

FIRST PRINT

**EDUCATION REFORM (SCHOOL VIOLENCE) AMENDMENT
BILL 1993**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Education Reform Act 1990 so as:

- (a) to prohibit the possession of weapons in government schools; and
- (b) to provide for the suspension of students of government schools who are found in possession of weapons at school; and
- (c) to provide for the reporting of violence in government schools.

Prohibition on weapons in government schools

The Bill makes it an offence for a person (whether or not a student) to have a weapon in his or her possession in any part of a government school on a school day. The Director-General of School Education will be able to grant exemptions from this provision. The provision will not apply to police officers acting in the ordinary course of their duties.

Suspension of student for possession of weapon

The Bill provides that if a student of a school contravenes this prohibition, the principal of the school is to suspend the student from school for 1 month unless satisfied that there was a reasonable excuse for the student's actions. The Director-General will have power to set aside or reduce the suspension, but only if satisfied that there is good reason for doing so. At the end of the suspension the student will not be readmitted to the school from which he or she was suspended unless the Director-General is satisfied there is good reason for doing so. The Director-General is required to arrange appropriate counselling for suspended students and will also have an obligation to arrange alternative schooling for a student who is prevented from returning to his or her school.

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Reporting of violence in government schools

The Bill imposes a duty on all teachers at government schools to report acts of violence occurring at their school to the principal. The principal is then required to report these incidents to the Director-General.

The Director-General is required to provide a monthly report to the Commissioner of Police on the reports of violence the Director-General receives from principals. The report to the Commissioner is to contain a description of each incident concerned, identifying the school but not identifying any person involved. In addition, the annual report of the Department of School Education is to include statistics extracted from reports to the Director-General, with details of any identifiable patterns or trends in the incidence of reported acts of violence in schools (without identifying schools or individuals).

Consequential amendment

The Bill also makes a consequential amendment to the Defamation Act 1974 to allow a defence of absolute privilege in respect of the reporting of acts of violence to school principals under the proposed new provisions.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on assent.

Clause 3 contains the consequential amendment to the Defamation Act 1974 described above.

Clause 4 contains the amendments to the Education Reform Act 1990 described above.

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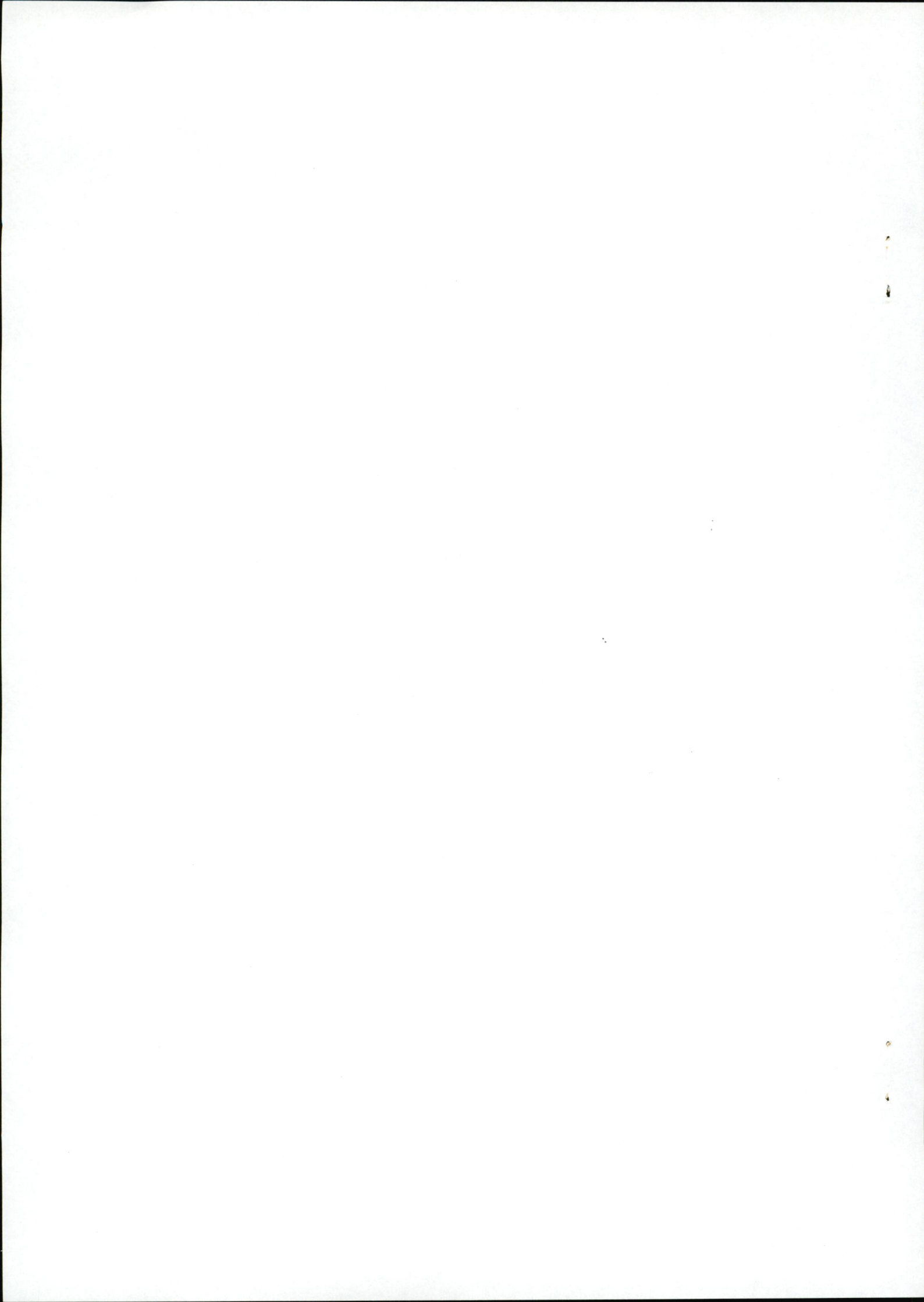
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**EDUCATION REFORM (SCHOOL VIOLENCE) AMENDMENT
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NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to amend the Education Reform Act 1990 to prevent the possession of weapons in government schools and to provide for the reporting of violence in government schools; and for related purposes.

