



New South Wales

Explosives Amendment Bill 2013

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Explosives Act 2003* (the *Principal Act*) as follows:
 - (i) to require security clearances to be held by natural persons who handle explosives or explosive precursors and by licence holders, and to provide for the grant, suspension and cancellation of security clearances (**Schedule 1 [1]–[6], [9]–[21] and [28]**),
 - (ii) to enable regulations to be made authorising the disclosure of information obtained in the administration or execution of the Act to persons or bodies, or persons or bodies of a class, prescribed by the regulations (**Schedule 1 [26]**),
 - (iii) to enable the regulatory authority under the Act to communicate (subject to any conditions or limitations prescribed by the regulations) to persons or bodies and persons or bodies of a class prescribed by the regulations, any information which comes to its knowledge in the exercise of its functions with respect to licences and security clearances and holders of licences and security clearances (**Schedule 1 [27]**),
 - (iv) to enable the Commissioner of Police, at the request of the regulatory authority, to report under section 13 of the Act on whether there is any available information with respect to the participation of an applicant for a licence or security clearance or holder of a licence or security clearance in any criminal activity and any available information concerning any such conviction that the Commissioner considers to be relevant to the application or continued holding of the licence or security clearance, on whether the applicant or holder is a fit and proper person to hold a licence or

- security clearance and whether it is contrary to the public interest for the person to do so (**Schedule 1 [7]**),
- (v) to remove the ability of the Commissioner of Police to make such a report in relation to whether the applicant or holder has a good reason for holding such a licence or can be trusted to handle explosives in the manner authorised by the licence without danger to the public safety or the peace (**Schedule 1 [7]**),
 - (vi) to ensure that any part of such a report that could disclose the existence or content of a criminal or security intelligence report or other confidential criminal information is not disclosed by the Administrative Decisions Tribunal in giving reasons for its decisions, or in proceedings before it, without the approval of the Commissioner of Police (**Schedule 1 [8] and [23]**),
 - (vii) to provide for the internal review of decisions concerning licences and security clearances that are reviewable decisions under the *Administrative Decisions Tribunal Act 1997* by removing a provision that currently prevents such a review (**Schedule 1 [22]**),
 - (viii) to enable inspectors appointed under the *Explosives Act 2003* to exercise the kind of information-gathering powers set out in section 155 of the *Work Health and Safety Act 2011* (**Schedule 1 [24]**),
 - (ix) to provide for the making of savings and transitional regulations and to enact certain savings provisions (**Schedule 1 [29]–[31]**), and
- (b) to amend the *Law Enforcement (Powers and Responsibilities) Act 2002* to enable police officers to seize, retain and destroy explosives, explosive precursors or certain dangerous goods (**Schedule 2.2 and Schedule 1 [25]**).

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Explosives Act 2003 No 39

Schedule 1 contains the amendments to the Principal Act described in paragraph (a) of the Overview above.

Schedule 2 Amendment of other legislation

Schedule 2.1 makes amendments to the *Explosives Regulation 2013* that are consequential on the amendments to the Principal Act described in paragraph (a) (i) of the Overview above.

Schedule 2.2 amends the *Law Enforcement (Powers and Responsibilities) Act 2002* as described in paragraph (b) of the Overview above. It amends section 20 of that Act so that the powers for police officers under Division 1 of Part 4 of that Act to search persons and seize and detain things without warrant will apply if a police officer suspects on reasonable grounds that a person has in his or her possession any explosive, explosive precursor or dangerous good to which section 31 of the Principal Act applies used or intended to be used in connection with an offence under Part 2 of the Principal Act. It also amends section 211 of the *Law Enforcement (Powers and Responsibilities) Act 2002* so that seized explosives, explosive precursors and dangerous goods may be forfeited and destroyed (if not returned).