



New South Wales

# Occupational Health and Safety Amendment (Dangerous Goods) Bill 2003

## Explanatory note

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

The *Explosives Bill 2003* is cognate with this Bill.

## Overview of Bill

The principal object of the *Occupational Health and Safety Act 2000* is to secure the health, safety and welfare of persons at work. Currently, the *Occupational Health and Safety Act 2000* also operates to regulate certain prescribed plant that affects public safety (for example, boilers and pressure vessels, escalators, lifts and moving walls and scaffolding) whether or not the plant is at a place of work or is for use at work.

The National Occupational Health and Safety Commission under the *National Occupational Health and Safety Commission Act 1985* of the Commonwealth has declared a national standard relating to the storage and handling of workplace dangerous goods.

The storage and handling of dangerous goods is currently regulated in New South Wales under the *Dangerous Goods Act 1975*, the *Dangerous Goods (General) Regulation 1999* and the *Dangerous Goods (Gas Installations)*

*Regulation 1998*. That legislation requires the keeping, conveyance and use of dangerous goods to be licensed by the WorkCover Authority. The legislation is not confined to the workplace but covers all dangerous goods wherever they are located. There are also special provisions in the legislation that deal with the licensing of explosives.

The object of this Bill is to extend the operation of the *Occupational Health and Safety Act 2000* to the regulation of dangerous goods whether or not at places of work in a similar manner as the extension of that Act in relation to plant affecting public safety. The extension of the operation of that Act would allow regulations to be made under that Act that adopt the duty of care and performance-based approach of regulation of the storage and handling of dangerous goods as outlined in the National Occupational Health and Safety Commission's national standard.

The *Explosives Bill 2003* will continue a licensing regime (which will include a role for the Commissioner of Police) for the handling of explosives. The Bill, as is currently the case, enables other dangerous goods to be regulated in the interests of public safety (for example, precursors to explosives and the storage of small quantities outside the workplace that will not be regulated by the proposed adoption of the national standard under the *Occupational Health and Safety Act 2000*).

## 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.

**Clause 3** is a formal provision that gives effect to the amendments to the *Occupational Health and Safety Act 2000* set out in Schedule 1.

**Clause 4** is a formal provision that repeals the *Dangerous Goods Act 1975* and the *Dangerous Goods (General) Regulation 1999*.

**Clause 5** is a formal provision that gives effect to the consequential amendments to the Acts and other instruments set out in Schedule 2.

## **Schedule 1 Amendment of Occupational Health and Safety Act 2000**

**Schedule 1 [1]** replaces section 3 (h) of the *Occupational Health and Safety Act 2000* to provide that it is an object of that Act to deal with the impact of particular classes or types of dangerous goods and plant at, and beyond, places of work.

**Schedule 1 [2]** makes an amendment consequential on the repeal of the *Dangerous Goods Act 1975*.

**Schedule 1 [3]** inserts proposed section 135A into the *Occupational Health and Safety Act 2000*. The proposed section gives effect to the Overview above by providing that certain provisions of the *Occupational Health and Safety Act 2000* (namely, Division 4 of Part 2 (Ancillary provisions), Part 3 (Regulations), Part 4 (Industry codes of practice), Divisions 1, 2 and 4 of Part 5 (Investigations) and Part 6 (Investigation, improvement and prohibition notices)) extend to specified dangerous goods whether or not the goods are at a place of work or are for use at work.

**Schedule 1 [4]** enables regulations to be made of a savings and transitional nature consequent on the enactment of the proposed Act.

## **Schedule 2 Amendment of Acts and instruments**

**Schedule 2** makes amendments to other Acts and instruments consequent on the enactment of the proposed Act and the proposed *Explosives Act 2003*, including, for example, amendments to continue the operation of the *Dangerous Goods (Gas Installations) Regulation 1998* after the repeal of the *Dangerous Goods Act 1975* by deeming it to be a regulation made under the *Gas Supply Act 1996*.



New South Wales

# Occupational Health and Safety Amendment (Dangerous Goods) Bill 2003

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New South Wales

# Occupational Health and Safety Amendment (Dangerous Goods) Bill 2003

No. , 2003

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## A Bill for

An Act to amend the *Occupational Health and Safety Act 2000* with respect to dangerous goods; to repeal the *Dangerous Goods Act 1975*; and for other purposes.

