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EXPLOSIVES AMENDMENT BILL 2013

Second Reading

The Hon. DUNCAN GAY (Minister for Roads and Ports) [9.01 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

I am pleased to introduce the Explosives Amendment Bill 2013. The bill is the result of a statutory review of the Explosives Act 2003 that was undertaken by WorkCover as required by section 38 of the Act. The review included consultation with business, employer and union groups and submissions from the public.

The Report on the Review of the Explosives Act 2003 concluded that the policy objectives of the Act, to protect workers and the public from harm that may arise from illegal and/or unsafe use of explosives, remained valid subject to minor amendments. The purpose of this bill is to implement many of the recommendations of the report by making those minor amendments to the Explosives Act, as well as some other amendments that have since been identified as necessary.

I now turn to the bill before the House.

The Explosives Amendment Bill 2013 makes the following amendments to the New South Wales Explosives Act.

The bill improves the licensing provisions of the Explosives Act by inserting new sections 6A and 10A, to clarify the role of the security clearance as a pre-requisite to obtaining a licence to handle explosives and explosive precursors, consistent with the recent remaking of the Explosives Regulation 2013. Other consequential amendments also emphasise the role of the security clearance, which is issued by WorkCover as the regulatory authority for licensing, and is based on the report of the Commissioner of Police under section 13 of the Act.

The Explosives Act currently provides that the Commissioner of Police may provide a report to the regulatory authority in relation to licence applicants or licence holders under the Act. The bill amends the Explosives Act by expanding the matters in relation to which the commissioner may report, including whether a licence applicant or licence holder is a fit and proper person to hold a licence, and whether it is contrary to the public interest for the person to hold a licence. It removes from the ambit of the section 13 report some matters that the police consider are not within their role, such as whether the person has adequate facilities for safekeeping of explosives.

The bill protects from disclosure by the regulatory authority criminal or security intelligence or other confidential criminal information given by the Commissioner of Police to the regulatory authority under section 13 of the Act.

The bill also inserts new section 24A into the Explosives Act, which provides that any part of a report issued by the Commissioner of Police under section 13 that could disclose the existence or content of criminal or security intelligence or other confidential information is not to be disclosed by the Administrative Decisions Tribunal in giving reasons for its decision without approval of the Commissioner of Police.

The bill repeals section 24 (5) of the Act, which currently prevents internal review of licensing decisions, making the Explosives Act consistent with other New South Wales licensing legislation.

The bill improves the ability of the regulatory authorities, the WorkCover Authority and the Department of Trade and Investment in relation to mines, to monitor and enforce compliance with the Explosives Act. Currently, inspectors appointed under the Explosives Act exercise the same compliance powers they exercise under the Work Health and Safety Act 2011. Consistent with this approach, the bill permits them to exercise information gathering powers as set out in section 155 of the Work Health and Safety Act 2011, requiring the production of documents and answering of questions. The bill also amends section 35 of the Act to allow regulations to be made authorising the regulatory authority to disclose information obtained in the administration or execution of the Act.

The bill makes amendments to the Law Enforcement (Powers and Responsibilities) Act 2002 to allow police officers to search persons and seize and detain things without warrant if the police officer suspects on reasonable grounds that a person has in their possession any explosive or explosive precursor or dangerous good in connection with an offence under the Explosives Act, and allows seized explosives and explosive precursors and dangerous goods to be forfeited

and destroyed. The NSW Police Force has been closely consulted in the drafting of the bill.

The bill contains some transitional provisions which set out how the consequential amendments to the Act relating to reports by the Commissioner of Police and internal reviews of WorkCover decisions will apply. Schedule 2 to the bill makes some consequential amendments to the Explosives Regulation.

The Explosives Act is of course supported by a detailed regulation, the Explosives Regulation which was recently remade on 1 September 2013.

WorkCover is continuing to work with stakeholders to ensure that industry and workers will be aware of and understand their responsibilities once the bill is enacted. This work includes communications strategies and a range of support material.

In conclusion, the Explosives Legislation Amendment bill seeks to improve the utility of the legislation. The bill will protect workers and the public from harm that may arise from illegal and or unsafe use of explosives or explosive precursors.

I commend the bill to honourable members.