



Occupational Health and Safety Amendment

(Dangerous Goods) Bill Explosives Bill.

Second Reading

The Hon. JOHN DELLA BOSCA (Special Minister of State, Minister for Commerce, Minister for Industrial Relations, Assistant Treasurer, and Minister for the Central Coast) [9.25 p.m.]: I move:

That these bills be now read a second time.

As the speech is lengthy and has been delivered in the other place, I seek leave to have my remarks incorporated in *Hansard*.

Leave granted.

I am pleased to introduce two bills, the *Occupational Health and Safety Amendment (Dangerous Goods) Bill 2003* and its cognate bill, the *Explosives Bill 2003*, that together constitute a revised regulatory regime for dangerous goods in New South Wales.

The bills arise out of the recent review of the *Dangerous Goods Act 1975*, conducted by WorkCover. Late last year, WorkCover conducted targeted consultation on an Issues Paper entitled 'Review of the Dangerous Goods Act 1975'. The purposes of the review were one, to formulate a proposal for adopting in New South Wales the *National Standard for the Workplace Storage and Handling of Dangerous Goods*, issued by the National Occupational Health and Safety Commission, and two, to address National Competition Policy legislation review requirements.

The review of NSW dangerous goods legislation was timely, as it was the first comprehensive review of the NSW regulatory package for dangerous goods since 1975. It allows NSW to complement national initiatives in the regulation of dangerous goods by taking into consideration the *National Standard* that was released in 2001. Further, the review addresses growing public concern about the safe-keeping of dangerous goods at a time when the security of dangerous substances has become a matter of global concern.

The *National Standard* marks a significant improvement in the approach to the effective control of the storage and handling of dangerous goods. It establishes a duty of care and a performance-based approach combined with a system of notification to the regulatory authority, of high-risk quantities of dangerous goods. It incorporates the principles of information provision, hazard identification, risk assessment and risk control combined with more specific provisions.

The *National Standard* was developed in consultation with all States and Territories, with extensive consultation taking place with industry, unions and key Government Agencies dealing with occupational health and safety and dangerous goods. The Workplace Relations Ministerial Council agreed to the adoption of the *National Standard* by all States and Territories so as to ensure a nationally consistent regulatory regime for the storage and handling of dangerous goods.

I will now deal with the provisions of each bill separately.

Dangerous goods are currently regulated in New South Wales by requiring their keeping, conveyance, in certain circumstances, and use to be licensed by the WorkCover Authority, under the *Dangerous Goods Act 1975* and its supporting regulations, the *Dangerous Goods (General) Regulation 1999* and the *Dangerous Goods (Gas Installations) Regulation 1998*. Dangerous Goods covered by the Act follow the classification set out in the Australian Dangerous Goods Code and include chemicals and materials such as explosives, fireworks, gases, flammable liquids, flammable solids, oxidizing, toxic and corrosive substances and combustible liquids.

The *Occupational Health and Safety Amendment (Dangerous Goods) Bill* extends the operation of the *Occupational Health and Safety Act 2000* to the regulation of dangerous goods whether or not at places of work. The revised Act will apply to all quantities of dangerous goods within workplaces and to quantities over prescribed levels for non-workplaces. The expansion of the Act will allow regulations to be made under the *Occupational Health and Safety Act* that adopt the *National Standard*. Under the *National Standard*, prescriptive requirements are replaced by a more rigorous duty of care and performance based approach combined with a notification system.

The Government has decided that the most effective way of adopting the *National Standard* in New South Wales is by way of amending the *Occupational Health and Safety Act*, due to there being considerable overlap in the duty of care, performance based and risk management approaches of the *Occupational Health and Safety Act* and the *National Standard*. Further, considerable numbers of dangerous goods locations are workplaces and therefore already subject to occupational health and safety legislative requirements.

This approach increases legislative efficiency by having all occupational health and safety related requirements under one Act, simplifying interpretation and application, particularly with regard to risk management requirements. The new approach will benefit businesses by reducing the number of legislative instruments that need to be complied with, and the new risk management provisions will allow industry greater flexibility and innovation in managing and addressing the hazards and risks associated with the handling and storage of dangerous goods.

It is proposed that the *Occupational Health and Safety Regulation 2001* will be amended to adopt the approach of the *National Standard*. The Regulation will require hazard identification, risk assessment, risk control, labelling, information provision and notification for places where dangerous goods are stored and handled. "Dangerous goods" to be covered by the regulation will include all of the dangerous goods listed above, except for explosives.

The amendment to the *Occupational Health and Safety Regulation* will include the establishment of a notification system in relation to dangerous goods to replace the current NSW licensing system. Occupiers of premises where dangerous goods are located will be required to notify WorkCover, at specified intervals, of the type and quantity of dangerous goods that are being kept on the premises, together with details about the location of the site and the persons who are in control of the site. This information will be used to maintain a comprehensive database on the location of stored chemicals within the State, which can be used, among other things, for the development of proactive preventative strategies and emergency planning and response.

