

Crimes Legislation Amendment (Terrorism) Act 2004 No 48

[2004-48]



New South Wales

Status Information

Currency of version

Repealed version for 6 July 2004 to 30 June 2005 (accessed 12 July 2024 at 2:24)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

The Act was repealed by Sch 3 to the [Statute Law \(Miscellaneous Provisions\) Act 2005 No 64](#) with effect from 1.7.2005.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Crimes Legislation Amendment (Terrorism) Act 2004 No 48



New South Wales

An Act to amend the *Crimes Act 1900* and other Acts in connection with terrorist related offences and powers.

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.

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).