Act by replacing the words 'the Queensland Fire and Emergency Service' with 'Queensland Fire and Rescue and Rural Fire Service Queensland'.

**20. Amendment of s 1 (Short title)**

Clause 20 amends the short title of the Act by replacing the words '*Fire and Emergency Services Act 1990*' with '*Fire Services Act 1990*'.

**21. Amendment of s 2 (Objects of Act)**

Clause 21 amends the objects of the Act by omitting section 2(c) and inserting new section 2(c). New section 2(c) provides that an object of the Act is to establish a framework for the operation, management and administration of Queensland Fire and Rescue and Rural Fire Service Queensland.

**22. Insertion of new s 2A**

Clause 22 inserts a new section 2A.

**2A      How objects are to be achieved**

New section 2A provides that the objects of the Act are to be achieved by establishing processes to ensure ongoing operational and strategic collaboration and coordination between Queensland Fire and Rescue and Rural Fire Service Queensland, and the recognition of the valuable role of volunteers in supporting the delivery of fire and emergency services in the State.

**23. Amendment of ch 2, hdg (Commissioner)**

Clause 23 amends the heading of chapter 2 to insert the word ‘Appointments’.

**24. Insertion of new ch 2, pt 1, hdg**

Clause 24 inserts a new part 1 of chapter 2, which sets out the provisions relating to the Commissioner.

**25. Amendment of s 5 (Appointment of commissioner)**

Clause 25 amends section 5 to insert new subsection (1A) which provides that a person is eligible for appointment as Commissioner only if the person has professional firefighting experience, incident control expertise, and fire prevention expertise.

The clause renumbers section 5(1A) and (2) as section 5(2) and (3).

**26. Amendment of s 7A (Functions of commissioner)**

In addition to being the chief executive of the QFD, the Commissioner is also the operational head of both fire services. Given chief executive responsibilities are already directed by legislation such as the PS Act, *Financial Accountability Act 2009* and *Work Health Safety Act 2011*, amendments to the functions of the Commissioner concern matters relevant to the position’s command-and-control and service-delivery responsibilities. In particular, those matters of an administrative, strategic or operational nature that affect both services.

Clause 26 amends section 7A(1) to clarify the main functions of the Commissioner are: to manage the fire services in a way that ensures each fire service performs its functions under the Act effectively and efficiently; and to make recommendations to the Minister about any matter that relates to the performance of functions or exercise of powers by the Commissioner or the fire services, or may help the Minister in the proper administration of the Act.

New section 7A(1A) provides that, without limiting section 7A(1), the Commissioner also has the following functions:

- a) to decide the appropriate organisational structure of the fire services;
- b) to control and oversee the resources of the fire services;
- c) to decide the number and deployment of fire service officers and rural fire brigade members;
- d) to decide the qualifications for fire service officers and the duties of the officers;
- e) to be responsible for organising training and development of fire service officers and rural fire brigade members;

- f) to facilitate collaboration and coordination of the fire services for the purpose of continuity of service delivery (so that the two fire services can effectively operate in conjunction with each other in emergency situations where they are required to work together);
- g) to decide the dress or appearance of fire service officers and rural fire brigade members;
- h) to decide the number and location of the fire services' facilities;
- i) to monitor the performance and management of the fire services;
- j) to report regularly to the Minister on the capability of the fire services to perform the functions of the fire services under the Act; and
- k) to report to the Minister on the functions performed by the Chief Fire Officer in each reporting period under section 7J.

The clause also renumbers section 7A(1A) and (2) as section 7A(2) and (3).

## **27. Insertion of new 7AA**

Clause 27 inserts a new section 7AA.

### **7AA Commissioner's directions**

New section 7AA provides the Commissioner may give a direction, if the Commissioner considers it necessary or convenient to give the direction, to ensure the efficient and proper functioning of the fire services. A direction under this section may be written or oral and may apply to all or any of the following persons: the Chief Fire Officer; fire service officers; and rural fire brigade members.

## **28. Insertion of new ch 2, pts 2-4**

Clause 28 inserts a new part 2 of chapter 2, which provides for the new Chief Fire Officer.

### **Part 2 Chief Fire Officer**

#### **Division 1 Appointment of Chief Fire Officer**

New division 1 sets out the provisions relating to the appointment of the new Chief Fire Officer.

### **7C Appointment**

New section 7C provides the Commissioner is to appoint a Chief Fire Officer. The Commissioner may appoint a person as Chief Fire Officer only if satisfied the person has professional firefighting experience, and incident control expertise, and fire prevention expertise. The Chief Fire Officer is to be employed under the Act and not the *Public Sector Act 2022*.

### **7D Conditions of appointment**

New section 7D provides the Chief Fire Officer holds office for the term and on the conditions stated in the person's contract of employment.

### **7E Resignation**

New section 7E provides the Chief Fire Officer may, at any time, resign office as Chief Fire Officer by signed notice given to the Commissioner.

#### **7F Acting Chief Fire Officer**

New section 7F provides the Commissioner may appoint a person, who is eligible for appointment as Chief Fire Officer, to act in the office of Chief Fire Officer during any vacancy or all vacancies in the office, or any period or all periods when the Chief Fire Officer is absent from duty, or can not, for another reason, perform the functions of the office.

#### **7G Functions**

New section 7G provides the functions of the Chief Fire Officer. The functions of the Chief Fire Officer are:

- to provide advice to the Commissioner about the fire services, including matters relating to service delivery, operational culture, best practice, and innovation and research; and
- to perform other functions given to the Chief Fire Officer under this or another Act.

The Chief Fire Officer is subject to the direction of the Commissioner in performing the Chief Fire Officer's functions under this Act.

