

**SECURITY-SENSITIVE DANGEROUS SUBSTANCES  
AMENDMENT BILL 2008**

**Second Reading**

**Mr LLEWELLYN** - Minister for Justice - 2R) - Mr Speaker, I move –

That the bill be now read the second time.

Mr Speaker, the purpose of this bill is to amend the Security-sensitive Dangerous Substances Act 2005 to enable certain explosives to be regulated as security-sensitive substances. As members may recall, in June 2004 and in response to the emerging threat of terrorism, the Australian Government and all States and Territories agreed to a set of national principles for the regulation and control of ammonium nitrate. The agreed principles included a requirement that, in light of the measures introduced for security sensitive ammonium nitrate (SSAN) being more stringent in some cases than those for the control of explosives, States and Territories should review their explosives regulations.

Tasmania was one of the first States to fully implement the controls for Security Sensitive Ammonium Nitrate, which took effect from November 2005. We have worked hard with relevant sections of industry to ensure that there was a smooth transition to the new arrangements and that there was no undue impact on productivity and cost. The successful implementation of these arrangements has meant that we can now progress to implement the outcomes of the broader review of the State's controls on explosives.

In light of the current security environment, the Government believes all aspects of the use, storage, handling and transport of high-level explosives should be managed under the security framework established for Security Sensitive Ammonium Nitrate. This is consistent with the risk, our commitment to the Council of Australian Governments and, I believe, community expectations.

In drafting the Order required to declare certain explosives as security-sensitive dangerous substances, it became clear that the structure of the act limited the capacity to apply sensible controls for substances other than Ammonium Nitrate.

The bill includes a number a general amendments that increase the Act's flexibility to apply sensible control measures to different security-sensitive dangerous substances. These do not change the intent of the Act, but provide the flexibility required to manage different substances of security concern under the one framework. This was the original intention of the SSDS Act.

Mr Speaker, under the Bill, only those explosives that pose a significant security risk due to their explosion hazard will be added to the act. These explosives include blasting explosives, propellant powders and large display fireworks.

Other types of explosives, such as flares, will not be covered by the new arrangements. These will continue to be regulated under existing arrangements.

In developing the proposal to add certain explosives as a security-sensitive dangerous substance, the Government was conscious of the need to avoid duplicating existing licensing requirements.

For this reason, in parallel with the scheduling of certain explosives under this act, we will be abolishing all non-competency based licences for explosives. This will deliver a simplified and streamlined approach for industry that uses one permit to replace five licences.

The SSDS permit will not replace shot firers permits or bulk driver licenses which certify that a person is competent to use or transport explosives. Short-firers permits and bulk-drivers licenses will, however, be issued with the condition that the holder must possess, or work under, an SSDS Permit.

Similarly, the SSDS permit process will not replace the obligations on industry associated with the safe handling of explosives. The administration of safety and security requirements will be aligned to ensure that there is a seamless regulatory approach to the safe and secure handling of explosives.

Mr Speaker, I would now like to turn to other proposed amendments to the act. The opportunity is being taken to restructure Schedule 1 of the Act, which currently only deals with the classification of security sensitive ammonium nitrate to enable other substances to be added by a single Order of the Governor. This was the original intention of the act. This is why the existing definitions contained in the Act relating to 'legitimate need', 'restricted activity' and 'low scale restricted activity' are being amended. Specifically, the definitions as they relate to Security Sensitive Ammonium Nitrate are being removed from the Act and placed into Schedule 1. Separate definitions have been included for security-sensitive explosives.

Security Sensitive Ammonium Nitrate and explosives are not identical substances that can have identical measures or restrictions placed on them. For example, up to 20kgs of ammonium nitrate can be transported without a permit. This is clearly not appropriate for high-end explosives, where 20kgs could cause significant harm. Currently, the act does not bind the Crown. This was appropriate for Security Sensitive Ammonium Nitrate as the Crown had little use for the substance other than through its regulatory or law enforcement capacities.

This is, however, not the case with explosives. Many instrumentalities, such as Forestry Tasmania and Hydro Tasmania currently use explosives as part of their operations. It would not be equitable to require industry to apply certain standards of safety and security, without applying similar standards to Government.

Appropriate exemptions are included for our regulatory and emergency response agencies or any other person acting in the course of their duties for or on behalf of these services. This will ensure that our regulatory and response agencies are able to exercise their powers and functions without the need for SSDS permits.

The proposed amendments also include expanding the discretion of the Director of Industry Safety to refuse or cancel a permit on the basis that an individual is subject to a

restrictive personal order, such as a family violence order or a restraint order. The Director is to have regard to these issues when considering whether the applicant is a fit and proper person. This is consistent with similar discretions applied to firearms licences.

I would now like to advise the House of the impact on the explosives industry in Tasmania and the consultation process that took place, as I am sure that a number of members will be concerned as to the potential impact the proposal may have on their constituents. A person will be required to have an SSDS permit that authorises them to carry out restricted activities with explosives classified as security sensitive under the act. These restricted activities are manufacturing; importing; exporting; buying; selling; supplying; storing; using or disposing of any quantity of the security sensitive substance.

When applying for a permit to undertake a restricted activity, applicants will be required to:

- demonstrate a legitimate need – that is, the applicant must clearly show why they need to undertake the restricted activity.
- agree to undergo background checks (National Police Certificate check and Politically Motivated Violence check).
- agree that any person employed by the permit applicant who has unsupervised access to a security sensitive dangerous substance also be subject to background checks.
- submit a security plan for approval that satisfies minimum-security requirements.

The most significant change for industry will be the requirement for all users to complete and submit security plans outlining how they will protect the community from the misuse of their explosives. There will also be more widespread background checking of workers who have unsupervised access to explosives. Under current arrangements, only shot-firers receive background checks. The SSDS permit process will extend these checks to anyone that has unsupervised access to explosives. The cost to industry associated with this proposal will be largely borne in the costs of developing security plans. This should not present significant additional costs to large operations as these plans are already in place for safety and for security of Ammonium Nitrate. Flexibility will be applied to security planning to reflect the risks and operational complexities of businesses. Less complex plans will be required for small business.

Mr Speaker, the proposal has been subject to widespread industry consultation. One-on-one meetings were held with relevant industry bodies such as the Tasmanian Farmers and Graziers Association and the Minerals Council of Tasmania. Several information sessions were conducted across the State with the explosives industry to explore the impact of the changes and to identify any adjustments that could be made to help industry to work under the proposed new arrangements.

We also wrote to every shot-firer in the State outlining the proposed changes. The information sessions were well attended and I am pleased to advise the House that there was

widespread recognition that the action being taken was a necessary step in preventing unauthorised access to explosives and improving security controls. The majority of issues raised related to how the arrangements will be administered rather than the proposal itself.

Mr Speaker, it was always intended that the SSDS Act would be a flexible and responsive piece of legislation that would enable future substances of security concern to be added promptly as well as any conditions attached to those substances. This amendment bill provides a sensible, practical and flexible approach to dealing with substances of security concern. Mr Speaker, I commend the bill to the House.