

Crimes Legislation Amendment (Possession of Knives in Public) Bill 2009

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to deter the possession of knives in public places and schools by increasing the maximum penalty for certain offences under the *Summary Offences Act 1988* and the *Law Enforcement (Powers and Responsibilities) Act 2002* relating to the possession of knives and other dangerous implements in public places and schools.

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 the date of assent to the proposed Act.

Schedule 1 Amendment of Summary Offences Act 1988 No 25

Section 11C of the *Summary Offences Act 1988* makes it an offence for a person to have custody of a knife in a public place or a school without reasonable excuse. The maximum penalty for this offence currently depends on whether the person in question has been dealt with previously for a knife-related offence and the number of any such dealings. In the case of a person who has had no such previous dealings, a maximum penalty of 5 penalty units is applicable. A maximum penalty of 10 penalty units or imprisonment for 12 months, or both, applies in the case of a person who has been dealt with once previously for a knife-related offence. A maximum penalty of 20 penalty units or imprisonment for 2 years, or both, applies in the case of a person who has been dealt with more than once previously for a knife-related offence.

Schedule 1 [1] amends section 11C so that a maximum penalty of 20 penalty units or imprisonment for 2 years, or both, is applicable in relation to any offence against that section (regardless of whether a person has previously been dealt with in relation to a knife-related offence).

Schedule 1 [2]–[4] make consequential amendments as a result of the amendment of section 11C to relocate section 11C (4) and (5) to section 29A (7) and (8). This will preserve the existing provision that allows a penalty notice for a knife-related offence under section 11C to be issued to a person on only one occasion. Subsequent knife-related offences under section 11C will be dealt with by a court.

Schedule 2 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103

Section 26 of the *Law Enforcement (Powers and Responsibilities) Act 2002* gives police officers the power to request a person to submit to a frisk search if the person is in a public place or a school and the police officer suspects the person has a dangerous implement (such as a knife) in his or her custody. Section 27 of the *Law Enforcement (Powers and Responsibilities) Act 2002* makes it an offence for a person to refuse to comply with a request made by a police officer in accordance with section 26 or to refuse to produce anything detected or seen on or with the person in such a search.

Schedule 2 amends section 27 to increase the maximum penalty for an offence against that section from 5 penalty units to 50 penalty units.