

# CLAUSE NOTES

## *Ambulance Service Amendment Bill 2013*

<b>Clause 1</b>	<b>Short Title</b>  Provides that the Act may be cited as the <i>Ambulance Service Amendment Act 2013</i> .
<b>Clause 2</b>	<b>Commencement</b>  Provides for the Act to commence on a day to be proclaimed, or on 1 July 2014, whichever occurs soonest.
<b>Clause 3</b>	<b>Principal Act</b>  Specifies the <i>Ambulance Service Act 1982</i> as the Principal Act.
<b>Clause 4</b>	<b>Section 3 amended (Interpretation)</b>  Amends existing definitions and adds a number of new definitions to reflect contemporary practice and the expanded role of Ambulance Tasmania beyond the provision of services from motor vehicles on public roads. The revised definitions make a clear distinction between emergency response, medical retrieval and higher acuity patient transport services, non-emergency patient transport and first aid coverage at sporting and cultural events.  Revises the definitions of “ambulance”, “ambulance services” “vehicle” and “equipment”.  Inserts new definitions of “non-emergency patient transport services”, “NEPT licence” and “NEPT Service”.  Omits the definition of “Director” and substitutes a definition of “Commissioner” to reflect the change of the corporate name.  Inserts new definitions of “approved health profession”, “authorised insignia”, “authorised officer”, “insignia”, “fit and proper person”, “paramedic” (by reference to section 3AB) and “regulations”.  Omits the definition of “public street” and replaces the definition of “honorary ambulance officer” with a definition of “volunteer ambulance officer”.  Revises the definition of “Ambulance Service” to reflect the change of name of the organisation to Ambulance Tasmania.

<b>Clause 5</b>	<b>Section 3AA inserted and Section 3AB inserted</b>
	<b>Section 3AA</b>
	Inserts a list of the matters that may be considered by the Commissioner to determine if a person is a “fit and proper person” for the purposes of the Act.
	<b>Section 3AB</b>
	Defines a paramedic as an appropriately qualified officer of the Ambulance Service appointed to a paramedic position as determined by the Commissioner, or an officer of a prescribed ambulance service of another jurisdiction approved by the Commissioner or as otherwise prescribed under the Act.
	Combined with the new offence at Clause 3I (Section.39A) - this provision will restrict the use of the title “paramedic” to persons who are suitably qualified and accredited to practice in a competent and ethical manner within the scope of clinical practice protocols specified in the approval.
<b>Clause 6</b>	<b>Section 4 amended (Ambulance Tasmania)</b>
	Changes the name of the ambulance service from the “Tasmanian Ambulance Service” to “Ambulance Tasmania” and omits “Director” and substitutes “Commissioner”.
<b>Clause 7</b>	<b>Section 5 amended (Appointment and incorporation of Commissioner of Ambulance Services)</b>
	Changes the corporate name from “Director of Ambulance Services” to “Commissioner of Ambulance Services” to reflect the contemporary role of the office in commissioning and setting standards across the ambulance service sector, consistent with the practice of other emergency services nationally.
<b>Clause 8</b>	<b>Section 6 amended (Functions of Commissioner)</b>
	Amends Section 6 of the Principal Act by omitting “Director” and substituting “Commissioner”, by omitting “honorary ambulance officers” and substituting “volunteer ambulance officers” from subsection (1)(f), by omitting “ambulance organisations and” from subsection (1)(c) and by inserting “other than non-emergency patient transport services” in (1)(h).
	The amendments incorporate the definitional changes made in Clause 4 that reflect contemporary ambulance practice.

The reference to ambulance organisations is no longer required as the former independent community ambulance organisations have now been replaced with Ambulance Tasmania services.

The change to subsection (1)(h) is required to reflect the emergence of commercial NEPT services and clarify that these services are not subject to the control of the Commissioner.

## **Clause 9**

### **Section 7 amended (Powers of Commissioner)**

Amends Section 7(1) of the Principal Act by omitting “Director” and substituting “Commissioner”.

