



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*.