

## Protection for Emergency Service Unit volunteers

The Department of Emergency Services has been working for many years to support its thousand of volunteers who help keep their communities safe. A number of pieces of legislation have recently delivered increased protection from civil liability and unfair dismissal for Queensland's emergency services volunteers.

The full text of the Acts referred to is available at [www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)

### ***Disaster Management Act 2003***

The *Disaster Management Act 2003* (DM Act) was passed by the Queensland Parliament in late 2003, and came into force on 31 March 2004. The DM Act provides for the establishment of integrated volunteer Emergency Service Units (ESUs) to deliver State Emergency Service, fire fighting and fire prevention functions in rural or remote Queensland communities.

The DM Act protects certain entities and individuals from civil liability for acts or omissions, which were made in good faith (with honest intention) and without reckless disregard for possible personal injury, or loss or damage to property.

The individuals protected include ESU members, authorised rescue officers and those required to give reasonable help to a person exercising powers under the DM Act.

### ***Civil Liability Act 2003***

The *Civil Liability Act 2003* provides a level of protection from legal action, other than criminal proceedings, for emergency services volunteers who are personally sued as a result of performing volunteer duties.

Under the Civil Liability Act, a person who is performing duties to enhance public safety for a listed organisation is not liable in a civil claim for acts or omissions when providing first aid or other assistance to a person in distress.

The assistance must be given in an emergency, in good faith and without reckless disregard for the safety of the person in distress or any other person.

Those organisations listed in the Act include:

- Department of Emergency Services;
- SES;
- Queensland Fire and Rescue Service;
- Rural Fire Service;
- Queensland Ambulance Service;
- Volunteer Marine Rescue; and
- surf life saving bodies.

A level of protection also applies to those performing community work, which has been organised by a community organisation.

### **Limitations on protection**

Protection from liability is not available for criminal acts or where a volunteer is intoxicated or fails to exercise due care and skill.

Actions must not be outside the scope of authorised activities or contrary to instructions given by the organisation.

It is therefore important for volunteers to be aware of and comply with relevant instructions and guidelines issued from their service.

### ***Industrial Relations Act 1999***

A recent amendment to the *Industrial Relations Act 1999* gives ESU volunteers the right to make a claim for unfair dismissal if their employment is terminated for temporary absence from work to perform an ESU function in an emergency.

The period of absence must be reasonable and a range of factors (e.g. prior approval from employers) may be taken into consideration.

### **Other forms of protection for volunteers**

The Department of Emergency Services has insurance cover in place to protect volunteers from a range of risks.

A volunteer who is personally sued for carrying out their duties may apply to the Department of Emergency Services for an indemnity to cover damages and reasonable legal costs.

The volunteer must have acted diligently and conscientiously in the course of their duties, and cooperate with the Department in defending the claim.

The decision to grant an indemnity is at the discretion of the Director-General, Department of Emergency Services.

Before making private arrangements for legal representation for claims arising from performing duties for the Department, volunteers should contact the Deputy Executive Director, Counter Disaster Operations and State Emergency Service, Counter Disaster and Rescue Services for assistance and referral of the matter to the Director-General.

Address correspondence to:

Deputy Executive Director

Counter Disaster Operations and State Emergency Service

Counter Disaster and Rescue Services

GPO Box 1425

Brisbane 4001

Disclaimer:

The information provided is intended as general information only, and is not a substitute for considered legal advice. This information does not canvass every limitation or matter relevant to protection for volunteers.