Inserts new paragraphs (ab), (ac), and (ad) to section 7(1) and new sections 7(1A) and 7(1B), giving the Commissioner the power to:

- Charge a general fee in circumstances where a fee is not otherwise prescribed. This allows the Commissioner to levy a range of fees, for example training services, other non-clinical services and contracted attendances at sporting and cultural events. This does not permit fees to be charged to patients for ambulance services, as such fees are otherwise prescribed.
- Determine the scope of any services provided under the Principal Act. This permits the Commissioner to set the scope of clinical practice of ambulance services, paramedics and non-emergency patient transport services.
- Determine that the Ambulance Service is to be present at an incident or event, without a request from the organiser, if the Commissioner believes on reasonable grounds that the incident or event may result in a person requiring ambulance services. This does not create an obligation for the Commissioner to actively monitor and assess upcoming or potential incidents or events.

New section 7(1B) clarifies that some of the necessary and convenient things the Commissioner may do in exercising powers and functions under the Act include authorising destruction or damage to property, turning off or disconnecting energy sources and restricting access to specified areas.

## **Clause 10**

### **Section 9 amended (Commissioner subject to control of Minister)**

Amends Section 9 of the Principal Act by omitting “Director” and substituting “Commissioner”.

- Clause 11**                    **Section 10 amended (Delegation by Commissioner)**  
Amends Section 10 of the Principal Act by omitting “Director” and substituting “Commissioner”.
- Clause 12**                    **Section 14 amended (officers of Ambulance Service)**  
Amends Section 14(2) of the Principal Act by omitting “Director” and substituting “Commissioner”.
- Clause 13**                    Sections 14A and 14B inserted  
Inserts new clauses in the Principal Act to clarify the powers of Ambulance Tasmania officers
- 14A. Powers of entry by officers of Ambulance Service**  
Clarifies that ambulance officers may enter land, premises or vehicles where they believe on reasonable grounds that a person requiring urgent ambulance services is inside.
- 14B. Powers of officer of Ambulance Service at scene of incident**  
Clarifies that ambulance officers have primary responsibility for the care and welfare of persons requiring ambulance services and to recommend to another statutory service the priorities in relation to the care and welfare of persons requiring ambulance services. Other statutory services are to give reasonable grounds for not complying with these recommendations.
- Clause 14**                    **Section 15 amended (Staff of Commissioner)**  
Amends Section 15 of the Principal Act by omitting “Director” and substituting “Commissioner”.
- Clause 15**                    **Section 16 amended (Volunteer ambulance officers)**  
Replaces the term “honorary ambulance officer” with “volunteer ambulance officer”. This reflects the important role played by more than 500 volunteer ambulance officers in delivering ambulance services around the State.  
  
Amends Section 16 of the Principal Act by omitting “Director” and substituting “Commissioner” and by omitting “honorary” and substituting “volunteer”.
- Clause 16**                    **Sections 19, 20 and 20A inserted**  
Inserts new clauses in the Principal Act relating to authorised officers and authorised insignia.

## **19. Authorised officers**

Provides for the authorisation of officers for the effective regulation of the commercial non-emergency patient transport sector.

## **20. Powers of authorised officers**

Specifies some of the powers that officers may be authorised under s.19 to do in order to perform inspections and collect evidence. These powers are required for the effective regulation of the commercial non-emergency patient transport sector.

## **20A. Authorised insignia &c.**

Allows the Commissioner to authorise insignia for the Ambulance Service and restrict the use of that insignia and creates offences for unauthorised use of insignia.

### **Clause 17**

#### **Part III: Heading amended**

Amends the heading of Part III of the Principal Act by omitting “Director” and substituting “Commissioner”.

### **Clause 18**

#### **Section 21 amended (Funds of Commissioner)**

Amends Section 21 of the Principal Act by omitting “Director” and substituting “Commissioner”.

