



New South Wales

Crimes Legislation Amendment (Terrorism) Act 2004 No 48

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Crimes Legislation Amendment (Terrorism) Act 2004 No 48

Act No 48, 2004

An Act to amend the *Crimes Act 1900* and other Acts in connection with terrorist related offences and powers. [Assented to 6 July 2004]

See also *Sydney Opera House Trust Amendment Act 2004*.

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *Crimes Legislation Amendment (Terrorism) Act 2004*.

2 Commencement

- (1) This Act commences on the date of assent, except as provided by subsection (2).
- (2) Sections 3 and 4, and Schedules 1 and 2, commence on a day or days to be appointed by proclamation.

3 Amendment of Crimes Act 1900 No 40

The *Crimes Act 1900* is amended as set out in Schedule 1.

4 Amendment of Criminal Procedure Act 1986 No 209

The *Criminal Procedure Act 1986* is amended as set out in Schedule 2.

5 Amendment of Terrorism (Police Powers) Act 2002 No 115

The *Terrorism (Police Powers) Act 2002* is amended as set out in Schedule 3.

6 Amendment of State Emergency and Rescue Management Act 1989 No 165

The *State Emergency and Rescue Management Act 1989* is amended as set out in Schedule 4.

Schedule 1 Amendment of Crimes Act 1900

(Section 3)

[1] Section 4 Definitions

Insert at the end of the section:

- (7) A reference in any offence under this Act to causing any poison or other destructive or noxious thing to be administered to or taken by any person includes a reference to causing any person to inhale, take or be exposed to the poison or thing by its release into the person's environment.

[2] Section 48

Omit the section. Insert instead:

48 Causing explosives to be placed in or near building, conveyance or public place

- (1) A person who causes an explosive to be placed in or near:
- (a) a building, or
 - (b) a vehicle, vessel, train or other conveyance, or
 - (c) a public place,
- with the intention of causing bodily harm to any person, is guilty of an offence.
- Maximum penalty: Imprisonment for 14 years.
- (2) A person commits an offence under this section whether or not:
- (a) any explosion occurs, or
 - (b) any bodily harm is caused.

[3] Section 55 Possessing or making explosives or other things with intent to injure

Omit "five years". Insert instead "10 years".

[4] Part 3B, heading

Insert "explosives," before "firearms".

[5] Section 93FA

Insert after section 93F:

93FA Possession or making of explosives

- (1) A person who possesses an explosive in a public place is guilty of an offence.

Maximum penalty: Imprisonment for 5 years.

- (2) A person who possesses or makes an explosive, under circumstances that give rise to a reasonable suspicion that the person did not possess or make the explosive for a lawful purpose, is guilty of an offence.

Maximum penalty: Imprisonment for 2 years or 50 penalty units, or both.

- (3) An offence against subsection (2) is a summary offence.

- (4) A person is not guilty of an offence against subsection (1) or (2) for possessing or making an explosive if the person satisfies the court that he or she had a reasonable excuse for doing so or did so for a lawful purpose.

[6] Section 200 Possession etc of explosive or other article with intent to destroy or damage property

Omit “is liable to imprisonment for 3 years”.

Insert instead “is liable (if the article is an explosive) to imprisonment for 7 years or (if the article is not an explosive) to imprisonment for 3 years”.

[7] Section 203A Definitions

Insert at the end of the definition of *public facility*:

- (e) a public computer system, including a computer system used for the operation of a public facility, for the provision of banking services or for other services to the public.

[8] Section 545D Unlawful making or possession of explosives

Omit the section.

[9] Section 545E Possession of dangerous articles other than firearms

Omit the section and insert it (re-numbered as section 93FB) in appropriate order in Part 3B.

[10] Section 357 Searching for and seizing firearms etc

Omit “section 545E” from section 357 (1) (b).

Insert instead “section 93FB”.

**Schedule 2 Amendment of Criminal Procedure Act
1986**

(Section 4)

Schedule 1 Indictable offences triable summarily

Insert "93FA (1)," after "section" in item 6 of Table 2.

Schedule 3 Amendment of Terrorism (Police Powers) Act 2002

(Section 5)

[1] Section 5 Authorisation of special powers to prevent terrorist acts

Omit “an imminent threat of a terrorist act” from section 5 (a).

Insert instead “a threat of a terrorist act occurring in the near future”.

[2] Section 14A

Insert after section 14:

14A Power to give directions to government agencies

- (1) The Commissioner of Police or other police officer referred to in section 8 may, for the purposes of facilitating the exercise of the special powers conferred by this Act, give a government agency directions with respect to the exercise of the powers or functions of the agency.
- (2) The government agency is authorised and required to comply with the direction.
- (3) In this section:
government agency includes a government department, a public or local authority, a State owned corporation and any member or officer of any such department, authority or corporation, but does not include a parliamentary or judicial body or its members or officers.

[3] Section 19A

Insert after section 19:

19A Cordon around target area

- (1) A police officer may, for the purposes of stopping and searching under this Part persons, vehicles or premises in a target area, place a cordon around the target area or any part of it.
- (2) A cordon may include any form of physical barrier, including a roadblock on any road in or in the vicinity of the target area.

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Schedule 4 Amendment of State Emergency and Rescue Management Act 1989

**Schedule 4 Amendment of State Emergency and
Rescue Management Act 1989**

(Section 6)

Section 4 Definition of “emergency”

Insert “, terrorist act” after “explosion” in section 4 (1).

[Second reading speech made in—
Legislative Assembly on 22 June 2004
Legislative Council on 24 June 2004]

BY AUTHORITY