



New South Wales

# Right to Self-defence (Immunity from Civil Liability) Bill 2002

## Explanatory note

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

## Overview of Bill

The object of this Bill is to provide that persons who carry out conduct in self-defence are immune from civil liability in respect of that conduct.

## 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.

**Clause 3** provides that persons who carry out conduct in self-defence are immune from civil liability in respect of that conduct. The provision will not apply to or in respect of conduct carried out before the commencement of the proposed Act.

**Clause 4** sets out the requirements regarding self-defence for the purposes of the proposed Act.



New South Wales

# Right to Self-defence (Immunity from Civil Liability) Bill 2002

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New South Wales

# Right to Self-defence (Immunity from Civil Liability) Bill 2002

No. , 2002

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## A Bill for

An Act to provide that persons who carry out conduct in self-defence are immune from civil liability in respect of that conduct.

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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>Right to Self-defence (Immunity from Civil Liability) Act 2002</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent.	6
<b>3 No civil liability for acts in self-defence</b>	7
(1) A person who carries out conduct in self-defence is immune from civil liability resulting from that conduct.	8 9
(2) This section does not apply to or in respect of conduct carried out before the commencement of this Act.	10 11
<b>4 What constitutes self-defence for the purposes of this Act</b>	12
(1) For the purposes of this Act, a person carries out conduct in self-defence if and only if the person believes the conduct is necessary:	13 14
(a) to defend himself or herself or another person, or	15
(b) to prevent or terminate the unlawful imprisonment of himself or herself or another person, or	16 17
(c) to prevent property from unlawful appropriation, destruction, damage or interference, or	18 19
(d) to prevent criminal trespass, or	20
(e) to remove from any land or premises a person who is committing a criminal trespass,	21 22
and the conduct is a reasonable response in the circumstances as he or she perceives them.	23 24
(2) Conduct is not excluded from being self-defence merely because the person:	25 26
(a) in defending himself or herself or another person, or	27
(b) in preventing or terminating the unlawful imprisonment of himself or herself or another person,	28 29
uses a higher level of force than that used by the person against whom the conduct in self-defence is carried out.	30 31

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- (3) It is not self-defence if the person uses force that involves the intentional infliction of death or the intentional infliction of grievous bodily harm and if he or she believes that the infliction of the death or grievous bodily harm is necessary for the purpose only of:
- (a) protecting property, or
  - (b) preventing criminal trespass, or
  - (c) removing a person who is committing criminal trespass.
- (4) It is not self-defence if:
- (a) the person is responding to lawful conduct, and
  - (b) he or she knew that the conduct was lawful.
- However, conduct is not lawful merely because the person whose act or omission comprised the conduct is not criminally responsible for it.