### **Clause 19**

#### **Section 22 amended (Authorised deposit-taking institution accounts)**

Amends Section 22 of the Principal Act by omitting “Director” and substituting “Commissioner”.

### **Clause 20**

#### **Section 23 amended (Accounts and records)**

Amends Section 23 of the Principal Act by omitting “Director” and substituting “Commissioner”.

### **Clause 21**

#### **Section 25 amended (Temporary accommodation)**

Amends Section 25 of the Principal Act by omitting “Director” and substituting “Commissioner”.

### **Clause 22**

#### **Section 26 amended (Expenditure outside Act)**

Amends Section 26 of the Principal Act by omitting “Director” and substituting “Commissioner”.

Amends Section 26 of the Principal Act by omitting “regulations made under this Act” and substituting “the regulations” as

“regulations” is to be defined in Section 3 of the Principal Act.

**Clause 23**

**Section 27 amended (Annual estimate of expenditure and revenue)**

Amends Section 27 of the Principal Act by omitting “Director” and substituting “Commissioner”.

**Clause 24**

**Section 35 amended (Amount payable by Treasurer)**

Amends Section 35 of the Principal Act by omitting “Director” and substituting “Commissioner”.

**Clause 25**

**Part IIIA inserted**

Inserts a new Part in the Principal Act relating to the licensing of commercial non-emergency patient transport services.

**Part IIIA: Non-emergency patient transport**

**35A. Application for NEPT licence**

Provides the Commissioner is to approve the form of the application, that the applicable fees are to be prescribed and allows the Commissioner to request information in relation to the application.

**35B. Determining application for NEPT licence**

Specifies the matters the Commissioner may consider in determining an application, including whether the applicant is a fit and proper person, the suitability of proposed arrangements and any other matter or information the Commissioner thinks relevant.

**35C. Determination of application**

Specifies the process for granting or refusing to grant an NEPT licence.

**35D. Issue of NEPT licence**

Specifies the process for the issue of a NEPT licence.

Subsection (1) provides for the issue of a NEPT licence on payment of a prescribed fee and subject to any conditions the Commissioner thinks fit

Subsection (2) specifies the form of a NEPT licence

Subsection (3) specifies when a NEPT licence takes effect

### **35E. Authority of NEPT licence**

Specifies the authority of the NEPT licence to allow the holder to provide NEPT services and specifies that the licence is not transferrable (except in accordance with Section 35O).

### **35F. NEPT licence subject to conditions**

Allows the Commissioner to attach conditions to an NEPT licence and provides a penalty for non-compliance.

### **35G. Renewal of NEPT licence**

Specifies the process for renewal of NEPT licences.

### **35H. Variation of NEPT licence**

Specifies the process for variation of NEPT licences.

### **35I. Issue of replacement NEPT licence**

Provides for the issue of replacement NEPT licences.

### **35J. Surrender of NEPT licence**

Permits the surrender of NEPT licences.

### **35K. Suspension and cancellation of NEPT licence**

Specifies the process for suspension and/or cancellation of NEPT licences.

### **35L. When NEPT licence ceases to have effect**

Specifies the circumstances when NEPT licences cease to have effect.

### **35M. Notification of changes**

Requires a corporate NEPT licence holder to provide notice of corporate changes to the Commissioner and provides a penalty for failure to notify.

### **35N. Production of documents or vehicles for inspection**

Requires that on request of an authorised officer, a licence holder is to produce for inspection vehicles used to provide NEPT services or documents relating to NEPT services.

### **35O. Death of holder of NEPT licence**

Sets out a process whereby a NEPT service operated under a NEPT licence may be continued for up to three months after the death of a NEPT licence holder.

### **35P. Review of decisions**

Provides for a review of administrative decisions under Part IIIA by the Administrative Appeals Division of the Magistrates Court.

#### **Clause 26**

#### **Section 36 amended (Fees for ambulance services)**

Amends Section 36 of the Principal Act by omitting “Director” and substituting “Commissioner”.