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See also *Explosives Bill 2003*.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Occupational Health and Safety Amendment (Dangerous Goods) Act 2003</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3 Amendment of Occupational Health and Safety Act 2000 No 40</b>	8
The <i>Occupational Health and Safety Act 2000</i> is amended as set out in Schedule 1.	9 10
<b>4 Repeal of Dangerous Goods Act 1975 No 68 and associated regulation</b>	11 12
The <i>Dangerous Goods Act 1975</i> and the <i>Dangerous Goods (General) Regulation 1999</i> are repealed.	13 14
<b>5 Amendment of other Acts and instruments</b>	15
The Acts and instruments specified in Schedule 2 are amended as set out in that Schedule.	16 17

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## Schedule 1 Amendment of Occupational Health and Safety Act 2000

(Section 3)

### [1] Section 3 Objects

Omit section 3 (h). Insert instead:

- (h) to deal with the impact of particular classes or types of dangerous goods and plant at, and beyond, places of work.

### [2] Section 4 Definitions

Omit paragraph (b) from the definition of *associated occupational health and safety legislation*.

### [3] Section 135A

Insert after section 135:

#### 135A Dangerous goods—extension of Act

- (1) In this section:

*dangerous goods* means:

- (a) substances or articles subject to a national standard declared by the National Occupational Health and Safety Commission under section 38 of the *National Occupational Health and Safety Commission Act 1985* of the Commonwealth, and
- (b) any other substances or articles that are a risk to public safety.

*handling*, in relation to dangerous goods, includes conveying, manufacturing, processing, possessing, using, preparing for use, treating, dispensing, packing, selling, offering for sale, supplying, transferring, loading and unloading, rendering harmless, abandoning, destroying and disposing of dangerous goods.

*storing* includes storing as a bailee or in any other capacity.

- (2) The regulations may declare that specified dangerous goods (whether or not at a place of work) are dangerous goods to which this section applies. Any such declaration may provide that those substances or articles are not dangerous goods to

which this section applies at premises that are not a place of work unless the quantity of those goods at those premises exceeds a minimum quantity prescribed by the regulations.	1 2 3
(3) The following provisions of this Act extend to dangerous goods to which this section applies even though the goods are not at a place of work or are not for use at work:	4 5 6
(a) Division 4 (Ancillary provisions) of Part 2,	7
(b) Part 3 (Regulations) and Part 4 (Industry codes of practice),	8 9
(c) Divisions 1, 2 and 4 of Part 5 (Investigations) and Part 6 (Investigation, improvement and prohibition notices).	10 11
(4) For the purposes of the application of those provisions:	12
(a) a reference to work includes a reference to storing or handling dangerous goods to which this section applies, and	13 14 15
(b) a reference to a place of work includes a reference to the premises at or in which the dangerous goods to which this section applies are stored or handled, and	16 17 18
(c) a reference to occupational health and safety (however expressed) includes a reference to public health and safety.	19 20 21
(5) This section does not affect the application of this Act to dangerous goods apart from the operation of this section.	22 23
<b>[4] Schedule 3 Savings, transitional and other provisions</b>	24
Insert at the end of clause 1 (1):	25
<i>Occupational Health and Safety Amendment (Dangerous Goods) Act 2003</i>	26 27



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<b>Schedule 2 Amendment of Acts and instruments</b>	1
(Section 5)	2
<b>2.1 Clean Waters Regulations 1972</b>	3
<b>Regulation 2 Definitions</b>	4
Omit the definition of <i>dangerous goods</i> in Regulation 2 (1).	5
Insert instead:	6
<i>dangerous goods</i> has the same meaning as in the <i>Road and Rail Transport (Dangerous Goods) Act 1997</i> .	7
	8
<b>2.2 Coal Mines (General) Regulation 1999</b>	9
<b>Clause 39 Identification of pipelines</b>	10
Omit “ <i>Dangerous Goods Act 1975</i> ”.	11
Insert instead “ <i>Road and Rail Transport (Dangerous Goods) Act 1997</i> ”.	12
<b>2.3 Commercial Vessels (Certificates of Competency and Safety Manning) Regulation 1986</b>	13
	14
<b>Clause 4 Definitions</b>	15
Omit the definition of <i>dangerous goods</i> in clause 4 (1).	16
Insert instead:	17
<i>dangerous goods</i> has the same meaning as in the <i>Road and Rail Transport (Dangerous Goods) Act 1997</i> .	18
	19
<b>2.4 Dangerous Goods (Gas Installations) Regulation 1998</b>	20
<b>[1] Clause 5 Liquefied petroleum gas and natural gas prescribed as dangerous goods</b>	21
	22
Omit the clause.	23
<b>[2] Clause 6 Regulation not to apply to certain gas installations</b>	24
Omit “under the <i>Gas Supply Act 1996</i> ” from clause 6 (a).	25
<b>[3] Dictionary</b>	26
Omit “the <i>Dangerous Goods Act 1975</i> ” from the definition of <i>the Act</i> .	27
Insert instead “the <i>Gas Supply Act 1996</i> ”.	28

