

TELECOMMUNICATIONS (INTERCEPTION AND ACCESS) (EMERGENCY SERVICE
FACILITIES–QUEENSLAND) AMENDMENT INSTRUMENT (NO.1) 2025

EXPLANATORY STATEMENT

Issued by the Authority of the Attorney- General
in compliance with section 15J of the *Legislation Act 2003*

PURPOSE AND OPERATION OF THE INSTRUMENT

The purpose of the *Telecommunications (Interception and Access) (Emergency Service Facilities–Queensland) Amendment Instrument (No. 1) 2025* (the Amendment Instrument) is to specify the geographic regions for the emergency service facilities operated by Queensland Fire and Rescue, Queensland Ambulance Service and Airservices Australia in Toowoomba, Coomera, Parkhurst and Gunyarra (Whitsunday). It also removes the geographic regions for facilities that have been decommissioned by these operators.

The Amendment Instrument is made under subsection 6(2D) of the *Telecommunications (Interception and Access) Act 1979* (TIA Act) and amends the *Telecommunications (Interception and Access) (Emergency Service Facilities – Queensland) Instrument 2015* (the Instrument).

Background

The TIA Act establishes a general prohibition against the interception of communications passing over a telecommunications system. However, there is an exception in section 6 that allows a person to listen to or record emergency calls at emergency facilities declared by the Attorney-General in certain circumstances.

Under subsection 6(2B), the Attorney-General may declare premises to be emergency service facilities if the Attorney-General is satisfied that the premises are operated by a police, fire, ambulance or dispatching service to enable emergency services to deal with a request for assistance in an emergency.

Queensland Fire and Rescue notified the Attorney-General’s Department (the department) that:

- there is a new operations centre at Toowoomba
- the shared facility operated by Queensland Ambulance Service and Queensland Fire and Rescue in Toowoomba will now only be operated by Queensland Ambulance Service, and
- the operations centres in Fortitude Valley, Ipswich and Robina are inactive.

Queensland Ambulance Service notified the department that there is a new operations centre at Coomera opening in June 2025 and a new back-up site at Parkhurst.

Airservices Australia notified the department that there is a new operations centre at Gunyarra (Whitsunday).

The Attorney-General subsequently declared premises in Toowoomba operated by Queensland Fire and Rescue, Coomera and Parkhurst operated by Queensland Ambulance Service, and the Gunyarra (Whitsunday) facility operated by Airservices Australia, to be emergency service facilities. The Attorney-General also amended the declaration to remove the facilities at Fortitude Valley, Ipswich and Robina, and update the operators for the facility in Toowoomba that was previously a shared facility.

Subsection 6(2D) of the TIA Act provides that, if the Attorney-General makes a declaration under subsection 6(2B) of the TIA Act, the Attorney-General must, by legislative instrument specify the name of the emergency service and the geographic region in which those premises are located.

Details of the Amendment Instrument are set out in **Attachment A**. The Amendment Instrument satisfies the Attorney-General's obligations under subsection 6(2D) of the TIA Act.

The Amendment Instrument is a disallowable instrument under section 42 of the *Legislation Act 2003* and therefore a Statement of Compatibility with Human Rights has been provided at **Attachment B**.

CONSULTATION

The Amendment Instrument was made at the request of Queensland Fire and Rescue, Queensland Ambulance Service and Airservices Australia. Consultation was undertaken with Queensland Fire and Rescue, Queensland Ambulance Service and Airservices Australia on the draft instrument and no concerns were raised.

It was not necessary to conduct consultation beyond Queensland Fire and Rescue, Queensland Ambulance Service or Airservices Australia as the Amendment Instrument is technical in nature in that communications are already being recorded and listened to at Queensland Fire and Rescue, Queensland Ambulance Service and Airservices Australia's other emergency facilities. The Amendment Instrument merely updates the locations of those facilities and ensures that all of their facilities are listed.

The Office of Impact Analysis (OIA) has confirmed that an Impact Analysis is not required (OIA Reference OIA25-08979) for this instrument. The OIA considered this Instrument is unlikely to have a more than minor impact, introducing no significant regulatory burden or impact for Australian individuals, businesses, or community organisations.

NOTES ON SECTIONS

Section 1 – Name

Section 1 provides that the Amendment Instrument is the *Telecommunications (Interception and Access) (Emergency Service Facilities–Queensland) Amendment Instrument (No. 1) 2025*.

Section 2 – Commencement

Section 2 provides that item 6 of Schedule 1 (which inserts the geographic location for the Coomera facility) commences on the later of the day after the Amendment Instrument is signed or 1 June 2025. This provision delays the date to ensure the Coomera facility is not listed before it is expected to commence operations as an emergency service facility.

All of the other items commence on the day after the Amendment Instrument is signed. This provides clarity and promotes transparency by aligning the commencement of the instrument with the commencement of the declaration that allows calls to be intercepted at the new emergency service facilities.

Section 3 – Authority

Section 3 provides that the Amendment Instrument is made under subsection 6(2D) of the *Telecommunications (Interception and Access) Act 1979*. In addition, subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Section 4 – Schedule

Schedule 1 of the Amendment Instrument amends section 5 of the *Telecommunications (Interception and Access) (Emergency Service Facilities – Queensland) Instrument 2015*.