Amends subsection (5) by omitting “nursing home” and substituting “residential aged care facility”.

Amends Section 36 of the Principal Act by omitting from subsection (1) and (2) “under this Act”. This change is required as “regulations” is to be a defined term in Section 3 of the Principal Act.

Amends Section 36 of the Principal Act by inserting a new subsection (1B) to provide that a prescribed fee is payable to the Commissioner in certain circumstances by other Government entities, organisers of events and interstate persons not covered by reciprocal ambulance service arrangements and for other prescribed circumstances.

Amends Section 36 of the Principal Act by inserting a new subsection (1C) to provide that a prescribed fee is payable by the organiser of an event or incident (if such an organiser exists) to the Commissioner if the Commissioner determines under s.7(1)(ad) that there is a need for the Ambulance Service to be present.

#### **Clause 27**

#### **Section 36A amended (Quality assurance committees)**

Amends Section 36A of the Principal Act by omitting “Director” and substituting “Commissioner”.

#### **Clause 28**

#### **Section 37 amended (Unauthorized provision of ambulance services)**

Amends Section 37 of the Principal Act by omitting “Director” and substituting “Commissioner”.

#### **Clause 29**

#### **Sections 37A and 37B inserted**

Inserts new provisions around unauthorised provision of NEPT services and falsely claiming to be a holder of an NEPT licence.



### **37A. Unauthorised provision of non-emergency patient transport services**

Provides a penalty for providing non-emergency patient transport services without a licence.

### **37B. Representation of person as licensed NEPT Service**

Provides a penalty for falsely claiming to be a holder of an NEPT licence.

## **Clause 30**

### **Section 38 amended (Assistance to existing ambulance services)**

Amends Section 38 of the Principal Act by omitting “Director” and substituting “Commissioner”.

## **Clause 31**

### **Section 39 substituted**

Section 39 of the Principal Act is repealed and the following sections are substituted in its place.

#### **38A. Interstate ambulance services and interstate officers**

Provides for prescribed interstate ambulance services to make available equipment and personnel to provide ambulance services in Tasmania under an “interstate arrangement” with the Commissioner.

Subclause (3)(a) clarifies that an interstate service may only provide ambulance services in Tasmania in accordance with an interstate arrangement.

Subclause (3)(b) clarifies that a person providing ambulance services in accordance with an interstate arrangement is subject to the direction of the Commissioner or the most senior officer of the Ambulance Service present.

Subclause (4) defines an “interstate arrangement” and “interstate service” for the purposes of s.38A.

### **39. Representation of vehicles as ambulances, &c.**

Sets out penalties for the unauthorised use of the terms “ambulance” or livery on vehicles implying that ambulance or paramedic services can be provided.

These changes are required so that emergency ambulance services and vehicles are clearly recognisable and there is a clear distinction between emergency and non-emergency services, to avoid potential public harm.

### **39A. Representation of persons as paramedics**

Sets out penalties for the unauthorised use of the term paramedic or implying that paramedic services can be provided.

### **39B. Offences**

Establishes new offences of assault, resist, impede, obstruct; use threatening, abusive or insulting language; fail to comply with a lawful direction; give false or misleading information; and impersonate an ambulance officer, the Commissioner, a paramedic or an authorised officer.

These new offences recognise the challenging circumstances in which ambulance officers sometimes operate.

### **39C. Offences generally**

Outlines the process of proceedings for offences and provides that a police officer may arrest without a warrant any person committing an offence against s.39B(1) and (2).

## **Clause 32**

### **Section 40 amended (False ambulance calls)**

Amends Section 40 of the Principal Act by omitting “Director” and substituting “Commissioner” and amends provisions to clarify that the offence relates to ambulances.

Amends section 40 of the Principal Act to increase the penalty for false ambulance calls and to provide that a court order for cost recovery is payable to the Commissioner unless otherwise specified by the Court.

