



New South Wales

# Scrap Metal Industry Bill 2016

## Explanatory note

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

## Overview of Bill

The object of this Bill is to regulate the scrap metal industry as follows:

- (a) to require persons who carry on a business of dealing in scrap metal (*scrap metal dealers*) to register the business with the Commissioner of Police,
- (b) to prohibit scrap metal dealers from paying cash for scrap metal,
- (c) to require scrap metal dealers to keep and maintain records of transactions for buying scrap metal, including details of the person selling the scrap metal,
- (d) to require scrap metal dealers to report suspicious transactions to the police,
- (e) to prohibit scrap metal dealers from accepting a motor vehicle (or any motor vehicle body, engine or chassis) as scrap metal if it does not display its identification details,
- (f) to provide for short-term and long-term closure orders in respect of premises at which a scrap metal business is being carried on if the business is not registered under the proposed Act or serious criminal offences have been committed on the premises,
- (g) to authorise police officers without a warrant to enter premises at which a scrap metal business is being carried on to investigate contraventions of the proposed Act and to search, take photographs and recordings and seize and copy records,
- (h) to provide for other regulatory measures in respect of the scrap metal industry.

## Outline of provisions

### Part 1 Preliminary

**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.

**Clause 3** defines terms used in the proposed Act. *Scrap metal* is defined to mean any object of commercial value that is made from or contains metal and is sold or obtained as scrap for recycling or reprocessing of the metal, but will not include an object of a kind prescribed by the regulations.

**Clause 4** defines the phrase *carrying on a business* so as to include a reference to the person carrying on the business in partnership or by an employee, contractor, agent or other person.

### Part 2 Regulation of scrap metal industry

#### Division 1 Registration of scrap metal businesses

**Clause 5** makes it an offence to carry on a business of dealing in scrap metal unless the business is registered under the proposed Act. The maximum penalty will be 100 penalty units (currently \$11,000).

**Clause 6** provides that a business is registered under the proposed Act if the scrap metal dealer carrying on the business provides the Commissioner with the registration information specified in the provision and any fee required to be paid by the dealer is paid. The registration information includes the name of the business and address of each scrap metal yard used by the scrap metal dealer in carrying on the business.

**Clause 7** requires a scrap metal dealer to pay a fee prescribed by the regulations at the time the registration information for the business is provided and before the end of each following 3-year period.

**Clause 8** requires a scrap metal dealer to notify the Commissioner of any change in the registration information for the dealer's business within 14 days of the change occurring. The maximum penalty for failing to do so will be 10 penalty units (currently \$1,100).

**Clause 9** provides for the Commissioner to provide a scrap metal dealer whose business is registered with a certificate of registration (showing the registration information for the business) and provides for the issue of a replacement certificate if the certificate is lost, stolen, damaged or destroyed or the registration information for the business changes.

**Clause 10** requires the Commissioner to keep and maintain a register containing the registration information for each registered business and to make that register publicly accessible.

**Clause 11** makes it an offence to knowingly provide any false or misleading registration information, or details about a change in that information, to the Commissioner. The maximum penalty will be 50 penalty units (currently \$5,500).

#### Division 2 Obligations and duties of scrap metal dealers

**Clause 12** makes it an offence for a scrap metal dealer to pay for any scrap metal in cash (including cash cheque) or in kind with goods or services. The maximum penalty will be 100 penalty units.

**Clause 13** requires a scrap metal dealer to report to a police officer any scrap metal in the dealer's possession that the dealer suspects may have been stolen or otherwise unlawfully obtained. The maximum penalty for failing to do so will be 50 penalty units.

**Clause 14** makes it an offence for a scrap metal dealer to buy any scrap metal that consists of a motor vehicle, or the body, engine or chassis of a motor vehicle, if the dealer is aware that the identification details of the motor vehicle, body, engine or chassis have been unlawfully removed,

obliterated, defaced or altered. The proposed section also makes it an offence for a scrap metal dealer to sell or dispose of any unidentified motor vehicle, or unidentified body, engine or chassis of a motor vehicle, in the dealer's possession unless authorised to do so by a police officer by order in writing. The maximum penalty for both offences will be 100 penalty units.

**Clause 15** provides that a police officer may serve an order in writing on a scrap metal dealer prohibiting the dealer from altering the form of scrap metal suspected of having been stolen, or from disposing of it, for a period of 14 days. The maximum penalty for not complying with the order will be 50 penalty units.

**Clause 16** requires a scrap metal dealer to keep a record of certain details in respect of each transaction entered into by the dealer for buying scrap metal, including the identification details of the person who sold the scrap metal, a description of the scrap metal (including the quantity) and the method of payment. The maximum penalty for failing to do so will be 50 penalty units.

## **Part 3 Enforcement**

### **Division 1 Closure orders**

**Clause 17** authorises the Commissioner to order the closure of premises if a scrap metal business that is not registered is being carried on at those premises or if the Commissioner reasonably suspects that a serious criminal offence is being committed at the premises. Any such interim closure order takes effect from the time it is served or posted and has effect for a period of 72 hours, unless sooner repealed or revoked.

**Clause 18** provides for the long-term closure of premises by the Local Court, on the application of the Commissioner, if the Court is satisfied that a scrap metal business that is not registered is being carried on at those premises or there have been, or there are likely to be, serious criminal offences committed, at or in connection with the premises.

**Clause 19** makes it an offence for a person to carry on a business of dealing in scrap metal at premises if a closure order under the proposed Division applies to the premises. The maximum penalty will be 100 penalty units.

**Clause 20** provides that compensation is not payable for the closure of premises pursuant to an order under the proposed Division.

### **Division 2 Powers of entry and inspection**

**Clause 21** provides that a police officer may, without a warrant and at any reasonable time, enter any premises at which a business of dealing in scrap metal is being carried on or at which the police officer reasonably believes such a business is being carried on for the purposes of determining whether there has been compliance with, or a contravention of, the proposed Act.

**Clause 22** provides for the issue of search warrants on the application of a police officer who believes on reasonable grounds that any provision of the proposed Act is being or has been contravened on any premises.

**Clause 23** lists the powers that may be exercised by police officers at any premises lawfully entered under the proposed Act.

**Clause 24** makes it an offence for a person, without reasonable excuse, to obstruct, hinder or interfere with a police officer in the exercise of a function under the proposed Division or fail to comply with any requirement made of the person by a police officer in the exercise of a function under the proposed Division. The maximum penalty will be 50 penalty units.

## **Part 4 Miscellaneous**

**Clause 25** provides for the Commissioner to provide certificates as to certain matters and which are admissible as evidence of those matters.

**Clause 26** provides that proceedings for an offence under the proposed Act may be dealt with summarily before the Local Court.

**Clause 27** provides for the issue of penalty notices by a police officer for offences against the proposed Act.

**Clause 28** provides for the Governor to make regulations, including regulations of a savings or transitional nature consequent on the enactment of the proposed Act or any Act that amends the proposed Act.

**Clause 29** requires the Minister to review the proposed Act.