



New South Wales

# 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.



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

No. , 2009

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## A Bill for

An Act to amend the *Summary Offences Act 1988* and the *Law Enforcement (Powers and Responsibilities) Act 2002* to increase the maximum penalty for certain offences relating to the possession of knives and other dangerous implements in public places and schools.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Crimes Legislation Amendment (Possession of Knives in Public) Act 2009</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6

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<b>Schedule 1</b>	<b>Amendment of Summary Offences Act</b>	1
	<b>1988 No 25</b>	2
<b>[1]</b>	<b>Section 11C Custody of knife in public place or school</b>	3
	Omit the maximum penalty from section 11C (1). Insert instead:	4
	Maximum penalty: 20 penalty units or imprisonment for 2 years,	5
	or both.	6
<b>[2]</b>	<b>Section 11C (4) and (5)</b>	7
	Omit the subsections.	8
<b>[3]</b>	<b>Section 29A Penalty notices: custody of knives in public place or school</b>	9
	Omit “as referred to in section 11C (4) and (5)” from section 29A (6).	10
<b>[4]</b>	<b>Section 29A (7) and (8)</b>	11
	Insert after section 29A (6):	12
	(7) For the purposes of subsection (6), a person is taken to have been	13
	dealt with previously for a knife-related offence if the person:	14
	(a) has been issued with a notice under this section in respect	15
	of the offence and the person has paid the amount specified	16
	in the notice or the amount specified in any process issued	17
	subsequent to such a notice, or	18
	(b) has been convicted of the offence, or	19
	(c) has been charged with the offence and the court hearing the	20
	charge has made an order in relation to the offence under	21
	section 10 of the <i>Crimes (Sentencing Procedure) Act 1999</i> .	22
	(8) In this section, <i>knife-related offence</i> means:	23
	(a) an offence under section 11B, 11C or 11E, or	24
	(b) any other offence that is punishable on conviction by	25
	imprisonment for 2 years or more if a knife was used in the	26
	commission of the offence, or	27
	(c) an offence under a law of the Commonwealth or of another	28
	State or of a Territory that is punishable on conviction by	29
	imprisonment for 2 years or more if a knife was used in the	30
	commission of the offence.	31

<b>Schedule 2</b>	<b>Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103</b>	1
		2
		3
	<b>Section 27 Failure to comply with requests relating to search and dangerous implements</b>	4
		5
	Omit “5 penalty units”. Insert instead “50 penalty units”.	6