



New South Wales

# Summary Offences Amendment Bill 1997

## Explanatory note

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

### Overview of Bill

The object of this Bill is to amend the *Summary Offences Act 1988* so as:

- (a) to expand the offence of a person having custody of an offensive implement in a public place to having custody of an offensive implement in a school, and
  - (b) to increase the penalty for a person having custody of an offensive implement in a public place or a school from 20 penalty units or imprisonment for 12 months to 50 penalty units or imprisonment for 2 years, and
  - (c) to make it an offence for a person to use a knife or to carry a knife that is visible to another person in a public place or a school in a manner that would cause a person of reasonable firmness to fear for his or her personal safety, and
  - (d) to make it an offence for a person to sell a knife or a knife blade to a child under the age of 16 years, and
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- (e) to make it an offence for a minor who consumes or possesses liquor in a public place to refuse or fail to provide his or her name or residential address or to fail to provide evidence of his or her age, or to give a false name or residential address, to a police officer who requires the minor to provide that information to the police officer.

## 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 a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Summary Offences Act 1988* set out in Schedule 1.

## Schedule 1 Amendments

### Custody of offensive implements

**Schedule 1 [2]** amends the Principal Act as outlined in paragraph (a) of the Overview of Bill.

Section 10 currently provides that it is an offence for a person (without reasonable excuse) to have in his or her custody an offensive implement in a public place. The proposed amendment expands that offence so that it will now be an offence for a person (without reasonable excuse) to have in his or her custody an offensive implement in a public place or a school.

**Schedule 1 [3]** gives effect to the amendment described in paragraph (b) of the Overview of Bill.

### Wielding of knives in a public place or school

**Schedule 1 [4]** amends the Principal Act as outlined in paragraph (c) of the Overview of Bill by inserting proposed section 10AA.

Proposed section 10AA makes it an offence for a person, without reasonable excuse, to use a knife or to carry a knife that is visible, in the presence of any person, in a public place or a school in a manner that would cause a person of reasonable firmness present at the scene to fear for his or her personal safety.

### **Sale of knives and knife blades to children under 16 years of age**

**Schedule 1 [4]** amends the Principal Act as described in paragraph (d) of the Overview of Bill by inserting proposed section 10AB.

Proposed section 10AB (1) makes it an offence for a person to sell a knife or knife blade to a child under 16 years of age. However it will be a defence to such a prosecution if the person who sells the knife or knife blade establishes that he or she believed on reasonable grounds that the child was of or above 16 years of age.

Proposed section 10AB (3) makes an employer liable for the actions of an employee who contravenes proposed section 10AB (1) unless the employer had no knowledge of the contravention and could not, by exercise of due diligence, have prevented the contravention.

### **Possession of liquor by minors**

**Schedule 1 [8]** amends section 11 of the Principal Act as described in paragraph (e) of the Overview of Bill by inserting proposed section 11 (5A) and (5B).

Proposed section 11 (5A) provides that a police officer who reasonably suspects that a person who is in possession of or is consuming liquor in a public place is under the age of 18 years may require that person to state his or her full name and residential address and produce evidence of age. Proposed section 11 (5B) makes it an offence for the person to refuse to provide his or her name and address, evidence of the person's age, or to provide a false name or residential address in such circumstances.

### **Other amendments**

**Schedule 1 [7]** makes an amendment consequential on the insertion of proposed section 11 (5A) and (5B) in the Principal Act. **Schedule 1 [1], [5] and [6]** make amendments by way of statute law revision.



First print



New South Wales

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New South Wales

## Summary Offences Amendment Bill 1997

No , 1997

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### **A Bill for**

An Act to amend the *Summary Offences Act 1988* to make further provision with respect to offences concerning the carrying of offensive implements in a public place and the possession or consumption of liquor by children in a public place; to create offences relating to the wielding of knives in a public place or school and the sale of knives and knife blades to children; and for other purposes.

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Clause 1

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Summary Offences Amendment Act 1997*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation. 5

**3 Amendment of Summary Offences Act 1988 No 25**

The *Summary Offences Act 1988* is amended as set out in Schedule 1.

## Schedule 1 Amendments

(Section 3)

### [1] Section 3 Definitions

Omit paragraph (a) of the definition of *school* from section 3 (1).  
Insert instead:

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- (a) a government school or a registered non-government school within the meaning of the *Education Reform Act 1990*, and

### [2] Section 10 Custody of offensive implement

Insert "or a school" after "public place" in section 10 (1).

### [3] Section 10 (1)

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Omit "20 penalty units or imprisonment for 12 months".  
Insert instead "50 penalty units or imprisonment for 2 years".

### [4] Sections 10AA, 10AB

Insert after section 10:

#### 10AA Wielding of knives in a public place or school

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- (1) A person who, without reasonable excuse (proof of which lies on the person):

- (a) uses a knife, or  
(b) carries a knife that is visible,

in the presence of any person in a public place or a school in a manner that would be likely to cause a person of reasonable firmness present at the scene to fear for his or her personal safety is guilty of an offence.

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Maximum penalty: 50 penalty units or imprisonment for 2 years.

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- (2) No person of reasonable firmness need actually be, or be likely to be, present at the scene.

**10AB Sale of knives or knife blades to children**

- (1) A person who sells a knife or knife blade to a child under the age of 16 years is guilty of an offence.  
Maximum penalty: 50 penalty units.
- (2) It is a defence (proof of which lies on the person) to a prosecution for an offence under this section that the person selling the knife believed on reasonable grounds that the child was of or above the age of 16 years. 5
- (3) If an employee contravenes subsection (1), the employer is taken to have contravened that subsection, whether or not the employee contravened the provision without the employer's authority or contrary to the employer's orders or instructions. 10
- (4) It is a defence to a prosecution against an employer for such a contravention if it is proved: 15
- (a) that the employer had no knowledge of the contravention, and
- (b) that the employer could not, by the exercise of due diligence, have prevented the contravention.
- (5) An employer may be proceeded against and convicted under subsection (1) by virtue of subsection (3) whether or not the employee has been proceeded against or convicted under subsection (1). 20

**[5] Section 11 Possession of liquor by minors**

Omit "member of the Police Force" wherever occurring in section 11 (2) and (5). 25  
Insert instead "police officer".

**[6] Section 11 (2)**

Omit "member". Insert instead "officer".

**[7] Section 11 (5)**

Omit "this section". Insert instead "subsection (1)". 30

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**[8] Section 11 (5A), (5B)**

Insert after section 11 (5):

- (5A) A police officer who reasonably suspects that a person has committed an offence under subsection (1) may require that person: 5
- (a) to state his or her full name and residential address, and
  - (b) to produce then, or at a police station within a reasonable time, documentary evidence that might reasonably be accepted as applying to the person and as proving that the person is at least 18 years of age. 10
- (5B) A person the subject of a requirement under subsection (5A) must not:
- (a) refuse to state his or her full name and residential address, or 15
  - (b) state a false name or residential address, or
  - (c) without reasonable excuse, refuse or fail to produce evidence of age as referred to in subsection (5A) (b). 20

Maximum penalty: 10 penalty units.