Other matters from the *National Standard* that will be incorporated into the Regulation include the duties of occupiers of premises where dangerous goods are located to identify, assess and control risks and to obtain and provide information about the dangerous goods on site. Specific control measures will relate to such things as the means of separating different types of dangerous goods, ways to contain spills, the placarding of sites where dangerous goods are located, fire protection measures and emergency procedures.

The Regulation will further specify duties for manufacturers, suppliers and importers to classify dangerous goods and provide information in relation to the dangerous goods being supplied. Various record keeping provisions will also be included.

The draft amending regulation will be the subject of a thorough public consultation process with appropriate industries, unions and Government Agencies. As it is important for industry and the community to be educated about the new approach to dangerous goods, WorkCover will put in place a communication strategy and public awareness program for the new dangerous goods regime prior to its introduction.

I now turn to the *Explosives Bill 2003*. The *Explosives Bill* deals with explosives and explosive precursors, and maintains the current licensing approach of the *Dangerous Goods Act* to these substances. Explosive precursors are chemicals and materials that can be combined to create an explosive.

Explosives have been separated from other dangerous goods requirements proposed for regulation under occupational health and safety legislation because of the particular 'public safety' issues related to explosives and explosive precursors. Dealing with explosives under a separate Act recognises the particularly high risks associated with explosives and the potential for the misuse of explosives.

I emphasise that explosives kept and used at workplaces will still be subject to all occupational health and safety requirements and that the provisions of the *Explosives Bill* are in addition to the requirements of the *Occupational Health and Safety Act*.

The *Explosives Bill* continues, modernises, and expands the current licensing regime in NSW for the licensing of explosives. The bill expands on the current licensing regime in relation to explosives by providing the capacity to extend the licensing requirements to explosive precursors.

Clause 6 of the bill provides that a person must not handle explosives or explosive precursors unless authorised to do so by a licence granted under the Act. Examples of the types of activities that constitute "handling" of explosives under the bill, and will therefore be required to be licensed, include conveying, manufacturing, possessing, using, supplying, disposing of and importing explosives into the State from another country. The clause applies to the handling of explosives or explosive precursors that will be prescribed by regulation. Licenses may be granted either unconditionally or subject to conditions.

Clause 13 of the bill continues the role for the Commissioner of Police to report to the regulatory authority, in

relation to applicants and holders of licences. The type of information that may be sought includes matters such as whether an applicant or licence holder is the subject of a firearms prohibition order or has a history of violence or threats of violence.

There is also power under clause 22 for the regulatory authority to suspend or cancel an explosives licence where the regulatory authority believes that the holder of a licence cannot be trusted to have access to explosives because the person has a history of violence or threats of violence.

Offences in relation to the negligent use of explosives, access to explosives during conveyance and the supply of explosives to minors are maintained in the bill.

Inspectors exercising powers under the *Explosives Bill* will have the powers of inspectors under the *Occupational Health and Safety Act 2000*. These provisions streamline the powers of inspectors so that they are consistent, whether dealing with dangerous goods under the *Occupational Health and Safety Act* or with explosives under the *Explosives Act*.

The bill also contains a power to prescribe penalty notices, or, in other words, on-the-spot fines, for matters where it is judged appropriate to deal with the particular safety concern in an immediate fashion.

The bill includes appropriate regulation-making powers for the purposes of the Act. Matters such as the types of explosives and explosive precursors to be covered by the Act and the types of licences and licence conditions can be provided for by the regulations. There is also a power to make regulations for dangerous goods not captured under the proposed amendment to the *Occupational Health and Safety Act*, which will allow for the prescription of specific control measures to regulate smaller quantities of dangerous goods in non-workplaces.

As with the dangerous goods amendment to the *Occupational Health and Safety Regulation*, there will be industry and public consultation on the draft supporting Explosives Regulation before it is finalised.

It is intended that both the *Occupational Health and Safety Amendment (Dangerous Goods) Bill* and the *Explosives Bill*, once passed, would not be commenced, and the *Dangerous Goods Act* would not be repealed, until detailed supporting regulations had been drafted and been the subject of consultation.

These two bills set the foundation for a revised regulatory regime for the storage and handling of dangerous goods in NSW that will complement and be consistent with existing occupational health and safety legislation. The revised dangerous goods legislative framework will provide a balance between performance and prescriptive provisions in relation to dangerous goods. Any essential prescriptive requirements from the current dangerous goods regulatory regime that need to be retained will be retained in regulations while the performance based, risk management and notification approach of the *National Standard for the Storage and Handling of Dangerous Goods* will be applied to dangerous goods in NSW through a streamlined and integrated occupational health, safety and dangerous goods legislative package.

The expected outcomes of the new regime for dangerous goods include economic benefits of reducing inefficiencies in the storage and handling of dangerous goods, and, as other States and Territories proceed to adopt the *National Standard*, elimination of unnecessary costs incurred in complying with differing State and Territory requirements.

More importantly, the adoption of the *National Standard* for dangerous goods, other than explosives, and the modernised regime for explosives are expected to result in safer storage and handling of dangerous goods and explosives, meaning fewer deaths, injuries, illnesses and accidents. The new regime should also lead to improved protection of property and the environment.

I commend the bills to the House.

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