



New South Wales

# Scrap Metal Industry Amendment (Review) Bill 2022

## Explanatory note

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

## Overview of Bill

The object of this Bill is to make miscellaneous amendments to the *Scrap Metal Industry Act 2016* (the *Principal Act*) and the *Scrap Metal Industry Regulation 2016* following a statutory review of the Principal 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 the date of assent to the proposed Act.

## Schedule 1      Amendment of Scrap Metal Industry Act 2016 No 42

**Schedule 1[2]** clarifies that a *scrap metal dealer* is a person who carries on a business of dealing in scrap metal, whether or not the business is registered under the Principal Act.

**Schedule 1[3]** exempts a person carrying on a business as a collection point operator within the meaning of the *Waste Avoidance and Resource Recovery Act 2001*, Part 5 or under a licence within the meaning of the *Pawnbrokers and Second-hand Dealers Act 1996*, to the extent the business involves dealing in gold or silver, from being a person *carrying on a business* of dealing in scrap metal. The proposed section also clarifies that carrying on a business includes carrying on a business from a location other than a scrap metal yard. **Schedule 1[1]** makes a consequential amendment.

**Schedule 1[4]** creates a rebuttable presumption that a person who deals in scrap metal on more than the prescribed number of days in a 12-month period is carrying on a business of dealing in scrap metal.

**Schedule 1[5]** increases the penalty for carrying on a business of dealing in scrap metal without being registered from 100 penalty units to 500 penalty units.

**Schedule 1[7] and [8]** amend the definition of *registration information* to include the address of premises other than a scrap metal yard and the registration number of a vehicle, if the scrap metal dealer deals in scrap metal from the premises or vehicle, whether a scrap metal dealer holds a licence under the *Motor Dealers and Repairers Act 2013* or the *Tow Truck Industry Act 1998*, and whether any necessary approvals have been obtained to use premises as a scrap metal yard.

**Schedule 1[10]** empowers the Commissioner of Police (the *Commissioner*) to refuse to register a business under the Principal Act, or suspend or revoke a registration, in prescribed circumstances. **Schedule 1[6]** makes a consequential amendment to section 6(1), providing that a business is not registered under the Principal Act until the Commissioner issues the business with a certificate of registration. **Schedule 1[9]** makes a consequential amendment to section 9(1), providing that the Commissioner must provide a certificate of registration to a scrap metal dealer who has complied with section 6(1)(a) and (b).

**Schedule 1[11]** prohibits a scrap metal dealer from advertising that the dealer will pay for scrap metal with cash, by cheque payable to cash, or in kind with goods or services.

**Schedule 1[12]** increases the penalty for buying or disposing of a motor vehicle if the unique identifier for the vehicle has been removed, obliterated, defaced or altered from 100 penalty units to 500 penalty units.

**Schedule 1[13]** increases the penalty for failing to comply with a police officer's order not to alter the form or dispose of scrap metal in the dealer's possession from 50 penalty units to 500 penalty units.

**Schedule 1[14]** requires a scrap metal dealer who deals in scrap metal only from a motor vehicle to keep transaction records in the motor vehicle.

**Schedule 1[15] and [16]** empower the Local Court to, on the application of the Commissioner, order that specified premises be closed on the basis that there has been repeated non-compliance at or in connection with the premises. *Repeated non-compliance* means the commission of 6 or more offences against the Principal Act or the regulations, or alleged contraventions for which a penalty notice is issued, within 12 months.

**Schedule 1[17]** empowers a police officer to stop and search a motor vehicle without a warrant for the purposes of determining whether there has been compliance with, or a contravention of, the Principal Act or the regulations if the officer reasonably believes the vehicle is being used for the purposes of carrying on a scrap metal business.

**Schedule 1[18]** empowers the Commissioner to keep a register of information about convictions for offences against the Principal Act or the regulations and penalty notices issued for alleged offences. The Commissioner may publish the information contained in the register. **Schedule 1[1]** makes a consequential amendment.

## **Schedule 2      Amendment of Scrap Metal Industry Regulation 2016**

**Schedule 2[1]** removes the exclusion of aluminium cans from the definition of *scrap metal* in the Principal Act and prescribes 6 days for the purposes of the rebuttable presumption in **Schedule 1[4]**.

**Schedule 2[2] and [8]** provide for the annual automatic indexation of the prescribed fee for registration under the Principal Act in accordance with the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics.

**Schedule 2[3]** prescribes the circumstances in which the Commissioner may refuse, suspend or revoke registration under the Principal Act.

**Schedule 2[4]** is a transitional provision relating to the contraventions register.

**Schedule 2[5]** increases the amount payable under a penalty notice issued for an alleged offence against the Principal Act, section 5, 14 or 15(4) to \$5,500.

**Schedule 2[6]** prescribes the Principal Act, proposed section 12A as a penalty notice offence and prescribes a penalty amount of \$220.

**Schedule 2[7]** removes the Principal Act, section 16(4) from the list of penalty notice offences.