#### **7H Preservation of rights**

New section 7H applies if a public service officer is appointed as the Chief Fire Officer. If a public service officer is appointed as the Chief Fire Officer, the person keeps all rights accrued or accruing to the person as a public service officer as if service as the Chief Fire Officer were a continuation of service as a public service officer. At the end of the person's term of office or resignation as the Chief Fire Officer, the person's service as the Chief Fire Officer is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

### **Division 2 General matters**

#### **7I Providing assistance to Chief Fire Officer**

New section 7I provides the fire services must give the Chief Fire Officer all reasonable assistance the Chief Fire Officer requires to perform the Chief Fire Officer's functions. If the Chief Fire Officer asks for information held by a fire service that relates to the Chief Fire Officer's functions, the fire service must give the information.

#### **7J Reporting requirements**

New section 7J states that within 30 days after the end of each reporting period, the Chief Fire Officer must prepare a report on the functions performed by the Chief Fire Officer during the reporting period and give the report to the Commissioner. For this section, the reporting period is the period prescribed by regulation for this definition, or, if no period is prescribed, each quarter in a financial year.

### **Part 3 Deputy Commissioner**

### **7K Appointment**

New section 7K provides the Commissioner is to appoint a Deputy Commissioner. A person is eligible for appointment as Deputy Commissioner if the person has professional firefighting experience, and incident control expertise, and fire prevention expertise.

The Commissioner must also have regard to the matters mentioned in new section 25B (Employment on merit) when appointing a person as the Deputy Commissioner.

The Deputy Commissioner is to be employed under the Act and not the *Public Sector Act 2022*.

### **7L Conditions of appointment**

New section 7L provides the Deputy Commissioner holds office for the term and on the conditions stated in the person's contract of employment.

### **7M Resignation**

New section 7M provides the Deputy Commissioner may, at any time, resign as the Deputy Commissioner by signed notice given to the Commissioner.

### **7N Acting Deputy Commissioner**

New section 7N provides the Commissioner may appoint a person who is eligible for appointment as Deputy Commissioner to act in the office of Deputy Commissioner. The person may act in the office of Deputy Commissioner during any vacancy, or all vacancies, in the office, or any period, or all periods, when the Deputy Commissioner is absent from duty, or can not, for another reason, perform the functions of the office.

### **7O Functions**

New section 7O provides the functions of the Deputy Commissioner. The Deputy Commissioner is subject to the direction of the Commissioner in performing the Deputy Commissioner's functions under this Act.

The Deputy Commissioner's functions are:

- a) to support the Commissioner in the performance of the Commissioner's functions;
- b) to manage the service delivery of QFR to ensure the effectiveness and efficiency of QFR;
- c) to ensure the development of the capability of QFR, including the systems, frameworks and resources required to support the delivery of services;
- d) to ensure minimum standards and training for fire service officers assigned to QFR are in place to the satisfaction of the Commissioner; and
- e) to perform any other function given to the Deputy Commissioner by the Commissioner.

### **7P Preservation of rights**

New section 7P applies if a public service officer is appointed as the Deputy Commissioner. The person keeps all rights accrued or accruing to the person as a public service officer as if service as the Deputy Commissioner were a continuation of service as a public service officer. At the end of the person's term of office or resignation as the Deputy Commissioner, the

person's service as the Deputy Commissioner is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

#### **Part 4 Chief Officer**

New part 4 sets out the provisions relating to the new Chief Officer of RFSQ.

#### **7Q Appointment**

New section 7Q provides that the Commissioner is to appoint a Chief Officer of RFSQ. A person is eligible for appointment as Chief Officer only if the person has rural firefighting experience, or rural incident control expertise, or rural fire prevention expertise.

The Commissioner must also have regard to the matters mentioned in new section 25B (Employment on merit) when appointing a person as the Chief Officer.

The Chief Officer is to be employed under the Act and not the *Public Sector Act 2022*.

#### **7R Conditions of appointment**

New section 7R provides the Chief Officer holds office for the term and on the conditions stated in the person's contract of employment.

#### **7S Resignation**

New section 7S provides the Chief Officer may, at any time, resign office as Chief Officer by giving signed notice to the Commissioner.

#### **7T Acting Chief Officer**

New section 7T provides the Commissioner may appoint a person, who is eligible for appointment as Chief Officer, to act in the office of Chief Officer of RFSQ during any vacancy, or all vacancies, in the office, or any period, or all periods, when the Commissioner is absent from duty, or can not, for another reason, perform the functions of the office.

#### **7U Functions**

New section 7U provides for the functions of the Chief Officer of RFSQ. The Chief Officer is subject to the direction of the Commissioner in performing their functions which are:

- a) to support the Commissioner in the performance of the Commissioner's functions;
- b) to manage the service delivery of RFSQ, including fire service officers assigned to RFSQ, to ensure the effectiveness and efficiency of RFSQ; and
- c) to ensure the development of the capability of RFSQ, including the systems, frameworks and resources required to support the delivery of services;
- d) to ensure minimum standards and training for fire service officers assigned to RFSQ, and for rural fire brigade members, are in place to the satisfaction of the Commissioner; and
- e) to perform any other function given to the Chief Officer by the Commissioner.

#### **7V Preservation of rights**

New section 7V applies if a public service officer is appointed as Chief Officer. If a public service officer is appointed as Chief Officer, the person keeps all rights accrued or accruing to the person as a public service officer as if service as the Chief Officer were a continuation of service as a public service officer. At the end of the person's term of office or resignation as the Chief Officer, the person's service as the Chief Officer is taken to be service of a like nature in the public service for deciding the person's rights as a public service officer.

**29. Replacement of ch 3, hdg (Queensland Fire and Emergency Service)**

Clause 29 omits the heading of chapter 3 and replaces it with new heading 'Chapter 3 Fire services'.

**30. Amendment of ch 3, pt 1, hdg (Establishment, membership and functions)**

Clause 30 amends the heading of part 1 of chapter 3 to insert 'functions and powers'.

**31. Replacement of ss 8 and 8A**

Clause 31 omits sections 8 and 8A and inserts new sections 8 and 8A which establish the new fire services and their membership.

