

CLEAN AIR (AMENDMENT) BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the State Pollution Control Commission (Amendment) Bill 1987.

The object of this Bill is to amend the Clean Air Act 1961 so as—

- (a) to abolish the Air Pollution Advisory Committee;
- (b) to facilitate prosecutions which involve causing or increasing air pollution from premises;
- (c) to provide for the sampling of tanker loads for substances that may cause air pollution;
- (d) to omit provisions facilitating the giving of evidence and restricting the disclosure of information obtained by officers of the Commission, for which provision is intended to be made in the State Pollution Control Commission Act 1970; and
- (e) to make minor changes for the purpose of statute law revision.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be proclaimed by the Governor-in-Council.

Clause 3 states that the Clean Air Act 1961 is referred to as the Principal Act.

Clause 4 is a formal provision giving effect to the Schedule of amendments to the Principal Act.

Clause 5 is a transitional provision which provides that proposed section 14 (6) of the Principal Act (to be inserted by Schedule 1 (4)) does not have retrospective effect.

Schedule 1 (1) repeals section 1 (3) of the Principal Act, which provides for the division of that Act, because that provision is redundant.

Clean Air (Amendment) 1987

Schedule 1 (2) repeals the definition of "Committee" in section 5 (1) of the Principal Act because of the proposed abolition of the Air Pollution Advisory Committee.

Schedule 1 (3) omits Part II of the Principal Act so as to abolish the Air Pollution Advisory Committee.

Schedule 1 (4) amends section 14 (Occupiers to maintain and operate control equipment etc.) of the Principal Act so as to provide in proposed section 14 (6) that (in a prosecution under that section) it is sufficient to prove that air pollution was caused or increased on premises to establish that it was also caused or increased from those premises. The defendant will negate that consequence if it is proved that the air pollution did not result in, or in an increase in, air pollution outside the premises.

Schedule 1 (5) inserts proposed section 27A (Sampling of tanker loads etc. for pollutants) into the Principal Act. The proposed section will empower an authorised officer to take samples for the purpose of examination or testing only if there is a suspected offence against the Principal Act or regulations made under it.

Schedule 1 (6) and (7) repeal sections 30 (Evidence) and 31 (Unjustified disclosure of information) of the Principal Act because of amendments intended to be made by the proposed State Pollution Control Commission (Amendment) Act 1987.

Schedule 1 (8) amends section 33 (Proceedings for offences) of the Principal Act so as to update references to courts of petty sessions and stipendiary magistrates.

CLEAN AIR (AMENDMENT) BILL 1987

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Principal Act
4. Amendment of Act No. 69, 1961
5. Transitional provision

SCHEDULE 1—AMENDMENTS



CLEAN AIR (AMENDMENT) BILL 1987

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Clean Air Act 1961 so as to assist the enforcement of laws aimed at preventing air pollution and to abolish the Air Pollution Advisory Committee.

*Clean Air (Amendment) 1987***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Clean Air (Amendment) Act 1987.

Commencement

- 5 2. This Act shall commence on a day or days to be appointed by proclamation.

Principal Act

3. The Clean Air Act 1961 is referred to in this Act as the Principal Act.

Amendment of Act No. 69, 1961

- 10 4. The Principal Act is amended as set out in Schedule 1.

Transitional provision

5. Section 14 (6) of the Principal Act, as amended by this Act, does not apply so as to create an offence against that Act if the time at which the air pollution is alleged to have been caused or increased occurred before the
15 commencement of Schedule 1 (4).

SCHEDULE 1—AMENDMENTS

(Sec. 4)

(1) Section 1 (Short title and commencement)—

Section 1 (3)—

- 20 Omit the subsection.

(2) Section 5 (Interpretation)—

Section 5 (1)—

Definition of "Committee"—

Omit the definition.

25 (3) Part II (Air Pollution Advisory Committee)—

Omit the Part.

(4) Section 14 (Occupiers to maintain and operate control equipment etc.)—

Section 14 (6)—

- 30 After section 14 (5), insert:

SCHEDULE 1—AMENDMENTS—*continued*

(6) To prove that air pollution was caused or increased from premises, within the meaning of this section, it is sufficient to prove that air pollution was caused or increased on the premises, unless the defendant satisfies the court that the air pollution did not result in, or in an increase in, air pollution outside the premises.

(5) Section 27A—

After section 27, insert:

Sampling of tanker loads etc. for pollutants

27A. (1) An authorised officer who suspects on reasonable grounds that an air impurity or any other substance capable of causing air pollution is being conveyed by or is situated in a container being conveyed by a motor vehicle may—

- (a) if the vehicle is moving, direct that it be stopped;
- (b) take without payment, for the purpose of examination or testing, samples of any substance being so conveyed; and
- (c) detain the vehicle for such time as is necessary to take the samples.

