

## **LIE DETECTORS BILL, 1981**

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### **EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to regulate the use of the devices commonly known as lie detectors.

The Bill contains the following provisions:

Clause 1. Short title.

Clause 2. Commencement.

Clause 3. Proposed Act binds the Crown.

Clause 4. Interpretation.

Clause 5 prohibits, except for certain medical and research purposes, the use of certain devices, the output from those devices and analyses of, and opinions as to the effect of, that output.

Clause 6 prohibits the use for certain purposes of other devices, the output therefrom and analyses of, and opinions as to the effect of, that output.

Clause 7 renders inadmissible in evidence the output, analyses and opinions referred to above.

Clause 8 imposes penalties for offences against the proposed Act.

Clause 9 empowers the Governor to make regulations for carrying out and giving effect to the proposed Act.



# LIE DETECTORS BILL, 1981

No. , 1981.

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## A BILL FOR

An Act with respect to the use of certain devices commonly referred to as lie detectors and with respect to the use of certain related devices.

[MR WALKER—12 November, 1980.]

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

**5 Short title.**

1. This Act may be cited as the "Lie Detectors Act, 1981".

**Commencement.**

2. (1) This section and section 1 shall commence on the date of assent to this Act.

- 10 (2) Except as provided in subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**Act binds Crown.**

- 15 3. This Act binds the Crown, not only in right of New South Wales but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

**Interpretation.**

- 20 4. In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"output", in relation to a prescribed device or other instrument or apparatus, includes a reproduction of, extract from, summary of, or paraphrase of, output from the prescribed device;

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“prescribed device” means a device—

- 5 (a) that, in the opinion of the Minister, is a device the output from which is claimed to be of use in determining whether a specific statement made by a person is true or false, or whether a person has a tendency towards dishonesty, or both; and
- (b) that is specified by the regulations as a prescribed device for the purposes of this Act.

**Prohibited devices.**

10 5. (1) A person is guilty of an offence against this Act if—

(a) he uses—

- (i) a prescribed device;
- (ii) the output from a prescribed device; or
- 15 (iii) an analysis of, or an opinion as to the effect of, the output from a prescribed device,

for any purpose;

(b) he is the owner or lessee of a prescribed device—

- (i) that is used;
- (ii) an analysis of the output from which is used; or
- 20 (iii) an opinion as to the effect of the output from which is used,

for any purpose; or

(c) for a prescribed purpose, he gives an analysis of, or an opinion as to the effect of, the output from a prescribed device,

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whether the use is for a purpose of his own or of some other person and whether the output took place, the analysis was made or the opinion was given before or after the day appointed and notified under section 2 (2).

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(2) A person is guilty of an offence against this Act if he requests or requires another person to undergo an examination based on the use of a prescribed device.

(3) It is a defence to a prosecution—

5 (a) for an offence against this Act referred to in subsection (1)—if it is proved that the use of the prescribed device, or of the analysis or opinion relating to the output from a prescribed device, to which the prosecution relates was—

10 (i) a use by a medical practitioner or other person of a prescribed class for the purpose of treating the person subjected to the use of the prescribed device; or

15 (ii) a use for the purpose of scientific research within a university or other institution of a prescribed class,

20 and that the consent of the person subjected to the use of the prescribed device had been given to that use for that purpose and had not been withdrawn before he was subjected to that use; or

(b) for an offence against this Act referred to in subsection (2) in relation to a request so referred to—if it is proved that the request was made for a purpose referred to in paragraph (a) (i) or (ii).

