

Passed by both Houses



New South Wales

Workplace (Occupants Protection) Bill 2001

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Clerk of the Parliaments

Legislative Council

2001



New South Wales

Workplace (Occupants Protection) Bill 2001

Act No , 2001

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:

Part 1 Preliminary

1 Name of Act

This Act is the *Workplace (Occupants Protection) Act 2001*.

2 Commencement

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

3 Definitions

In this Act:

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

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.

suspected offender has the meaning given in section 4.

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*.

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

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

4 Who is a suspected offender?

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.

5 Notes

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

Part 2 Use of force to prevent attack

6 Safety within workplaces

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.

7 Self-defence

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.

8 Defence of other persons

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.

9 Defence of property

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.

10 Reasonable grounds

Whether grounds are reasonable grounds for the purposes of section 7 or 8 is to be determined having regard to the belief of the occupant, based on the circumstances as the occupant perceived them to be.

11 Onus of proof in criminal proceedings

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:

- (a) that the occupant did not have the belief alleged, or
- (b) that the grounds of the occupant's belief were not reasonable grounds.

Part 3 Criminal and civil liability

12 Immunity from criminal liability

- (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.
- (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.

13 Immunity from civil liability

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.