**8 Establishment**

New section 8 establishes Queensland Fire and Rescue (QFR) and Rural Fire Service Queensland (RFSQ) as fire services. The section provides that each of the QFR and RFSQ is a fire service and are collectively called 'the fire services'.

**8A Membership**

New section 8A clarifies QFR consists of the Commissioner, Deputy Commissioner, and fire service officers assigned to QFR by the Commissioner. The section also provides that RFSQ consists of the Commissioner, the Chief Officer, fire service officers assigned to RFSQ by the Commissioner, rural fire brigades and rural fire brigade members.

**32. Amendment of s 8B (Functions of QFES)**

Clause 32 amends section 8B to insert 'and powers' in the section heading. The clause omits references to QFES and replaces them with 'the fire services'. New subsection (2) provides the fire services have the power to do anything necessary or convenient to be done for the performance of the functions of the fire services.

**33. Amendment, relocation and renumbering of s 20 (Fund)**

Clause 33 amends, relocates and renumbers section 20. Section 20 is relocated to chapter 5, part 3A, division 2, and renumbered as section 152F. The clause also replaces references to: 'financial-institution' with 'financial institution'; 'part 10' with 'division 3'; and replaces 'QFES' with 'the fire services'.

**34. Replacement of s 25 (Staff of QFES)**

Clause 34 omits the existing section 25 and replaces it with new section 25 which provides for the employment of staff by the Commissioner.

## **25 Staff**

New section 25 provides that the Commissioner may employ the persons the Commissioner considers necessary to perform the fire services' functions. The Commissioner may employ the number of executive officers or senior officers as is necessary for the effective administration of the Act and the performance of the fire services' functions. New section 25(5) defines 'executive officer' as a person employed in a role equivalent to that of a senior executive under section 188 of the *Public Sector Act 2022*. Senior officer means a person employed in a role equivalent to that of a senior officer under the *Public Sector Act 2022*, defined in schedule 2.

The Commissioner may employ a person as an executive officer or senior officer under this section only if the Commissioner is satisfied the person has specific experience and expertise.

For a person to be employed as an executive officer or senior officer in QFR, the Commissioner must be satisfied the person has professional firefighting experience, and incident control expertise, and fire prevention expertise.

For a person to be employed as an executive officer in RFSQ, the Commissioner must be satisfied the person has rural firefighting experience, or rural incident control expertise, or rural fire prevention expertise.

## **35. Insertion of new s 25B**

Clause 35 inserts a new section 25B providing for employment on merit.

### **25B Employment on merit**

New section 25B provides that in considering an applicant's ability to perform the requirements of a position for the purpose of section 45(2)(a) of the *Public Sector Act 2022*, the person undertaking the recruitment and selection process must consider whether the applicant has the mandatory qualifications, skills or experience the Commissioner considers necessary for the position (the requisite conditions). In deciding the applicant best suited to the position under section 45(2) of the *Public Sector Act 2022*, the person must consider the primacy of the requisite conditions over any other matter that may be considered under section 45(2)(b) of that Act.

## **36. Omission of ch 3, pt 4A (Emergency Services Advisory Council)**

Clause 36 omits part 4A of chapter 3.

## **37. Relocation and renumbering of ch 3, pt 6 (Powers of authorised fire officers)**

Clause 37 relocates part 6 of chapter 3 to chapter 4B, and renames the part as part 1. The clause renumbers sections 52 to 60A as sections 149H to 149Z.

## **38. Relocation and renumbering of ch 3, pt 6A (Powers of investigation officers)**



Clause 38 relocates part 6A of chapter 3 to chapter 4B, and inserts the part as part 2. The clause renumbers sections 60B to 60Q as sections 149ZA to 149ZP.

**39. Replacement of ch 3, pt 7, div 1, hdg (Powers of commissioner relating to fires)**

Clause 39 omits the heading in chapter 3, part 7, division 1 and inserts ‘Control and prevention of fires’.

**40. Relocation and renumbering of ch 3, pt 7, div 1 (Powers of commissioner relating to fires)**

Clause 40 relocates part 7, division 1 of chapter 3 to chapter 4A, and inserts the part as part 1. The clause renumbers sections 61 to 74 as sections 144 to 145L.

**41. Amendment of s 75 (Chief fire wardens and fire wardens)**

Clause 41 amends section 75 which provides for chief fire wardens and fire wardens. The clause omits subsection (2) from section 75 and inserts new subsections (2) and (2A).

New section 75(2) provides the Commissioner may appoint a person to be a chief fire warden or fire warden (each a relevant fire warden), or recommend to the Governor in Council the appointment of a person as a relevant fire warden under subsection (4), only if the Commissioner is satisfied the person is appropriately qualified to perform the functions and exercise the powers of a relevant fire warden.

New section 75(2A) provides that subject to section 75(4), a relevant fire warden holds office for the term and on the conditions stated in the relevant fire warden’s instrument of appointment, and the instrument of appointment must state the geographical area in which the relevant fire warden can perform the relevant fire warden’s functions or exercise the relevant fire warden’s powers.

The clause omits the reference to ‘QFES’ and replaces it with ‘the fire services’. The clause omits the reference to ‘subsection (3)(b)’ in section 75(6) and replaces it with ‘subsection (4)(b)’. The clause renumbers section 75(2A) to (6) as section 75(3) to (7).

**42. Amendment of s 76 (Powers and functions)**

Clause 42 omits section 76(2) and inserts new subsection (2) which provides that, without limiting section 7AA, the Commissioner may direct a chief fire warden or fire warden in the performance of the chief fire warden’s or fire warden’s functions and to perform functions in addition to those conferred by the Act.

**43. Replacement of s 77 (Expenses)**

Clause 43 omits section 77 which provided for the payment of such expenses to a chief fire warden or fire warden as approved by the Governor in Council. Wardens will continue to be remunerated by the department.

Clause 43 also inserts new section 77 which provides that a chief fire warden or fire warden may, at any time, resign office as chief fire warden or fire warden by signed notice given to the Commissioner.