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<b>2.5 Fair Trading Act 1987 No 68</b>	1
<b>[1] Schedule 1 Paramount legislation</b>	2
Omit “ <i>Dangerous Goods Act 1975</i> ”.	3
<b>[2] Schedule 1</b>	4
Insert in alphabetical order “ <i>Explosives Act 2003</i> ”.	5
<b>[3] Schedule 2 Acts prohibiting or regulating the supply of goods</b>	6
Omit “ <i>Dangerous Goods Act 1975</i> ”.	7
<b>[4] Schedule 2</b>	8
Insert in alphabetical order “ <i>Explosives Act 2003</i> ”.	9
<b>2.6 Fines Act 1996 No 99</b>	10
<b>[1] Schedule 1 Statutory provisions under which penalty notices issued</b>	11
Omit “ <i>Dangerous Goods Act 1975</i> , section 43A”.	12
<b>[2] Schedule 1</b>	13
Insert in appropriate order “ <i>Explosives Act 2003</i> , section 34”.	14
<b>2.7 Firearms Act 1996 No 46</b>	15
<b>Section 4 Definitions</b>	16
Omit “ <i>Dangerous Goods Act 1975</i> ” from the definition of <i>explosive</i> in section 4 (1).	17
Insert instead “ <i>Explosives Act 2003</i> ”.	18
<b>2.8 Firearms (General) Regulation 1997</b>	19
<b>Clause 108 Exemption relating to officers and employees of certain government agencies</b>	20
Omit “ <i>Dangerous Goods Act 1975</i> ” from clause 108 (1).	21
Insert instead “ <i>Explosives Act 2003</i> ”.	22
	23
	24
	25

<b>2.9 Freedom of Information Regulation 2000</b>	1
<b>Schedule 4 Public offices</b>	2
Omit the matter relating to the Chief Inspector of Dangerous Goods from Part 2.	3 4
<b>2.10 Gas Supply Act 1996 No 38</b>	5
<b>[1] Section 77 Inspectors</b>	6
Omit “administering section 31 of the <i>Dangerous Goods Act 1975</i> ” from section 77 (1).	7 8
<b>[2] Section 83 Regulations</b>	9
Insert after section 83 (2) (g):	10
(g1) autogas installations and the carrying out of autogas work,	11 12
<b>[3] Schedule 2 Savings, transitional and other provisions</b>	13
Insert at the end of the Schedule with appropriate Part and clause numbers:	14
<b>Part Provisions consequent on enactment of Occupational Health and Safety Amendment (Dangerous Goods) Act 2003</b>	15 16 17 18
<b>Saving of regulation</b>	19
(1) The <i>Dangerous Goods (Gas Installations) Regulation 1998</i> is taken to be a regulation made under this Act.	20 21
(2) For the purposes of Part 3 of the <i>Subordinate Legislation Act 1989</i> , the <i>Dangerous Goods (Gas Installations) Regulation 1998</i> is taken to have been published on the commencement of this clause.	22 23 24 25
<b>Saving of appointment of inspectors</b>	26
A person appointed as an inspector under section 77 (1) of this Act and holding office as such immediately before the amendment of that section by the <i>Occupational Health and Safety Amendment (Dangerous Goods) Act 2003</i> is taken to	27 28 29 30

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have been appointed to that office under that section as so amended.	1 2
<b>[4] Dictionary</b>	3
Insert in appropriate order:	4
<i>autogas installation</i> means a system of pipes and associated equipment that forms part of a vehicle, vessel or machine and that is designed to convey liquefied petroleum gas or natural gas to an internal combustion engine that is installed in, or forms part of, the vehicle, vessel or machine.	5 6 7 8 9
<i>autogas work</i> means work involved in:	10
(a) the installation, alteration, extension or repair of an autogas installation, or	11 12
(b) the connection of a gas cylinder to, or the disconnection of a gas cylinder from, an autogas installation.	13 14
<b>2.11 Home Building Act 1989 No 147</b>	15
<b>Section 135 Proceedings for certain offences under other Acts</b>	16
Omit section 135 (a).	17
<b>2.12 Home Building Regulation 1997</b>	18
<b>Clause 9 “Relevant law” regulating gasfitting or plumbing work</b>	19
Omit “ <i>Dangerous Goods Act 1975</i> (gas cylinders)” and “ <i>Dangerous Goods Regulation 1978</i> ” from clause 9 (a).	20 21
<b>2.13 Law Enforcement (Powers and Responsibilities) Act 2002 No 103</b>	22
<b>Schedule 2 Search warrants under other Acts</b>	24
Omit “ <i>Dangerous Goods Act 1975</i> , section 42”.	25
<b>2.14 Licensing and Registration (Uniform Procedures) Act 2002 No 28</b>	26 27
<b>[1] Schedule 1 Licences to which Part 2 of Act applies</b>	28
Omit all the matter relating to the <i>Dangerous Goods Act 1975</i> and the <i>Dangerous Goods (General) Regulation 1999</i> .	29 30

