

CONCURRENCE COPY

LIE DETECTORS BILL, 1983

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 the use for certain purposes of a certain instrument or apparatus, the output therefrom and analyses of, and opinions as to the effect of, that output.

Clause 6 renders inadmissible in evidence the output, analyses and opinions referred to above.

Clause 7 imposes penalties for offences against the proposed Act.

LIE DETECTORS BILL, 1983

No. , 1983.

A BILL FOR

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

[MR WALKER—17 *March*, 1983.]

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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, 1983".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.
(2) Except as provided by subsection (1), this Act shall commence
10 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.

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
15 in all its other capacities.

Interpretation.

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

"employment" means employment—

- 20 (a) under a contract of service;
- (b) under a contract for services; or
- (c) as an agent remunerated wholly or partly by commission;

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“output”, in relation to an instrument or apparatus, includes a reproduction of, extract from, summary of, or paraphrase of, output from the instrument or apparatus;

“prohibited purpose” means any purpose connected with—

- 5 (a) matters relating to employment, including—
- (i) an application for, or offer of, employment;
 - (ii) honesty and other matters related to character;
 - (iii) terms of employment;
 - 10 (iv) promotion, increments and other employment-related benefits;
 - (v) transfer of employment;
 - (vi) training in or for employment; or
 - (vii) continuation of employment;
- 15 (b) consideration of the acceptance of risk under a proposal for a contract of, or policy of, insurance;
- (c) consideration of a claim under a policy of insurance;
- (d) payment of compensation for loss or damage, whether under a policy of insurance or otherwise;
- 20 (e) an application for any form of financial accommodation; or
- (f) establishing whether or not a person is guilty of an act or omission that is punishable by a fine or imprisonment.

Offences.

5. (1) A person is guilty of an offence against this Act if, for any 25 prohibited purpose—

- (a) he uses an instrument or apparatus to measure or monitor—
 - (i) physiological reactions of the body of another person; or
 - (ii) elements of stress, tonal variation or vibration in the voice of another person;
- 30 (b) he uses the output from an instrument or apparatus so used by himself or another; or

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(c) he uses an analysis of, or opinion as to the effect of, any such output.

(2) A person is guilty of an offence against this Act if, for any prohibited purpose, he requests or requires another person to undergo an examination based on the use of an instrument or apparatus to measure or monitor—

(a) physiological reactions of the body of that other person; or

(b) elements of stress, tonal variation or vibration in the voice of that other person.

10 Output, etc., not admissible in evidence.

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

(a) output from an instrument or apparatus when used in the commission of an offence against this Act referred to in section 5; or

(b) an analysis of, or opinion as to the effect of, any such output,

15 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) Subsection (1) does not operate to prohibit the production or admission in evidence, for the purpose of proving the commission of an offence against this Act, of any output, analysis or opinion alleged to have been used in the commission of the offence.

(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 25 (2), would be inadmissible in those proceedings, or of any report of, or report of the substance or purport of, that evidence.

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

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Penalties.

7. (1) A person guilty of an offence against this Act is liable—

- 5 (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
- (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.

10 (2) Proceedings for an offence against this Act may be taken before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

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

- 15 (a) any instrument or apparatus;
- (b) any written or recorded output from an instrument or apparatus; or
- (c) any written or recorded analysis of, or opinion as to the effect of, output from an instrument or apparatus,

20 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.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983