#### **77 Resignation**

New section 77 provides a chief fire warden or fire warden may, at any time, resign office as chief fire warden or fire warden by signed notice given to the Commissioner.

#### **44. Relocation and renumbering of ch 3, pt 7, div 2 (Fire wardens)**

Clause 44 relocates part 7, division 2 of chapter 3 to chapter 4 and renames the part as part 4. The clause renumbers sections 75 to 78 as sections 131 to 134.

#### **45. Amendment of s 79 (Formation of rural fire brigade)**

Clause 45 amends the heading of section 79 to remove ‘formation’ and insert ‘registration’ to provide for the registration of rural fire brigades. The clause amends section 79(1) to omit the words ‘for registration’ and replace them with ‘to register an entity’. The clause amends section 79(2) to insert a note which provides that if an application for registration of an entity as a rural fire brigade is granted, each person in the group who applied for registration is not necessarily a member of the rural fire brigade. Appointment of rural fire brigade members is set out in new section 80.

#### **46. Replacement of s 80 (Rural fire brigade may make rules)**

Clause 46 omits section 80 which provided for the making of rules by a rural fire brigade not inconsistent with the Act for the purpose of regulating its proceedings and the conduct of its operations and replaces it with new sections 80 and 80A.

#### **80 Appointment of rural fire bridge members**

New section 80 provides the Commissioner may appoint a person as a member of a rural fire brigade. A rural fire brigade member is appointed on the terms stated in the instrument of appointment and may resign the appointment by signed notice given to the Commissioner. The insertion of new section 80 recognises the important functions volunteers perform and enhances the civil liability protections that apply to volunteers under the *Public Sector Act 2022* and the *Civil Liability Act 2003*.

#### **80A Rules for rural fire brigades**

New section 80A provides the Commissioner may make model rules for the proper management and operation of rural fire brigades. The Commissioner may amend the model rules from time to time to ensure the model rules comply with best practice for the management and operation of rural fire brigades. A rural fire brigade may, with the written approval of the Commissioner, make a rule that is additional to the model rules. Any rule additional to the model rules must not be inconsistent with the Act or the model rules. A rural fire brigade’s rules are the model rules and any additional rules approved by the Commissioner. A rural fire brigade and the members of the rural fire brigade must comply with the rural fire brigade’s rules.

**47. Amendment of s 81 (Officers of rural fire brigade)**

Clause 47 amends the heading of section 81 by inserting ‘and office bearers’ to expand the provision to office bearers of a rural fire brigade.

The clause inserts new subsection (2A) into section 81 to provide that a rural fire brigade may elect any member of the brigade to be the chairperson, secretary or treasurer of the brigade (each an office bearer).

The clause amends section 81(4) to extend its application to office bearers.

The clause inserts new section 81(5) which provides that the Commissioner may do either or both of the following in relation to a person:

- a) dismiss the person from an office held with, or as an office bearer of, a rural fire brigade;
- b) disqualify the person from holding any office with, or being an office bearer of, a rural fire brigade.

The clause renumbers section 81(2A) to (5) as section 81(3) to (6).

**48. Amendment of s 82 (Functions of a rural fire brigade)**

Clause 48 amends section 82 by omitting subsection (1) and inserting new subsection (1) which provides for the functions of a rural fire brigade.

The new section 82(1) provides the functions of a rural fire brigade are:

- a) to carry out fire fighting and fire prevention;
- b) to use fire for land management;
- c) to perform other activities to help communities or other entities prepare for, respond to, and enhance resilience to, an event or a disaster;
- d) to perform activities to raise the profile of RFSQ, including its rural fire brigades, promote bushfire safety or raise funds to support rural fire brigades in the performance of the brigades’ other functions;
- e) to provide services or assistance if required by any Act or the reasonable expectation of the community; and
- f) to perform any other function given to the brigade by the Commissioner.

**49. Insertion of new s 83A**

Clause 49 inserts new section 83A which provides for the appointment of a person in charge of operations.

**83A Appointment of person in charge of operations**

New section 83A provides the Commissioner may appoint a person as the person in charge of operations for controlling and extinguishing a fire, or for controlling another incident, if the Commissioner considers it appropriate and necessary in the circumstances. However, the Commissioner may appoint a person as the person in charge of operations for controlling and extinguishing a fire in an area for which a rural fire brigade is in charge of fire fighting and fire

prevention under section 138(2) only if there is no first officer for the rural fire brigade, within the meaning of section 140(4), who is available for controlling or extinguishing the fire.

The appointment of the person in charge of operations may be written or oral, and for the duration of an event or for a stated or indefinite period. Subsection (4) provides that the appointment of a person as the person in charge of operations ends in the following circumstances:

- a) for an appointment for the duration of an event - at the end of the event; or
- b) for an appointment for a stated period - at the end of the stated period; or
- c) for an appointment for an indefinite period - when the Commissioner gives the person notice that the appointment has ended.

Subsection (5) provides that despite subsection (4), the appointment of a person as the person in charge of operations ends if the Commissioner gives the person notice that the appointment has ended.

The person in charge of operations for controlling and extinguishing a fire has the powers of the first officer of a rural fire brigade under section 140(1)(a) and (b) of the Act. Section 140(2) of the Act applies to the person in charge of operations as if a reference in the subsection to the first officer of a rural fire brigade were a reference to the person in charge of operations. Any person performing a function or exercising a power under this section must comply with any relevant code of practice and any direction given by the Commissioner.

**50. Omission of s 85 (Commissioner's role relating to rural fire brigades)**

Clause 50 omits section 85.

**51. Relocation and renumbering of ch 3, pt 7, div 3 (Rural fire brigades)**

Clause 51 relocates part 7, division 3 of chapter 3 to chapter 4, and renames the part as part 5 of chapter 4. The clause renumbers sections 79 to 86 as sections 135 to 143.

**52. Relocation and renumbering of ch 3, pt 8 (Fire emergency)**

Clause 52 relocates part 8 of chapter 3 to chapter 4A, and renames the part as part 2 of chapter 4A. The clause renumbers sections 86A to 93 as sections 145M to 145Z.

