



New South Wales

# Summary Offences Amendment (Public Safety) Bill 2002

## Explanatory note

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

This Bill is cognate with the *Firearms Amendment (Public Safety) Bill 2002*.

## Overview of Bill

The objects of this Bill are as follows:

- (a) to provide a higher penalty for the offence under section 11C of the *Summary Offences Act 1988* (“the Act”) of having a knife in a public place or school if the offender has been dealt with more than once previously for a knife-related offence,
- (b) to simplify the operation of section 28F of the Act (which enables police officers to give reasonable directions to persons in public places) and to make it clear that such directions may be given to persons in a group.

## 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

### **Higher penalty for offence of having knife in public place or school to apply to repeat offenders**

At present, the penalty for an offence under section 11C of the Act of having a knife in a public place or school is 5 penalty units (currently \$550) or, in the case of a person dealt with previously for a knife-related offence, 10 penalty units or imprisonment for 12 months (or both). **Schedule 1 [1]** provides that the maximum penalty for a person who commits an offence under section 11C of the Act will be 20 penalty units (currently \$2,200) or imprisonment for 2 years (or both) if the person has been dealt with more than once previously for a knife-related offence.

### **Reasonable directions by police to persons in public places**

Section 28F of the Act currently enables a police officer to give a direction to a person in a public place if the officer has reasonable grounds to believe that the person's behaviour or presence in the place is obstructing or causing fear to other persons, constitutes harassment or intimidation of another person, or is for the purpose of unlawfully supplying prohibited drugs. The officer must provide the person with certain information about the officer and the reasons for the direction, and then warn the person that failure to comply with the direction may be an offence. A person who initially fails to comply with the direction may be warned and requested again. If the person fails to comply with the direction after the second direction and warning, the person is guilty of an offence.

**Schedule 1 [2], [3] and [5]** remove any doubt that the second direction and warning can only be given if the person initially fails to comply with the direction. As a result of the amendment, it will be clear that a police officer can proceed to the second direction and warning if there is non-compliance at any time with the earlier

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direction. The amendments also make it clear that failing to comply with a direction under the section includes the situation where a person refuses to comply with the direction.

**Schedule 1 [4]** provides that a direction under section 28F may be given to persons in a group, in which case it will not be necessary for the police officer to repeat the direction, or to repeat the relevant information and warning, to each individual in the group.

First print



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New South Wales

# Summary Offences Amendment (Public Safety) Bill 2002

No. , 2002

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## A Bill for

An Act to amend the *Summary Offences Act 1988* to increase the penalty for the offence of having a knife in a public place or school in the case of repeat offenders and to modify the procedural requirements in relation to the giving of directions by police officers in public places.

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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>Summary Offences Amendment (Public Safety) Act 2002</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3 Amendment of Summary Offences Act 1988 No 25</b>	8
The <i>Summary Offences Act 1988</i> is amended as set out in Schedule 1.	9

<b>Schedule 1</b>	<b>Amendments</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Section 11C Custody of knife in public place or school</b>	3
	Omit the penalty at the end of section 11C (1). Insert instead:	4
	Maximum penalty:	5
	(a) 5 penalty units, or	6
	(b) in the case of a person dealt with once previously for a knife-related offence—10 penalty units or imprisonment for 12 months, or both, or	7 8 9
	(c) in the case of a person dealt with more than once previously for a knife-related offence—20 penalty units or imprisonment for 2 years, or both.	10 11 12
<b>[2]</b>	<b>Section 28F Power to give reasonable directions in public places</b>	13
	Omit “initially refuses” from section 28F (5). Insert instead “fails”.	14
<b>[3]</b>	<b>Section 28F (6)</b>	15
	Omit “or refuse”.	16
<b>[4]</b>	<b>Section 28F (7A)–(7D)</b>	17
	Insert after section 28F (7):	18
	(7A) A police officer may give a direction under this section to persons comprising a group.	19 20
	(7B) In the case of a direction that is given to a group of persons under subsection (1), the police officer is not required to repeat the direction, or to repeat the information and warning referred to in subsection (4), to each person in the group.	21 22 23 24
	(7C) In the case of a direction that is given to a group of persons in accordance with subsection (5), the police officer is not required to repeat the direction, or to repeat the warning referred to in that subsection, to each person in the group.	25 26 27 28

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Schedule 1 Amendments

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(7D) However, just because the police officer is not required to repeat any such direction, information or warning does not in itself give rise to any presumption that each person in the group has received the direction, information or warning. 1  
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**[5] Section 28F (8A)** 5

Insert after section 28F (8): 6

(8A) For the purposes of this section, a reference to failing to comply with a direction includes a reference to refusing to comply with the direction. 7  
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