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<b>[2] Schedule 1</b>	1
Insert in appropriate order:	2
<b>Explosives Act 2003</b>	
section 11, explosives licence	3
<b>2.15 Maritime Services Act 1935 No 47</b>	4
<b>Section 38 Regulations</b>	5
Omit the definition of <i>dangerous goods</i> in section 38 (4).	6
Insert instead:	7
<i>dangerous goods</i> has the same meaning as in the <i>Road and Rail Transport (Dangerous Goods) Act 1997</i> .	8 9
<b>2.16 Mines Inspection General Rule 2000</b>	10
<b>[1] Clause 60 Manufacture of explosives</b>	11
Omit “ <i>Dangerous Goods Act 1975</i> ” from clause 60 (2).	12
Insert instead “ <i>Explosives Act 2003</i> ”.	13
<b>[2] Clause 61 Storage of explosives</b>	14
Omit “licensed under the <i>Dangerous Goods Act 1975</i> ” from clause 61 (1) (a).	15 16
Insert instead “in accordance with a licence under the <i>Explosives Act 2003</i> ”.	17 18
<b>2.17 National Parks and Wildlife Act 1974 No 80</b>	19
<b>Section 5 Definitions</b>	20
Omit “ <i>Dangerous Goods Act 1975</i> ” from the definition of <i>explosive</i> in section 5 (1).	21 22
Insert instead “ <i>Explosives Act 2003</i> ”.	23

<b>2.18 Pipelines Act 1967 No 90</b>	1
<b>Section 5 Application of Act</b>	2
Omit “the <i>Dangerous Goods Act 1975</i> ” from section 5 (1) (e).	3
Insert instead “the <i>Road and Rail Transport (Dangerous Goods) Act 1997</i> ”.	4 5
<b>2.19 Road Transport (Safety and Traffic Management) Act 1999 No 20</b>	6 7
<b>[1] Section 8 Interpretation</b>	8
Omit “the <i>Dangerous Goods Act 1975</i> or” from section 8 (3) (g) (i).	9
<b>[2] Section 59 Definitions</b>	10
Omit “the <i>Dangerous Goods Act 1975</i> , or” from the definition of <i>prescribed officer</i> in section 59 (1).	11 12
Insert instead “the <i>Explosives Act 2003</i> or the <i>Occupational Health and Safety Act 2000</i> , or”.	13 14
<b>[3] Section 60 Application of this Division</b>	15
Omit “the <i>Dangerous Goods Act 1975</i> or” from section 60 (1) (b).	16
<b>2.20 Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999</b>	17 18
<b>[1] Clause 59 Carriage of dangerous goods</b>	19
Omit “the <i>Dangerous Goods Act 1975</i> or” from the definition of <i>dangerous goods</i> in clause 59 (1).	20 21
<b>[2] Dictionary</b>	22
Omit “the <i>Dangerous Goods Act 1975</i> or” from the definition of <i>dangerous goods</i> in Part 2.	23 24
<b>2.21 Road Transport (Vehicle Registration) Regulation 1998</b>	25
<b>[1] Clause 64 Proprietor’s authorities</b>	26
Omit “and a licence under the <i>Dangerous Goods Act 1975</i> ” from clause 64 (3).	27 28

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<b>[2] Clause 64 (4) (c) and (5)</b>	1
Omit “or the <i>Dangerous Goods Act 1975</i> ” wherever occurring.	2
<b>2.22 Search Warrants Act 1985 No 37</b>	3
<b>Section 10 Definitions</b>	4
Omit “section 42 of the <i>Dangerous Goods Act 1975</i> ,” from the definition of <i>search warrant</i> .	5 6
<b>2.23 Weapons Prohibition Regulation 1999</b>	7
<b>Schedule 1 Persons exempt from requirement for permit</b>	8
Omit “ <i>Dangerous Goods Act 1975</i> ” from clause 1.	9
Insert instead “ <i>Explosives Act 2003</i> ”.	10