## **Clause 33**

### **Section 40A amended (provisions relating to employment)**

Amends Section 40A of the Principal Act by omitting “Director” and substituting “Commissioner” and by omitting “Board” and substituting “Crown”.

## **Clause 34**

### **Sections 41, 41A and 41B inserted**

Inserts new sections into the Principal Act around liability, protection of employment rights and infringement notices.

#### **41. Protection from liability**

Provides for protection from liability for officers of the Ambulance Service and volunteer ambulance officers in the performance of their duties, provided their actions or omissions are done in good faith.

#### **41A. Protection of employment rights**

Provides protections for volunteer ambulance officers from dismissal or other redeployment by their employer due to absence from employment on volunteer duties.

#### **41B. Infringement notices**

Provides for the issue and service of infringement notices for prescribed offences by an officer of the Ambulance Service authorised under section 19, or a police officer.

### **Clause 35**

#### **Section 42 amended (Regulations)**

Amends the regulation making powers at Section 42 of the Principal Act:

Paragraph (a) removes the power to prescribe commercial operator fees, and provides for the setting of licensing fees and general fees at subsection (2)(a)

Paragraph (b) omits “Director” and substitutes “Commissioner” in subsection (2)(c)

Paragraph (c) provides new regulation-making powers for non-emergency patient transport in new subsection (2)(d) to (2)(j) and

Paragraph (d) omits “honorary” and substituting “volunteer” in subsection (2)(k)

Paragraph (e) provides for Governor to make regulations that adopt documents, such as standards, specifically or by reference, in whole or in part.

Paragraph (f) increases the maximum penalty for non-compliance with offences against the regulations from 10 to 20 penalty units.

### **Clause 36**

#### **Section 43 inserted**

##### **43 Transitionals**

Provides transitional arrangements for existing NEPT licences for a maximum period of two years following commencement of Part 3A of the Ambulance Service Amendment Act and specifies that any reference to the Director in documentation in force at the time of commencement will be taken to be a reference to the Commissioner.

### **Clause 37**

#### **Consequential Amendments**

Amends legislation as specified in Schedule I.

**Clause 38                      Consequential Amendments of regulations &c. do not prevent their subsequent amendment**

Provides clarification that amendment by this Act does not prevent future amendment of regulations and statutory rules.

**Clause 39                      Repeal of Act**

Provides for automatic repeal of the Amendment Act one year after all provisions have commenced.

**SCHEDULE I                CONSEQUENTIAL AMENDMENTS**

Makes consequential amendments to:

*Ambulance Service Regulations 2006*

*Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011*

*Burial and Cremation (Handling of Human Remains) Regulations 2005*

*Explosives Act 2012*

*Emergency Management Act 2006*

*Mental Health Act 2013*

*Poisons Act 1971*

*Poisons Regulations 2008*

*Police Offences Act 1935*

*Proclamation under the Duties Act (S.R. 2001, No. 76)*

*Public Sector Superannuation Reform Act 1999*

*Rail Safety National Law (Tasmania) Act 2012*

*Retirements Benefits (Tasmanian Ambulance Service Superannuation Scheme) Act 2006*

*Security-sensitive Dangerous Substances Act 2005*

*State Service Regulations 2011*

*Vehicle and Traffic (Driver Licensing and Vehicle Registration) Regulations 2010*

*Vehicle and Traffic (Vehicle Standards) Regulations 2001*

*Workers Rehabilitation and Compensation Act 1988*

*Work Health and Safety Regulations 2012*

The consequential amendments, for the most part, omit references to the “Director” and replace them with “Commissioner”, omit references to “Tasmanian Ambulance Service” and replace them with “Ambulance Tasmania” or amend references to “paramedic” as a consequence of the new definition contained in the Bill.