**53. Relocation and renumbering of ch 3, pt 9 (Off-site plans for dangerous goods)**

Clause 53 relocates part 9 of chapter 3 to chapter 4A, and renames the part as part 3 of chapter 4A. The clause renumbers sections 95 to 104 as sections 146 to 146I.

**54. Insertion of new ch 3, pt 9A, div 5B**

Clause 54 inserts a new chapter 3, part 9A, division 5B providing new requirements for smoke alarms in caravans and motorised caravans.

**104RN Definitions for division**

New section 104RN provides definitions for division 5B. The section provides that the definitions of ‘caravan’ and ‘motorised caravan’ have the meaning given under schedule 8 of the *Transport Operations (Road Use Management—Vehicle Registration) Regulation 2021*. The section also provides that the meaning of ‘operates when tested’, for a smoke alarm, has the meaning under section 148M.

#### **104RO When smoke alarm operates when tested**

New section 104RO provides that a smoke alarm operates when tested if the smoke alarm operates when tested in a way required under subsection (3). Under subsection (2) a smoke alarm powered by a battery that is capable of being replaced operates when tested if:

- a) the battery in the smoke alarm is replaced; and
- b) after the battery is replaced, the smoke alarm operates when tested in the way required under subsection (3).

Under subsection (3) a smoke alarm installed in a caravan or motorised caravan must be tested in one of two of the following ways:

- a) for an alarm that can be tested by pressing a button or another device to indicate whether the alarm is capable of detecting smoke—by pressing the button or other device;
- b) otherwise—by being tested by the owner of the caravan or motorised caravan in the way stated in the manufacturer’s instructions for the smoke alarm.

#### **104RP Requirements on registration or transfer of registration on or before 31 December 2026**

New section 104RP applies to a caravan or motorised caravan if, on or before 31 December 2026 an application for registration of the caravan or motorised caravan is granted under the *Transport Operations (Road Use Management) Act 1995*; or the chief executive of the department that administers that Act records in the register of vehicles under that Act the transfer of the registration of the caravan or motorised caravan. The section requires that, for an application for registration that is granted under the *Transport Operations (Road Use Management) Act 1995*, the person who made the application must ensure a smoke alarm is installed in the caravan or motorised caravan in compliance with this section. Where the transfer of a caravan or motorised caravan is recorded in the register of vehicles under that Act, the person to whom the registration is transferred must ensure a smoke alarm is installed in the caravan or motorised caravan in compliance with this section. Failure to comply with the section carries a maximum penalty of five (5) penalty units.

A smoke alarm installed in a caravan or motorised caravan must be installed in a place in the caravan or motorised caravan that is prescribed by regulation and be installed in the way stated in the manufacturer’s instructions for the smoke alarm. The smoke alarm must comply with other requirements prescribed by regulation and have been manufactured less than 10 years before the smoke alarm is installed. It must also operate when tested. New section 104RP expires on 31 December 2026.

#### **104RQ Requirements for registered operator of caravan or motorised caravan**

New section 104RQ section provides requirements for the person in whose name a caravan or motorised caravan is registered under the *Transport Operations (Road Use Management) Act 1995* and applies on or after 1 January 2027. .

The person in whose name the caravan or motorised caravan is registered under the *Transport Operations (Road Use Management) Act 1995* must ensure a smoke alarm is installed in the caravan or motorised caravan in compliance with this new section. Failure to comply with the section carries a maximum penalty of five (5) penalty units. For an alarm to comply, it must be installed in a place in the caravan or motorised caravan that is prescribed by regulation and be installed in the way stated in the manufacturer's instructions for the smoke alarm. It must also comply with other requirements prescribed by regulation and have been manufactured less than 10 years before the smoke alarm is installed. It must also operate when tested.

**55. Amendment of s 104S (Regulations relating to this part)**

Clause 55 amends section 104S to insert the words 'any of the following' after 'with respect to'. The clause inserts the words 'or in a hazardous materials emergency' after 'building' in section 104S(a) and (d)(i). The clause omits 'fire or' from section 104S(d)(ii), and inserts 'fire or in a hazardous materials emergency or to take specified action in the event of fire threatening a building or in a hazardous materials emergency'. The clause inserts the words 'or a hazardous materials emergency' after 'generally' in section 104S(f). The clause inserts 'or in a hazardous materials emergency' after 'building' in section 104S(g).

**56. Relocation and renumbering of ch 3, pt 9A (Building fire safety)**

Clause 56 relocates part 9A of chapter 3 to chapter 4A and renames the part as part 4. The clause renumbers sections 104A to 104S as sections 146J to 148P.

**57. Relocation and renumbering of ch 3, pt 9B (Review of notices)**

Clause 57 relocates part 9B of chapter 3 to chapter 4A, and renames the part as part 5. The clause renumbers sections 104SB to 104SK as sections 148Q to 148W.

**58. Relocation and renumbering of ch 3, pt 10, div 1 (Interpretation)**

Clause 58 relocates part 10, division 1 of chapter 3 to chapter 5, and renames the part as part 3A. The clause renumbers section 105 as section 152E.

**59. Amendment of s 107 (Liability to contribute)**

Clause 59 amends section 107(1), (2), (3) and (5) by replacing the word 'part' with 'division'. The clause amends section 107(1)(b) by replacing 'section 20(5)(b)' with 'section 152F(5)(b)'. The clause amends section 107(3) by replacing 'section 105(1)' with 'section 152E(1)'. The clause amends section 107(5) by replacing 'fire services' with 'a service consistent with the objects of this Act'.

**60. Relocation and renumbering of ch 3, pt 10, divs 2 and 3**

Clause 60 relocates part 10, divisions 2 and 3 of chapter 3 to part 3A of chapter 5 and renumbers them as divisions 3 and 4 of part 3A of chapter 5. The clause renumbers sections 106 to 128A as sections 152G to 152ZD.

