



New South Wales

Summary Offences Amendment Act 1997 No 148

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Summary Offences Amendment Act 1997 No 148

Act No 148, 1997

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. [Assented to 17 December 1997]

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.

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:

- (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)

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

- (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.

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

- (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.
- (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.
- (4) It is a defence to a prosecution against an employer for such a contravention if it is proved:
 - (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).
- (6) The regulations may provide that this section does not apply to or in relation to any specified class or description of knife or knife blade.

[5] Section 11 Possession of liquor by minors

Omit "member of the Police Force" wherever occurring in section 11 (2) and (5).

Insert instead "police officer".

[6] Section 11 (2)

Omit "member". Insert instead "officer".

[7] Section 11 (5)

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

[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:

- (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.

(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
- (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).

Maximum penalty: \$20.

[Minister's second reading speech made in—
Legislative Assembly on 26 November 1997
Legislative Council on 5 December 1997]

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