



New South Wales

Explosives Amendment Bill 2023

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Explosives Act 2003* (*the Act*) to address the recommendations of the 2019 statutory review of the Act, including to—

- (a) relocate certain provisions from the *Explosives Regulation 2013* to the Act relating to the following—
 - (i) the authorisation and prohibition of explosives,
 - (ii) the classes of licences that may be granted for the handling and use of explosives and explosive precursors,
 - (iii) the granting of exemptions from provisions of the Act, and
- (b) define “supply” to include the sale of an explosive and any transfer of ownership of or access to an explosive, and
- (c) enable a regulatory authority in possession of forfeited explosives to destroy the bulk of the explosives while preserving admissible samples for proceedings for offences, and
- (d) ensure regulation-making powers enable provision to be made—
 - (i) relating to security clearances, and
 - (ii) for police officers to exercise certain functions and powers of inspectors under the Act.

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 a day or days to be appointed by proclamation.

Schedule 1 Amendment of Explosives Act 2003 No 39

Schedule 1[1] substitutes section 3 to provide for defined terms to be located in the dictionary inserted by Schedule 1[30].

Schedule 1[2] inserts proposed section 4A to define “supply” in relation to explosives and explosive precursors. **Schedule 1[7]** makes a consequential amendment.

Schedule 1[5] and [6] amend section 7 to update terminology relating to the transport of explosives.

Schedule 1[8] inserts proposed Part 2A.

Proposed Division 1 relates to applications for the authorisation of explosives. Proposed Division 2 requires the regulatory authority to keep a register of explosives and publish the register. Proposed Division 3 provides for the cancellation of authorisations.

Schedule 1[10] inserts proposed Part 3, Division 2, which provides for the regulatory authority, on application, to grant a security clearance to an individual.

Schedule 1[18] inserts proposed Part 3, Division 3, which provides for explosives licences. The proposed division sets out licence types, eligibility criteria and application requirements. The proposed division also provides for the grant or refusal of licences and the imposition of licence conditions, the contravention of which is an offence under proposed section 16AG.

Schedule 1[3], [4], [9], [11]–[17], [19], [20] and [22] make amendments consequential to Schedule 1[10] and [18].

Schedule 1[21] inserts proposed section 19A, which enables the regulations to make provision relating to security clearances.

Schedule 1[23] inserts proposed section 23A to require the regulatory authority to give notice of the suspension or cancellation of a licence or security clearance in accordance with the regulations.

Schedule 1[24] inserts proposed Part 3, Division 6, which provides for exemptions from the requirement to hold a licence or security clearance and from other provisions of the Act or the regulations.

Schedule 1[25] inserts proposed Part 3A, which provides for explosives retention, testing and destruction procedures. Proposed Division 1 defines certain terms for the part and sets out the application of the part. Proposed Division 2 enables the regulatory authority to retain, test and destroy forfeited explosives. Proposed Division 3 enables the regulations to make provision relating to retention, testing and destruction of forfeited explosives. Proposed section 24O creates a presumption in appeals from the Local Court that the identity, quantity or mass of a forfeited explosive is, for the appeal, correct if the person pleaded guilty to an offence in relation to the forfeited explosive and the forfeited explosive is destroyed under proposed Part 3A before the appeal is heard.

Schedule 1[26] inserts proposed section 27A. Proposed section 27A(1) makes it an offence to enter premises used to manufacture or store explosives without authorisation or lawful authority. Proposed section 27A(2) enables an authorised person to direct a person who contravenes proposed section 27A(1) to leave the premises and, if the person fails, without reasonable excuse, to leave, remove the person using reasonable force.

Schedule 1[27] inserts proposed section 30A to enable a person to lawfully dispose of unwanted or unusable explosives.

Schedule 1[28] amends section 36 to enable the regulations to provide for police officers to exercise specified functions and powers of inspectors under the Act or the regulations.

Schedule 1[29] amends Schedule 1 to provide for savings of exemptions granted under the *Explosives Regulation 2013*.

Schedule 1[30] inserts proposed Schedules 2 and 3. Proposed Schedule 2 sets out exemptions for certain persons from the requirement to hold a licence or security clearance as provided for in proposed sections 24B and 24C. Proposed Schedule 3 contains a dictionary that defines terms used in the Act.