**61. Relocation and renumbering of ch 3, pt 11 (Charges for services)**

Clause 61 relocates part 11 of chapter 3 to chapter 4A and renumbers the part as part 6. The clause renumbers sections 128B to 128L as sections 148X to 149G.

## **62. Insertion of new ch 4**

Clause 62 inserts, after section 128L, new chapter 4 which provides for RFSQ. New chapter 4 consists of new parts 1, 2 and 3, and new sections 129 to 143.

### **Chapter 4 Rural Fire Service Queensland**

#### **Part 1 Functions**

New part 1 sets out the functions of RFSQ.

#### **129 Additional functions of RFSQ**

Part 1, new section 129 provides for functions of RFSQ which are in addition to the general functions for the fire services described in section 8B. The additional functions of RFSQ include:

- a) to carry out activities for the prevention of, preparedness for, response to, and recovery from, bushfires;
- b) to control and prevent bushfires;
- c) to investigate bushfires;
- d) to manage chief fire wardens and fire wardens;
- e) to manage the administration of the granting of notifications, notices and permits under the Act for the lighting of fires;
- f) to manage rural fire brigades;
- g) to support other entities providing emergency services to help communities respond to and recover from disasters;
- h) to support communities to improve resilience to bushfires; and
- i) to perform other functions given to RFSQ by the Commissioner.

#### **Part 2 RFSQ advisory committee**

#### **130 Establishment and membership of RFSQ advisory committee**

New section 130 establishes the RFSQ advisory committee and provides the Minister must appoint the members of the committee in consultation with the Chief Officer. The RFSQ advisory committee has the function of advising the Chief Officer of RFSQ on matters relating to the performance of the functions of RFSQ, including the administration and management of rural fire brigades. A member of the RFSQ advisory committee holds the member's appointment on the conditions decided by the Minister. The RFSQ advisory committee is not a decision-making body.

## **63. Insertion of new ch 4A, hdg and pt 1, hdg**

Clause 63, after section 143, inserts a new heading for chapter 4A.

### **Chapter 4A Fire safety, emergencies and dangerous goods**

**64. Insertion of new ch 4B, hdg**

Clause 64, after section 149G, inserts a new heading for chapter 4B.

**Chapter 4B Investigation and enforcement**

**65. Amendment of s 150B (False calls)**

Clause 65 amends section 150B by replacing the reference to QFES with QFR and RFSQ. It also broadens the false calls offence to include calls relating to a hazardous materials emergency.

**66. Amendment of s 150G (Impersonating officer or member)**

Clause 66 amends section 150G to broaden the existing offence to impersonate an officer or member to include the impersonation of a fire officer, an authorised fire officer or an investigation officer. The clause also omits the definition of 'rural fire brigade member' in subsection (2) as clause 70 provides for a definition of rural fire brigade member in schedule 6.

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

Clause 67 omits the offence of using restricted expressions offence in section 150H and inserts new section 150H to reflect the establishment of QFR, RFSQ and rural fire brigades under the Act.

**150H Using restricted expressions etc.**

New section 150H provides for the offence of using restricted expressions. This offence carries a maximum penalty of 40 penalty units. The section provides the following terms are restricted expressions:

- a) 'Queensland Fire and Rescue';
- b) 'Rural Fire Service Queensland';
- c) 'QFR';
- d) 'RFSQ';
- e) 'rural fire brigade'; or
- f) A similar expression to an expression to any of these terms; or
- g) another expression that includes any of those terms.

A person must not, unless the person has a reasonable excuse, use a restricted expression without the Commissioner's written approval or in contravention of a condition imposed on such approval in, or as, the name of a business carried on by the person, to advertise or otherwise promote goods or services provided by the person, or to raise funds whether for the fire services or another entity.

A person must also not, unless the person has a reasonable excuse, use the expression 'Queensland Fire and Rescue', 'Rural Fire Service Queensland', 'QFR' or 'RFSQ', or a similar expression, in a way that suggests the person is a fire services officer if the person is not a fire services officer, or use the expression 'rural fire brigade' or a similar expression in a way that suggests the person is a rural fire brigade member if the person is not a rural fire brigade



member. An approval to use a restricted expression may be given on conditions and amended, suspended or cancelled by the Commissioner.

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

Clause 68 amends section 151I to insert references to the Chief Fire Officer, the Deputy Commissioner, the Chief Officer and a rural fire brigade member. This amendment extends the presumption of the appointment of persons to these positions in a proceeding under an Act unless a party to the proceeding gives reasonable notice that the party requires the appointment to be proved.

**69. Amendment of s 152B (Use of unregistered vehicle on road)**

Clause 69 amends section 152B to amend the heading of the section to omit the words ‘by rural fire brigade’. The clause also widens the application of section 152B(1)(a) to include where an unregistered vehicle (the vehicle) is being used on a road by a rural fire brigade or a fire service officer assigned to RFSQ for carrying persons or equipment for the purpose of preventing, controlling or extinguishing a fire, or for the purpose of training relating to fire fighting or fire prevention, or for another purpose authorised in writing by the Commissioner.

The clause also includes a new provision (section 152B(1)(a)(ii)) allowing for a regulation to be made prescribing further use of unregistered vehicles on roads to which certain provisions of the *Transport Operations (Road Use Management) Act 1995*, that prohibits the use on a road of an unregistered vehicle, do not apply. A regulation made under this provision is to provide for the person, and for the purpose, that the vehicle is being used. The regulation may also specify the types of unregistered vehicles that the person may use on the road for a prescribed purpose.

The clause also omits the note in section 152B(2).

**70. Amendment of s 152D (Interstate assistance at QFES incident)**

Clause 70 amends section 152D by omitting references to ‘QFES incident’ and replacing them with ‘fire services incident’. The clause inserts a definition for ‘fire services incident’ as an incident for which the fire services are performing a function mentioned in section 8B or 129.