Items 1 and 4 substitute reference to the “Queensland Fire and Rescue Service” with “Queensland Fire and Rescue” to reflect the agency’s official name.

Item 2 removes inactive facilities previously operated by Queensland Fire and Rescue in the geographic regions of Fortitude Valley, Ipswich and Robina.

Items 3, 5 and 8 reflect the relocation of Queensland Fire and Rescue from a shared facility with Queensland Ambulance Service into a standalone facility in Toowoomba. Item 3 inserts Toowoomba into the list of geographic regions for Queensland Fire and Rescue, item 5 removes Toowoomba from the list of regions with a shared facility, and item 8 inserts Toowoomba in the list of regions operated by Queensland Ambulance Service.

Item 6 inserts a new facility that will commence operations in June 2025 by Queensland Ambulance Service in the geographic region of Coomera.

Item 7 inserts a new facility operated by Queensland Ambulance Service in the geographic region of Parkhurst.

Item 9 inserts a new facility operated by Airservices Australia in the geographic region of Gunyarra (Whitsunday).

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

The *Telecommunications (Interception and Access) (Emergency Service Facilities—Queensland) Amendment Instrument (No. 1) 2025* (the Amendment Instrument) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Disallowable Legislative Instrument

The Attorney-General has, under subsection 6(2B) of the *Telecommunications (Interception and Access) Act 1979* (TIA Act), declared premises in Queensland to be emergency service facilities.

The purpose of the Amendment Instrument is to specify the geographical locations of facilities in Toowoomba, Coomera, Parkhurst and Gunyarra (Whitsunday) that have been declared to be emergency service facilities, and to remove inactive facilities.

Human rights implications

Interference with a person's privacy or correspondence

Article 17 of the International Covenant on Civil and Political Rights (ICCPR) provides that:

No one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour or reputation, and that everyone has the right to the protection of the law against such interference or attacks.

The right to privacy under Article 17 can be permissibly limited in order to achieve a legitimate objective and where the limitations are lawful and not arbitrary. The term 'arbitrary' means that any interference with privacy must be in accordance with the provisions, aims and objectives of the ICCPR and should be reasonable in the particular circumstances. The United Nations Human Rights Committee has interpreted 'reasonableness' in this context to imply that 'any interference with privacy must be proportional to the end sought and be necessary in the circumstances of any given case'.

Despite the general prohibition on the interception of communications in subsection 7(1) of the TIA Act, section 6 ensures that listening to or recording a communication passing over a telecommunications system to or from a declared emergency service facility by a person who is lawfully engaged in duties related to the receiving and handling of communications is not an interception of communication.

The purpose of this exception is to ensure that emergency services are able to assist an emergency caller, and respond to an emergency situation as quickly as possible, without first notifying the caller of the recording. This ensures that persons requiring emergency assistance are provided with efficient and timely assistance. Recording of a call enables an emergency service to undertake appropriate clarification, review and audit in dealing with an emergency situation which may involve a threat to life.

The effect of the Amendment Instrument is reasonable, necessary and proportionate to achieving the objective of providing efficient and timely assistance in emergency situations. The Amendment Instrument is subject to a number of safeguards, including:

- the exception applies only if the Attorney-General is satisfied that the premises are operated by a police, ambulance, fire or dispatching service to enable them to deal with a request for assistance in an emergency
- under subsection 6(2G), the facility must erect signs easily visible at each entrance to the facility notifying persons that communications to or from the facility may be listened to or recorded, and
- the instrument is subject to disallowance and sunseting.

The Attorney-General's Department (the department) consulted with Queensland Fire and Rescue, Queensland Ambulance Service and Airservices Australia to understand the privacy arrangements in place at the four premises. Privacy policies, training and codes of conduct focus on the collection, use, storage and disclosure of information being undertaken only to the extent necessary to facilitate the operations of the premise as emergency service facilities.

Accordingly, to the extent that the measures in the Amendment Instrument may limit the prohibition on arbitrary and unlawful interference with privacy in Article 17 of the ICCPR, the limitation is proportionate to the legitimate objective of protecting public order, public health, public safety and the rights and freedoms of others, such as the right to life under Article 6 of the ICCPR.

In addition, under Article 12(3) of the ICCPR, limitation of rights may be permissible where they are necessary to protect interests including national security, public order, or the rights and freedoms of others such as the right to life under Article 6 of the ICCPR.

Right to life

The Amendment Instrument positively engages the right to life under Article 6. The right to life under Article 6 of the ICCPR includes obligations to promote life, including taking appropriate steps to protect the right to life of those within its jurisdiction.

The Amendment Instrument ensures that the premises declared as emergency service facilities can provide appropriate and timely assistance for persons in emergency situations. Emergency services are critical to delivering first responder functions to people in Queensland. In this regard, the Amendment Instrument promotes the right to life under Article 6 of the ICCPR.

Conclusion

The Amendment Instrument is compatible with human rights because it promotes the right to life under Article 6 of the ICCPR. To the extent that it limits human rights under Article 17 of the ICCPR, those limitations are permissible because they are authorised by law and are necessary, reasonable and proportionate to achieve a legitimate object.