In addition -

***Burial and Cremation (Handling of Human Remains) Regulations 2005***

Clause 1 makes consequential amendments to Regulation 3 by omitting the definition of “paramedic” and replacing a reference to “paramedic” with “officer of the Ambulance Service” to clarify that a responsible officer for the purposes of those Regulations is an officer of the Ambulance Service. This is necessary as a consequence of the insertion of the new definition of “paramedic” into the Principal Act.

***Poisons Act 1971***

Consequential amendments to the Poisons Act clarify the classes of persons who may be authorised to use certain scheduled substances for the purpose of providing ambulance services in accordance with the Principal Act, subject to meeting the requirements of both the Principal Act and the Poisons Act.

Clause 1 inserts new definitions of “ambulance officer”, “ambulance services”, “paramedic” and “volunteer ambulance officer” into the Poisons Act that are linked to the definitions in the Principal Act. These amendments are necessary as a result of the changes to these definitions contained in the Bill and the broader application of the term “paramedic” beyond the Ambulance Service.

Clause 1(c) inserts a new definition of “interstate ambulance officer” into the Poisons Act, meaning a person providing ambulance services in Tasmania in accordance within an interstate arrangement as defined in the Principal Act. This amendment is necessary as the Bill provides at new section 38A of the Principal Act for interstate services to operate in Tasmania under an interstate arrangement with the Commissioner.

Clause 2(c) amends s.36 of the Poisons Act by inserting new subsection (1C) to clarify who may possess or obtain certain declared restricted substances to use for ambulance services in accordance with the Principal Act.

This is necessary to enable paramedics and interstate ambulance officers to practice in accordance with any authorisation under s.3AB of the Principal Act.

Clause 2(d) amends s.36 of the Poisons Act by inserting new subsection (2B) to clarify that a person may possess a certain declared restricted substance if the substance was lawfully obtained in another State or Territory and it was brought into Tasmania to provide ambulance services under the Principal Act. This amendment is necessary as a result of the new provisions for interstate arrangements and the new definition of “paramedic” in the Principal Act, to enable an interstate ambulance officer or paramedic authorised under s.3AB of the Principal Act to bring a medical kit containing these substances into Tasmania from another State or Territory.

Clause 3(a) amends s.38(1) of the Poisons Act by inserting new paragraph (ba) to enable sale or supply of a restricted substance without a prescription to a person who is authorised under both the Poisons Act and the Principal Act for use in respect of ambulance services in accordance with the Principal Act.

Clause 3(b) amends s.38(1)(h) of the Poisons Act by omitting “an ambulance officer” and substituting “a volunteer ambulance officer, an ambulance officer, a paramedic or an interstate ambulance officer” to clarify who may administer a restricted substance on the direction of a medical practitioner or in accordance with Field Protocols approved by the Commissioner of Ambulance Services.

Clause 4 amends s.45(2) of the Poisons Act by inserting new paragraph (ab) to clarify that a person may bring a raw narcotic or narcotic substance into Tasmania in order to provide ambulance services in accordance with the Principal Act, if the substance has been lawfully supplied in another jurisdiction. This amendment is necessary to clarify that an interstate ambulance officer or a paramedic authorised under s.3AB of the Principal Act may bring a medical kit containing these substances into Tasmania from another State or Territory.

### ***Poisons Regulations 1971***

The Bill makes consequential amendments to the Poisons Regulations to ensure consistency of definitions and make provision for lawful supply of narcotics and restricted substances to, and possession by paramedics, ambulance officers and interstate ambulance officers. These amendments are necessary to enable paramedics and interstate ambulance officers to practice in accordance with the scope of an authorisation under

s.3AB of the Principal Act.

***Workers Rehabilitation and Compensation Act 1988***

The Bill makes a consequential amendment to section 6 of the Workers Rehabilitation and Compensation Act to clarify that only volunteer ambulance officers shall be deemed to be workers employed by the Crown for the purposes of this provision, and for the avoidance of doubt, that section 6 does not apply to a person providing ambulance services for or on behalf of a commercial business or in accordance with an “interstate arrangement.