**71. Insertion of new ch 5, pt 3A, hdg**

Clause 71 inserts a new heading for chapter 5, part 3A.

**Part 3A                      Financial Provisions**

**72. Insertion of new ch 5, pt 3A, div 2, hdg**

Clause 72 inserts a new heading, for chapter 5, part 3A, division 2.

**Division 2                      Emergency management fund**

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

Clause 73 amends the regulation-making power in section 154E to provide that a regulation may provide for matters relating to the management and administration of the fire services. This is intended to support the performance of the Commissioner's prescribed functions. The clause renumbers section 154E(2)(aa) to (f) as section 154E(2)(b) to (g).

**74. Replacement of ch 5, pt 5, hdg (Savings and transitional provisions)**

Clause 74 replaces the heading for chapter 5, part 5.

**Chapter 6 Transitional provisions**

**75. Omission of ch 5, pt 5, divs 1–7**

Clause 75 omits chapter 5, part 5, divisions 1 to 7.

**76. Replacement of ch 5, pt 5, div 8, hdg (Transitional provisions for Crime and Corruption and Other Legislation Amendment Act 2018)**

Clause 76 omits the heading for chapter 5, part 5, division 8, and inserts a new heading for part 1.

**Part 1 Transitional provisions for Crime and Corruption and Other Legislation Amendment Act 2018**

**77. Replacement of ch 5, pt 5, div 9, hdg and ch 5, pt 5, div 9, sdiv 1, hdg**

Clause 77 omits the headings in chapter 5, part 5, division 9, and chapter 5, part 5, division 9, subdivision 1, and inserts new headings.

**Part 2 Transitional provisions for Police Service Administration and Other Legislation Amendment Act 2023**

**Division 1 Amendments commencing on assent**

**78. Replacement of ch 5, pt 5, div 9, sdiv 2, hdg (Amendments commencing by proclamation)**

Clause 78 omits the heading in chapter 5, part 5, division 9, subdivision 2, and inserts a new heading.

**Division 2 Amendments commencing by proclamation**

**79. Replacement of ch 5, pt 5, div 10, hdg (Transitional provisions for Public Sector Act 2022)**

Clause 79 omits the heading in chapter 5, part 5, division 10, and inserts a new heading.

**Part 3 Transitional provisions for Public Sector Act 2022**

**80. Amendment of ss 211 and 212**

Clause 80 amends the heading in chapter 6, division 9, subdivision 2 by omitting ‘division’ and replacing it with ‘part’.

**81. Insertion of new ch 6, pt 4**

Clause 81 inserts new part 4 of chapter 6, and new sections 221 to 232.

**Part 4 Transitional provisions for Disaster Management and Other Legislation Amendment Act 2024**

**221 Definitions for part**

New section 221 provides definitions for part 5 for the terms ‘amending Act’ and ‘previous’.

**222 Eligibility requirements for existing commissioner**

New section 222 is a transitional provision which provides that previous section 5 continues to apply to the existing Commissioner, while the existing Commissioner remains in office. The clause defines ‘existing commissioner’ as the person who was in office immediately before the commencement.

**223 Deputy commissioner**

New section 223 applies to the person appointed as the Deputy Commissioner if the person was employed on a contract of employment in an equivalent role under this Act immediately before the commencement. The section is a transitional provision which preserves the unexpired portion of any current contract of employment relating to the Deputy Commissioner upon commencement.

**224 Chief Officer**

New section 224 applies to the person appointed as the Chief Officer if the person was employed on a contract of employment in an equivalent role under this Act immediately before the commencement of this Act. The section is a transitional provision which preserves the unexpired portion of any current contract of employment relating to the Chief Officer of RFSQ upon commencement.

**225 Continued application of previous s 25 in particular circumstances**

New section 225 applies to a person employed immediately before the commencement of this Act in a role equivalent to that of a senior executive under section 188 of the *Public Sector Act 2022*. The section is a transitional provision which preserves the unexpired portion of any current contract of employment relating to an executive officer upon commencement.

**226 Existing chief fire wardens and fire wardens**

New section 226 applies to a person who holds office as a chief fire warden or fire warden immediately before the commencement of this Act. The section is a transitional provision which preserves all existing chief fire warden and fire warden appointments upon

commencement of the Act. The section clarifies that the provision does not affect the power of the Commissioner to change the person's conditions of appointment.

**227 Existing rural fire brigades**

New section 227 is a transitional provision which clarifies that a rural fire brigade in existence immediately before commencement of the Act continues as a rural fire brigade and is a member of RFSQ.

**228 Existing members of rural fire brigades**

New section 228 is a transitional provision which provides that a person who was a member of a rural fire brigade immediately before the commencement of the Act is taken to have been appointed under section 136 as a member of a rural fire brigade.

**229 Existing rules for rural fire brigades**

New section 229 is a transitional provision which provides that brigade rules made under repealed section 80 will continue to apply from the commencement of this Act. Once the Commissioner makes the model rules, rural fire brigades must adopt model rules made by the Commissioner within a six-month period. If a rural fire brigade fails to adopt the model rules within this period, they are deemed to have adopted the model rules.

**230 Particular elected officers of rural fire brigade continue in office**

New section 230 is a transitional provision which provides that if a rural fire brigade elected an officer under previous section 81(2) to be the chairperson, secretary or treasurer of the brigade before the commencement of the Act, the person is taken to have been elected under section 138(3) to hold the equivalent office for the rural fire brigade on commencement.

**231 Delayed commencement in relation to prohibition on particular use of restricted expressions**

New section 231 provides the offence of using a restricted expression in section 150H(1)(a) starts to apply on the day that is one year after the commencement of this Act. The purpose of this section is to provide a moratorium and provide impacted persons sufficient opportunity to apply to use a new restricted expression.

**232 Continued application of applicable transitional provisions**

New section 232 provides that an applicable transitional provision continues to apply despite its repeal by the amending Act. The section does not limit section 20 of the *Acts Interpretation Act 1954*. The section provides a definition for 'applicable transitional provision' to mean any of the following provisions: previous sections 155, 159, 172, 177 and 202.

