

Police Powers and Responsibilities (Making Jack's Law Permanent) and Other Legislation Amendment Bill 2025

Statement of Compatibility

FOR

Amendments to be moved during consideration in detail by the Honourable Daniel Purdie MP Minister for Police and Emergency Services

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019*, I, Daniel Purdie MP, Minister for Police and Emergency Services make this statement of compatibility with respect to amendments to be moved during consideration in detail of the Police Powers and Responsibilities (Making Jack's Law Permanent) and Other Legislation Amendment Bill 2025.

In my opinion, the amendments are compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Amendments

The amendments to be moved during consideration in detail of the Bill will amend the *Public Sector Act 2022* (PS Act) to validate anything done or omitted to be done by two former Queensland Police Commissioners in their purported capacity as chief executives of the Queensland Police Service (QPS) and one former Fire Commissioner in his purported capacity as acting chief executive of the former Queensland Fire and Emergency Services (QFES).

The amendments also seek to validate arrangements where a person acted as the chief executive of QPS or QFES because that person was acting as the Police Commissioner or Fire Commissioner, whether the person was appointed to act as chief executive under section 94 of the *Public Service Act 2008* (repealed Act), or it was assumed the person was authorised to act as chief executive during the period they were acting as a commissioner. Police commissioners are appointed under the *Police Service Administration Act 1990* (PSA Act). Responsibilities and powers of police commissioners in the performance of their role as the police commissioner are contained in the PSA Act and the *Police Powers and Responsibilities Act 2000*.

Queensland's legislation anticipates that the person appointed as police commissioner is also the chief executive of the QPS. To perform the role of chief executive, the PS Act or, if appointed before that Act commenced, its predecessor, the repealed Act, require a police commissioner to be declared the chief executive of the QPS.

Where such a declaration is in place, the declaration also applies to persons acting as a police commissioner. The relevant authority for this can be found at section 24B(8)(b) of the *Acts Interpretation Act 1954* (AIA). This section applies to a person appointed to act in an office (the appointee) and provides that laws, such as a declaration made under the PS Act that the person who holds the office of police commissioner is the chief executive of the QPS, apply to the appointee, and to other persons in relationship to the appointee, as if the appointee were the holder of the office.

However, two former Police Commissioners who performed the role of chief executive for the period from 1 November 2012 to 28 February 2023 were not declared to be chief executives for this purpose. Based on their dates of appointment, the relevant legislation for the purpose of declaring these former Police Commissioners as chief executives was the repealed Act.

The absence of declarations was based on a previous understanding of the repealed Act. However, the position has since been clarified that declarations for these two former Police Commissioners should have been made. To correct this, these amendments to be moved during consideration in detail amend the PS Act to validate anything done or omitted to be done by these two former Police Commissioners, in their purported capacity as chief executives of the QPS.

The amendment retrospectively:

- declares that these former Police Commissioners are taken to have been validly declared chief executives when they held the office of Police Commissioner; and
- deems as valid and lawful,
 - anything done or omitted to be done purportedly as a chief executive or another entity, including a person such as a delegate, during that period of time; and
 - anything done or omitted to be done by an entity in reliance of the validity of the chief executive appointment.

The amendments also seek to validate arrangements where a person acted as the chief executive of QPS because that person was acting as the Police Commissioner by declaring that person to be validly appointed to act as chief executive under section 94 of the repealed Act for the period the person acted as Police Commissioner.

The amendment also validates things done by others who relied on the validity of the purported acting appointment.

An anomaly has also arisen in relation to a former Fire Commissioner appointed under section 94 of the repealed Act to act as the chief executive of QFES for the period from 1 November 2013 to 30 June 2014.

At the time of this appointment the then *Fire and Rescue Service Act 1990* (the FRS Act) anticipated that the Fire Commissioner and chief executive were two separate people, making the acting appointment of the then Fire Commissioner as chief executive invalid.

To rectify this, the FRS Act was amended in 2014 to remove provisions which prevented the same person occupying both roles and to make a retrospective amendment to validate the appointment of the chief executive and things done by that person in the capacity as chief executive. However, the ability of the 2014 amendment to retrospectively validate the invalid acting appointment has since been questioned. Amendments are intended to address misunderstandings in application of the legislation and the later amendments, by:

- declaring that the relevant Minister is taken to have had the power to appoint the former Fire Commissioner, to act as the chief executive of QFES, when this appointment was made, despite provisions of the FRS Act in force at that time;
- validating the appointment of the former Fire Commissioner as acting as the chief executive of QFES during the period from 1 November 2013 to 30 June 2014;
- deeming as valid and lawful,
 - anything done or omitted to be done purportedly as the acting chief executive or another entity, including a person such as a delegate, during the period from 1 November 2013 to 30 June 2014;
 - anything done or omitted to be done by an entity in reliance of the validity of the acting appointment.

The amendments also seek to validate arrangements where a person acted as the chief executive of QFES because that person was acting as the Fire Commissioner, whether the person was appointed to act as chief executive under section 94 of the *Public Service Act 2008* (repealed PS Act), or it was assumed the person was authorised to act as chief executive during the period they were acting as a Fire Commissioner.

These amendments declare that where a person performed the role of chief executive while acting as a Fire Commissioner, the person is taken to have been validly appointed to act in the position of chief executive for the relevant period.

Where necessary, amendments also declare that the relevant minister had the power to:

- appoint persons to act as the chief executive;
- appoint persons to act as the chief executive and Fire Commissioner; and
- appoint a person to act as Fire Commissioner and chief executive concurrently.

The Bill validates:

- things done by these persons if those things would have been lawful and valid had the relevant appointments been valid; and
- things done by others who relied on the validity of these appointments.

Despite the invalidity of arrangements made during the relevant periods, there is nothing to indicate that anything done or omitted to be done by these former Commissioners in their purported capacity as chief executives of the QPS, or acting chief executive of QFES or other persons who acted in these roles were incorrect or inappropriate or that any outcomes would have been different had the necessary declarations existed or acting appointments been validly made.

On this basis, correcting deficiencies in appointment or the declaration processes, with retrospective effect, does not alter the fairness of former decisions or past acts or omissions.

In addition:

- anything done or omitted to be done during the relevant periods of time would have been subject to the same processes, protections and applicable appeal rights had the chief executive or acting chief executive arrangements been valid; and
- the amendments only seek to validate things done or omitted to be done that would have been valid and lawful had the appointments been validly made.

Human Rights Issues

Human rights relevant to the Bill (Part 2, Division 2 and 3 *Human Rights Act 2019*)

The amendments to the PS Act do not engage or limit any human rights.

Conclusion

In my opinion, the amendments to be moved during consideration in detail of the Bill are compatible with human rights under the *Human Rights Act 2019* because they do not limit a human right.

DANIEL PURDIE
MINISTER FOR POLICE AND EMERGENCY SERVICES

© The State of Queensland 2025