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The Research Director
Public Accounts and Public Works Committee
Parliament house
George St.,
Brisbane. Q. 4000

I wish to raise issues in relation to the Fire & Rescue Act 1990.
The Act is open to interpretation and mis-interpretation.

In particular section 81 of the Act

81 Officers of rural fire brigade

- (1) A rural fire brigade must elect a first officer to be in charge of the brigade.
- (2) A rural fire brigade may also elect such other officers as it considers necessary.
- (3) Any election must be conducted in accordance with the commissioner's directions and has no effect unless approved by the commissioner.
- (4) A person holds office for the period specified by the commissioner.
- (5) The commissioner may dismiss a person from any office held with a rural fire brigade or may disqualify a person from holding any office.

Does (3) mean the commissioner must approve the election process or mean approve the persons elected???

The commissioner has chosen in the past not to approve democratically elected officers not for reasons they weren't qualified but because they were not liked by QFRS staff. I do not believe the Act was written to give the commissioner the power not to accept democratically elected officers.

Paragraph (1) states a brigade must elect a 1st officer. Paragraph (4) states the election must be approved by the commission.

QFRS staff also use paragraph 19 to allow people other than the commissioner to make the decision of approval of the election process.

19C Delegation

- (1) The chief executive may delegate the chief executive's powers under this Act to the commissioner or an appropriately qualified fire service officer.
- (2) A delegation of a power by the chief executive to the commissioner may permit the subdelegation of the power by the commissioner, under section 19, to an appropriately qualified fire service officer.

Questions raised from this

Is the approval of a rural fire officer a "power" of the commissioner or a "function" if it is a function he cannot delegate this responsibility.

Under current practices after an election, the minutes of the meeting and a form listing the office bearers is sent into the Area office. IF you hear nothing back it is assumed the election is approved. This is not an acceptable process.

The Act does provide powers to Rural brigades such as entering properties without approval to fight a fire. If a 1st officer elected is not approved, the brigade is not covered under the Act.

Under an election process all positions must be declared vacant. People are then nominated for the positions and elections held.

This election under the Act has no effect until approved by the commissioner.

Therefore the brigade would not have an elected 1st officer until the commissioner has signed off. And a brigade is non-operational without a 1st officer.

So every brigade is the State between the time of their election and (not) hearing the election is approved is non operational (not protected by the Act).

QFRS refer to another section of the Act paragraph 83.

83 Powers of first officer

(1) Where, pursuant to notification given under section 82(2), a rural fire brigade is in charge of operations for controlling and
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extinguishing a fire, the first officer of the brigade has, for that purpose—

(a) the powers of an authorised fire officer, subject to any limitation imposed by the commissioner; and

(b) the control and direction of any person (including any fire officer) whose services are available at the fire.

(2) Any power exercisable by the first officer of a rural fire brigade may be exercised by any person acting at the direction of the first officer.

(3) Any person exercising a power or discharging a function under this section must comply with any code of practice and with any direction of the commissioner.

(4) In this section—

first officer includes, where the first officer of a rural fire brigade is unavailable to act, the next senior officer of the brigade who is available.

(5) Where a rural fire brigade is assisting in operations for controlling or extinguishing a fire, the person who pursuant to this Act or any direction given by the commissioner is in charge of those operations has the control and direction of the members of the rural fire brigade.

Claiming if the brigade does not have a elected 1st officer the next most senior officer can act as 1st officer.

The Act clearly states a Rural Brigade **MUST** have a 1st officer. Sect 83 (4) where the first officer is unavailable then the next senior officer acts on his behalf.

It does not state if **you don't have** a 1st officer then the next most senior officer can act as 1st officer.

I do not believe the Act was not written to give the Commissioner or his delegates the authority to chose the people they want in brigade positions. Brigade officer bearer positions are to be democratically elected from their brigade the fact the Act states the commissioner is to endorse these elections is only to give the brigades protection under the Act.

QFRS has chosen to use their interpretation to control the election process of the rural fire service.

Regards



Graham McNicol