



New South Wales

# **Workplace (Occupants Protection) Bill 2000**

## **Explanatory note**

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

### **Overview of Bill**

The object of this Bill is to protect persons at places of work from suspected offenders.

The Bill:

- (a) declares that it is the public policy of the State that its citizens have a right to enjoy safety from suspected offenders while present at a workplace, and
- (b) sanctions the use of physical force by an occupant of a workplace in defence against a suspected offender if the occupant believes on reasonable grounds that it is necessary to do so, and
- (c) provides immunity to occupants from criminal and civil liability arising from anything done by them that is sanctioned under the proposed Act.

## Outline of provisions

### **Part 1 Preliminary**

**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 to be appointed by proclamation.

**Clause 3** defines certain words and expressions used in the proposed Act.

**Clause 4** defines who is a *suspected offender* for the purposes of the proposed Act.

**Clause 5** provides that notes in the proposed Act do not form part of it.

### **Part 2 Use of force to prevent attack**

**Clause 6** declares that it is the public policy of the State that its citizens have a right to enjoy safety from suspected offenders while at a workplace.

**Clause 7** enables an occupant of a workplace to act in self-defence against a suspected offender if the occupant believes on reasonable grounds that it is necessary to do so.

**Clause 8** enables an occupant to act in defence of another person at the workplace against a suspected offender if the occupant believes on reasonable grounds that it is necessary to do so.

**Clause 9** enables an occupant to use such force against a suspected offender as is reasonable in defence of any property of, or within, the workplace if the occupant believes on reasonable grounds that it is necessary to do so.

**Clause 10** provides that the test as to whether reasonable grounds exist is to be determined having regard to the belief of the occupant, based on the circumstances as the occupant perceived them to be.

**Clause 11** places the onus on the prosecution of proving, beyond reasonable doubt, that the occupant did not have the belief alleged, or that the grounds for the occupant's belief were not reasonable grounds.

### **Part 3 Criminal and civil liability**

**Clause 12** grants immunity from criminal liability to an occupant who acts in accordance with the proposed Act.

**Clause 13** grants immunity from civil liability to an occupant who acts in accordance with the proposed Act.



New South Wales

# Workplace (Occupants Protection) Bill 2000

## Contents

---

	Page	
<b>Part 1</b>	<b>Preliminary</b>	
1	Name of Act	2
2	Commencement	2
3	Definitions	2
4	Who is a suspected offender?	2
5	Notes	2
<b>Part 2</b>	<b>Use of force to prevent attack</b>	
6	Safety within workplaces	3
7	Self-defence	3
8	Defence of other persons	3
9	Defence of property	3
10	Reasonable grounds	3
11	Onus of proof in criminal proceedings	3

Workplace (Occupants Protection) Bill 2000

Contents

---

	Page
<b>Part 3</b>	
<b>Criminal and civil liability</b>	
12 Immunity from criminal liability	4
13 Immunity from civil liability	4



New South Wales

# **Workplace (Occupants Protection) Bill 2000**

No , 2000

---

## **A Bill for**

An Act to provide protection and immunity to occupants of workplaces who defend themselves, other occupants and their property against suspected offenders; and for other purposes.

---

**The Legislature of New South Wales enacts:** 1

**Part 1 Preliminary** 2

**1 Name of Act** 3

This Act is the *Workplace (Occupants Protection) Act 2000*. 4

**2 Commencement** 5

This Act commences on a day to be appointed by proclamation. 6

**3 Definitions** 7

In this Act: 8

*confrontation with a suspected offender* means a confrontation with a suspected offender in which physical force is used. 9 10

*occupant* of a workplace means the owner or lessee of the workplace or any person who works at the workplace, and includes any person, such as a client or customer or a volunteer, who is lawfully in the workplace. 11 12 13 14

*suspected offender* has the meaning given in section 4. 15

*workplace* means any place at which a person works, not being a dwelling-house within the meaning of the *Home Invasion (Occupants Protection) Act 1998*. 16 17 18

**Note.** The *Home Invasion (Occupants Protection) Act 1998* defines *dwelling-house* to include: 19 20

(a) any building or other structure occupied as a dwelling, and 21

(b) any building or other structure within the same curtilage as a dwelling-house, and occupied in connection with the dwelling-house or whose use is ancillary to the occupation of the dwelling-house. 22 23 24

**4 Who is a suspected offender?** 25

A person in a workplace is a suspected offender for the purposes of this Act if an occupant of the workplace reasonably believes that the person has committed, or is committing, a crime in the workplace against an occupant of the workplace or the property of, or within, the workplace. 26 27 28 29 30

**5 Notes** 31

Notes included in this Act do not form part of this Act. 32

---

<b>Part 2 Use of force to prevent attack</b>	1
<b>6 Safety within workplaces</b>	2
Parliament expressly declares that it is the public policy of the State of New South Wales that its citizens have a right to enjoy safety from suspected offenders while present at a workplace.	3 4 5
<b>7 Self-defence</b>	6
An occupant of a workplace may act in self-defence against a suspected offender if the occupant believes on reasonable grounds that it is necessary to do so.	7 8 9
<b>8 Defence of other persons</b>	10
An occupant of a workplace may act in defence of any other person at the workplace against a suspected offender if the occupant believes on reasonable grounds that it is necessary to do so.	11 12 13
<b>9 Defence of property</b>	14
An occupant of a workplace may use such force as is reasonable in defence of any property of, or within, the workplace against a suspected offender if the occupant believes on reasonable grounds that it is necessary to do so.	15 16 17 18
<b>10 Reasonable grounds</b>	19
Whether grounds are reasonable grounds for the purposes of section 7, 8 or 9 is to be determined having regard to the belief of the occupant, based on the circumstances as the occupant perceived them to be.	20 21 22
<b>11 Onus of proof in criminal proceedings</b>	23
If in proceedings against an occupant of a workplace the occupant seeks to rely on the provisions of section 7, 8 or 9, the prosecution has the onus of proving, beyond reasonable doubt:	24 25 26
(a) that the occupant did not have the belief alleged, or	27
(b) that the grounds of the occupant's belief were not reasonable grounds.	28 29



<b>Part 3 Criminal and civil liability</b>	1
<b>12 Immunity from criminal liability</b>	2
(1) An occupant of a workplace who acts in accordance with section 7, 8 or 9 is immune from criminal liability resulting from his or her acts.	3 4
(2) If proceedings are commenced against an occupant accused of a crime as a result of a confrontation with a suspected offender, the occupant must be brought before the court, whether by way of preliminary hearing or otherwise, within 9 months after the proceedings are commenced. However, the 9-month period is to be extended by the length of any delay that is attributable to the occupant.	5 6 7 8 9 10
<b>13 Immunity from civil liability</b>	11
An occupant of a workplace who acts in accordance with section 7, 8 or 9 is immune from civil liability resulting from his or her acts.	12 13