



New South Wales

Protection of the Environment Operations Amendment (Asbestos Waste) Bill 2018

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament. This Bill is cognate with the *Retirement Villages Amendment Bill 2018*.

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Protection of the Environment Operations Act 1997* (the **principal Act**) as follows:
 - (i) to transfer certain asbestos waste offences from the *Protection of the Environment Operations (Waste) Regulation 2014* to the principal Act and increase penalties for those offences,
 - (ii) to increase penalties for other waste offences (such as land pollution) that involve asbestos waste,
 - (iii) to make the presence of asbestos a sentencing consideration, and
- (b) to make related and consequential amendments to the principal Act, and
- (c) to make consequential amendments to the *Protection of the Environment Operations (General) Regulation 2009* and the *Protection of the Environment Operations (Waste) Regulation 2014*.

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 Protection of the Environment Operations Act 1997 No 156

Schedule 1 [1]–[6] increase the penalties for offences relating to the pollution of land, the unlawful transporting or depositing of waste and the use of a place as a waste facility without lawful authority, where the offences involve asbestos waste. Penalties are increased from \$1,000,000 to \$2,000,000 for corporations and from \$250,000 to \$500,000 for individuals.

Schedule 1 [7] transfers asbestos waste offences relating to the disposal of asbestos waste and the re-use and recycling of asbestos waste from the *Protection of the Environment Operations (Waste) Regulation 2014* to the principal Act (the **transferred offences**). Penalties for the transferred offences are increased in line with the amendments made by Schedule 1 [1]–[6].

Schedule 1 [8] includes the transferred offences for the purposes of the repeat waste offence under the principal Act. The maximum penalty for repeat waste offenders includes imprisonment.

Schedule 1 [9] provides that the transferred offences are special executive liability offences under the principal Act.

Schedule 1 [10] provides that summary proceedings for the transferred offences must be commenced within but not later than 3 years after the date on which the offence is alleged to have been committed.

Schedule 1 [11] provides that the presence of asbestos will be a factor that the court must take into consideration when sentencing offenders.

Schedule 1 [12] inserts definitions for *asbestos* and *asbestos waste* in the Dictionary.

Schedule 2 Consequential amendments to regulations

Schedule 2.1 makes consequential amendments to the *Protection of the Environment Operations (General) Regulation 2009*, including the prescription of the transferred offences as penalty notice offences.

Schedule 2.2 makes consequential amendments to the *Protection of the Environment Operations (Waste) Regulation 2014*, including to omit the transferred offences from the regulation.