(2) The powers of an authorised officer under this section may be exercised only if the officer suspects on reasonable grounds that the substance, vehicle or container has been or is being used in connection with an offence against this Act or the regulations.

(3) Any person who—

- (a) wilfully delays or obstructs an authorised officer when exercising any power under this section; or
- (b) does not comply with any reasonable requirement made for the purposes of this section by an authorised officer,

is guilty of an offence against this Act and liable to a penalty not exceeding \$2,000.

(6) Section 30 (**Evidence**)—

Omit the section.

(7) Section 31 (**Unjustified disclosure of information**)—

Omit the section.

(8) Section 33 (**Proceedings for offences**)—

(a) Section 33 (1), (4)—

Omit “court of petty sessions held before a stipendiary magistrate” wherever occurring, insert instead “Local Court constituted by a Magistrate”.

Clean Air (Amendment) 1987

SCHEDULE 1—AMENDMENTS—*continued*

(b) Section 33 (4)—

Omit “the court”, insert instead “the Local Court”.

CLEAN AIR (AMENDMENT) ACT 1987 No. 188

NEW SOUTH WALES



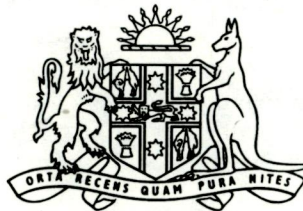
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SCHEDULE 1—AMENDMENTS

CLEAN AIR (AMENDMENT) ACT 1987 No. 188

NEW SOUTH WALES



Act No. 188, 1987

An Act to amend the Clean Air Act 1961 so as to assist the enforcement of laws aimed at preventing air pollution and to abolish the Air Pollution Advisory Committee. [Assented to 4 December 1987]

*Clean Air (Amendment) 1987***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Clean Air (Amendment) Act 1987.

Commencement

2. This Act shall commence on a day or days to be appointed by proclamation.

Principal Act

3. The Clean Air Act 1961 is referred to in this Act as the Principal Act.

Amendment of Act No. 69, 1961

4. The Principal Act is amended as set out in Schedule 1.

Transitional provision

5. Section 14 (6) of the Principal Act, as amended by this Act, does not apply so as to create an offence against that Act if the time at which the air pollution is alleged to have been caused or increased occurred before the commencement of Schedule 1 (4).

SCHEDULE 1—AMENDMENTS

(Sec. 4)

- (1) Section 1 (**Short title and commencement**)—
Section 1 (3)—
Omit the subsection.
- (2) Section 5 (**Interpretation**)—
Section 5 (1)—
Definition of “Committee”—
Omit the definition.
- (3) Part II (**Air Pollution Advisory Committee**)—
Omit the Part.
- (4) Section 14 (**Occupiers to maintain and operate control equipment etc.**)—
Section 14 (6)—
After section 14 (5), insert:

*Clean Air (Amendment) 1987*SCHEDULE 1—AMENDMENTS—*continued*

(6) To prove that air pollution was caused or increased from premises, within the meaning of this section, it is sufficient to prove that air pollution was caused or increased on the premises, unless the defendant satisfies the court that the air pollution did not result in, or in an increase in, air pollution outside the premises.

(5) Section 27A—

After section 27, insert:

Sampling of tanker loads etc. for pollutants

27A. (1) An authorised officer who suspects on reasonable grounds that an air impurity or any other substance capable of causing air pollution is being conveyed by or is situated in a container being conveyed by a motor vehicle may—

- (a) if the vehicle is moving, direct that it be stopped;
- (b) take without payment, for the purpose of examination or testing, samples of any substance being so conveyed; and
- (c) detain the vehicle for such time as is necessary to take the samples.

(2) The powers of an authorised officer under this section may be exercised only if the officer suspects on reasonable grounds that the substance, vehicle or container has been or is being used in connection with an offence against this Act or the regulations.

(3) Any person who—

- (a) wilfully delays or obstructs an authorised officer when exercising any power under this section; or
- (b) does not comply with any reasonable requirement made for the purposes of this section by an authorised officer,

is guilty of an offence against this Act and liable to a penalty not exceeding \$2,000.

(6) Section 30 (**Evidence**)—

Omit the section.

(7) Section 31 (**Unjustified disclosure of information**)—

Omit the section.

(8) Section 33 (**Proceedings for offences**)—

(a) Section 33 (1), (4)—

Omit “court of petty sessions held before a stipendiary magistrate” wherever occurring, insert instead “Local Court constituted by a Magistrate”.

Clean Air (Amendment) 1987

SCHEDULE 1—AMENDMENTS—*continued*

(b) Section 33 (4)—

Omit “the court”, insert instead “the Local Court”.