**233 References to former QFES**

New section 233 provides that a reference in an Act or a document to the former QFES, whether it is referred to as 'QFES' or 'Queensland Fire and Emergency Services', may, if the context permits, be taken to be a reference to QFR, RFSQ or the fire services.

**82. Amendment of sch 5 (Uses of buildings)**

Clause 82 renumbers schedule 5 as schedule 1.

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

Clause 83 omits the definitions of ‘building’ and ‘QFES’ from the dictionary in schedule 6. The clause also inserts the following new definitions for use in the Act:

- building
- bushfire
- caravan
- chief fire officer
- chief fire warden
- chief officer
- deputy commissioner
- direction
- disaster
- fire prevention expertise
- fire service
- fire service officer
- fire warden
- incident control expertise
- large-scale structural fire
- manufacturer’s instructions
- motorised caravan
- operates when tested
- professional firefighting experience
- QFR
- RFSQ
- rural fire brigade
- rural fire brigade member
- rural firefighting experience
- rural fire prevention expertise
- rural incident control expertise
- structural fire
- the fire services

A further amendment replaces the words ‘in the service’ from the definition of fire officer with ‘under this Act’.

The clause renumbers schedule 6 as schedule 2.

**Part 5                      Amendment of Fire and Emergency Services  
Regulation 2011**

**84. Regulation amended**

Clause 84 amends the *Fire and Emergency Services Regulation 2011* and notes that further amendments to this regulation are included in schedule 1.

#### **85. Insertion of new pt 2A**

Clause 85 inserts, after part 2, a new part 2A titled ‘Smoke alarms for caravans and motorised caravans’.

##### **5A Prescribed place for installation of smoke alarm—Act, ss 148N and 148O**

New section 5A provides that for the purposes of sections 148N(3)(a) and 148O(3)(a) of the Act, the place where a smoke alarm must be installed is on the ceiling of a caravan or motorised caravan.

##### **5B Prescribed additional requirements for smoke alarms—Act, ss 148N and 148O**

New section 5B provides that for sections 148N(3)(c) and 148O(3)(c) of the Act, a smoke alarm must comply with AS 3786—2014 and contain a photoelectric sensor, and contain a mechanism for silencing the alarm. For an alarm to be compliant, it does not matter if the mechanism for silencing the alarm is a standalone button/mechanism or if the alarm is equipped with a test button that also acts as a hush button. *AS 3786—2014* means AS 3786—2014 (Australian standard for smoke alarms using scattered light, transmitted light or ionization).

## **Part 6 Amendment of Queensland Reconstruction Authority Act 2011**

#### **86. Act amended**

Clause 86 amends the *Queensland Reconstruction Authority Act 2011*.

#### **87. Amendment of s 10 (Authority’s functions)**

Clause 87 inserts new subparagraph (ia) into section 10(1)(a) to expand the main functions of QRA to include the carrying out of risk assessments of potential disasters.

The clause renumbers section 10(1)(a)(ia) to (iii) as section 10(1)(a)(i) to (iv).

The clause amends section 10(1)(e) by inserting ‘administer’ before ‘coordinate’.

New subparagraph (ia) responds to Recommendation 2(g) of the IGEM review, where it was recommended that QRA lead state-level hazard and risk functions. Key activities of these functions relate to leading hazard and risk assessments on behalf of the State.

New subparagraph (ia) provides that QRA will coordinate the development and implementation of whole-of-government policies for carrying out risk assessments for potential disasters.

Although broad, the term ‘potential disasters’ is intended to refer to natural disaster events listed under section 16(1)(a) of the *Disaster Management Act 2003*, as well as bushfires

(section 16(1)(b) of the Act). QRA is not responsible for preparing whole-of-government policies for undertaking risk assessments for man-made events, epidemics, plagues or attacks against the State. These other events will continue to be led and managed by the respective agencies.

Section 10(1)(e) of the *Queensland Reconstruction Authority Act 2011* has been amended in response to Recommendation 6 of the IGEM Review to expand and specify that QRA administers, along with coordinates and distributes financial assistance for communities.

#### **88. Replacement of s 36 (Quorum)**

Clause 88 omits section 36 and inserts new section 36 which provides a quorum for a meeting of the board is a majority of the board members for the time being.

#### **89. Amendment of s 132 (Delegations)**

Clause 89 omits section 132(1) and inserts new section 132(1) which provides that the CEO of QRA may delegate their functions under the *Queensland Reconstruction Authority Act 2011* to any of the following persons who are appropriately qualified:

- a) a person appointed under section 24;
- b) a person employed by the authority under section 26;
- c) a person whose services are made available to the authority under section 27(1); and
- d) a senior executive under the *Public Sector Act 2022*.

## **Part 7                   Amendment of State Penalties Enforcement Regulation 2014**

#### **90. Regulation amended**

Clause 90 provides that Part 7 amends the *State Penalties Enforcement Regulation 2014*.

#### **91. Amendment of sch 1 (Infringement notice offences and fines for nominated laws)**

Clause 91 amends the entry in schedule 1 to the *State Penalties Enforcement Regulation 2014* for *Fire and Emergency Services Act 1990* to insert infringement notice offences and fines for the new offence in 104RP(2) relating to requirements on registration or transfer of registration on or before 31 December 2026.

The clause also amends the entry in schedule 1 to the *State Penalties Enforcement Regulation 2014* for *Fire and Emergency Services Act 1990* to amend the entry for section 150B(1)(a) to replace the word ‘rescue’ with the word ‘emergency’ and amend the entry for section 150B(1)(b) to replace the words ‘of a fire’ with the words ‘of fire or of a hazardous materials emergency’.

## **Part 8                   Other amendments**

#### **92. Legislation amended**

Clause 92 provides that schedule 1 amends the legislation mentioned in the schedule. Schedule 1 sets out the consequential amendments to legislation across the statute book as a result of the Act.

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