25 **Prohibited practices.**

6. (1) Subject to subsection (3), a person is guilty of an offence against this Act if he uses an instrument or apparatus to measure or monitor physiological reactions of the body of another person or elements of stress, tonal variation or vibration in the  
30 voice of another person or uses the output from an instrument or apparatus so used, or an analysis of, or opinion as to the effect of, any such output for any purpose connected with—

(a) the suitability or otherwise of that other person to be  
35 employed or continued in employment, whether generally or in relation to specific employment;

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- (b) the acceptance of risk under any proposal for a contract for, or policy of, insurance;
- (c) consideration of a claim under a policy of insurance, or any other claim for compensation for loss or damage;
- 5 (d) an application for any kind of credit;
- (e) establishing that a person is not guilty of an act or omission for which he is liable to suffer a fine or imprisonment; or
- 10 (f) any other purpose prescribed for the purposes of this subsection.

(2) Subject to subsection (3), a person is guilty of an offence against this Act if he requests or requires another person to undergo an examination based on the use of an instrument or apparatus to measure or monitor physiological reactions of the  
15 body of another person or elements of stress, tonal variation or vibration in the voice of another person and the undergoing of the examination is a condition precedent to—

- (a) consideration of an application by that other person for employment;
- 20 (b) continuation of that other person in employment;
- (c) consideration of the acceptance of risk under a proposal for a contract of, or policy of, insurance;
- (d) consideration of a claim under a policy of insurance or any other claim for compensation for loss or damage;
- 25 (e) payment of compensation for loss or damage, whether under a policy of insurance or otherwise;
- (f) consideration of an application for any kind of credit; or
- (g) the doing of any other act prescribed for the purposes of this subsection.

30 (3) Subsections (1) and (2) do not apply in respect of an examination of a person by a medical practitioner for the purpose of ascertaining the state of health of the person.

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**Output, etc., not admissible in evidence.**

7. (1) Subject to subsection (2), anything that is, or purports to be—

- 5 (a) output from a prescribed device or output from an instrument or apparatus when used in the commission of an offence against this Act referred to in section 6; or
- (b) an analysis of, or opinion as to the effect of, any such output from a prescribed device,

10 is inadmissible as evidence before any court or any person or body of persons authorised by law or by consent of parties to receive and examine evidence.

(2) Section 5 and subsection (1) do not operate to prohibit the production or admission in evidence, for the purpose of proving the commission of an offence against this Act, of—

- 15 (a) a prescribed device; or
- (b) any output, analysis or opinion,
- alleged to have been used in the commission of the offence.

20 (3) The court before which proceedings for an offence against this Act are brought may, at any stage of the proceedings and from time to time, make an order forbidding publication of evidence that, but for subsection (2), would be inadmissible in those proceedings, or of any report of, or report of the substance or purport of, that evidence.

25 (4) A person who contravenes an order made under subsection (3) is guilty of an offence against this Act.

**Penalties.**

8. (1) A person guilty of an offence against this Act is liable to a penalty—

- 30 (a) in the case of a corporation—to a penalty not exceeding \$5,000 for a first offence and not exceeding \$10,000 for a second or subsequent offence; or



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(b) in any other case—to a penalty not exceeding \$1,000 for a first offence and not exceeding \$2,000 for a second or subsequent offence.

(2) Proceedings for an offence against this Act may be taken in any court of petty sessions.

(3) The court by which a person is convicted of an offence against this Act may, by its conviction, order that—

(a) any prescribed device or any instrument or apparatus;

10 (b) any written or recorded output from a prescribed device or an instrument or apparatus; or

(c) any written or recorded analysis of, or opinion as to the effect of, output from a prescribed device, or an instrument or apparatus,

15 used in the commission of the offence and described in the order be forfeited to the Crown and delivered, within a period specified in the order by the person who has possession of the device, output, analysis or opinion to a person so specified to be dealt with as the Minister thinks fit.

**Regulations.**

20 9. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

25 (2) A provision of a regulation may—

(a) apply generally or be limited in its application by reference to specified exceptions or factors;

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- (b) apply differently according to different factors of a specified kind; or
  - (c) authorise any matter or thing to be from time to time determined, applied or regulated by a specified person,
- 5 or may do any combination of those things.

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BY AUTHORITY

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