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The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Education Reform (School Violence) Amendment Act 1993.

5 Commencement

2. This Act commences on the date of assent.

Consequential amendment of Defamation Act 1974 No. 18

3. The Defamation Act 1974 is amended by inserting before section 17I the following section:

10 Reports of violence under Education Reform Act 1990

17HA. There is a defence of absolute privilege for a publication to or by the principal (or a person discharging the functions of the principal) of a school for the purposes of the reporting of an act of violence under Part 11A (Prevention of violence in government schools) of the Education Reform Act 1990.

Amendment of Education Reform Act 1990 No. 8

4. The Education Reform Act 1990 is amended by inserting after Part 11 the following Part:

**PART 11A—PREVENTION OF VIOLENCE IN
GOVERNMENT SCHOOLS**

Definitions

117A. In this Part:

“act of violence” means an act of violence or threatened violence by a person against another person and includes any act which constitutes a personal violence offence, as defined in the Crimes Act 1900;

“Director-General” means the Director-General of School Education;

“weapon” means:

- (a) a firearm, as defined in the Firearms Act 1989; and
- (b) a prohibited weapon, as defined in the Prohibited Weapons Act 1989; and

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(c) anything made or adapted for use for causing injury to a person; and

(d) anything intended, by the person having possession of it, to be used to injure or menace a person.

Possession of weapons in government schools prohibited 5

117B. (1) A person must not have a weapon in his or her possession in any part of a government school on a school day (a day when the school is open for school education or school activities).

Maximum penalty: 50 penalty units or imprisonment for 2 years, or both. 10

(2) The Director-General may exempt a person or class of persons from this section either generally or in a particular case. The exemption must be in writing and may be given subject to conditions. Possession of a weapon in accordance with the Director-General's exemption is not a contravention of this section. 15

(3) The Director-General's exemption does not operate to make possession of a weapon in a place lawful if that possession would be unlawful apart from this section.

(4) This section does not apply to anything done by a member of the Police Force of the Commonwealth, a State or a Territory while acting in the ordinary course of his or her duties. 20

Mandatory suspension of student for possession of weapon

117C. (1) The principal of a government school is to suspend any student of the school that the principal is satisfied has contravened section 117B unless the principal is satisfied that the student had a reasonable excuse for the contravention. The principal is to notify the Director-General of any suspension of a student under this section. 25

(2) A suspension under this section is to be for 1 month and operates to exclude the student only from the school attended by the student. The Director-General may in a particular case set aside or shorten the period of suspension but only if satisfied that there is a good reason for doing so. 30

(3) At the end of the suspension, the student is not to be readmitted to the school from which he or she was suspended unless the Director-General is satisfied that there is a good reason why the student should be readmitted to that school. 35

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(4) In deciding whether a student should be readmitted to a school, the Director-General is to take into account any submissions made by the principal of the school and by or on behalf of the student, and the Director-General's obligation under subsection (5).

5 (5) The Director-General has an obligation to ensure that when a student is prevented from returning to his or her school by this section another government school is available for the student to attend (but this does not affect any power of the Minister to refuse admission to a school).

10 (6) The action required to be taken under this section in respect of a student is to be taken whether or not the student has been proceeded against or convicted in respect of the contravention concerned. The fact that a student is acquitted in proceedings in respect of the contravention does not affect the authority for any action already taken
15 in good faith under this section.

Other powers of suspension and expulsion unaffected

117D. This Part does not affect any power of the Minister to expel a student from a government school or any power of the Director-General or the principal of a school to suspend any student
20 from a government school for a period longer than 1 month for conduct that is a contravention of section 117B.

Counselling for suspended students

117E. (1) The Director-General is to arrange for appropriate counselling to be made available to a student who is suspended under
25 this Part with a view to assisting the student to improve his or her behaviour so as to be able to return to school.

(2) If the student is under 18 years of age, the Director-General is to consult with the parents of the student in respect of the arrangements to be made for counselling.

30 (3) The Director-General is not to delegate the functions of the Director-General under this section to the principal of a school.

Reporting of violence in schools

117F. (1) It is the duty of every teacher at a government school to report to the principal of the school without delay any act of violence
35 that the teacher knows or has reasonable cause to suspect has occurred at the school. A teacher has no duty to report an act of violence that has already been reported under this section.

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(2) Any student at a government school or parent of a student is entitled to report to the principal of the school any act of violence that the student or parent knows or has reasonable cause to suspect has occurred at the school.

(3) The principal of a government school is to report to the Director-General on the reports that the principal receives under this section (except any report that the principal is satisfied is without substance). 5

(4) The principal's report to the Director-General is to consist of a summary of each report to the principal and is to include: 10

(a) details of the incident concerned; and

(b) details of any action taken in response to the report (such as disciplinary action and counselling of the persons concerned); and

(c) the outcome for the victim. 15

(5) This section does not apply to any of the following:

(a) anything exempted from the reporting requirements of this section by guidelines issued to schools by the Director-General on the basis of its being of a trivial nature;

(b) action lawfully taken for the disciplining of students; 20

(c) anything that occurred before the commencement of this Part.

Director-General to report to the Commissioner of Police

117G. (1) The Director-General is to forward a report to the Commissioner of Police on each act of violence reported to the Director-General under this Part, as soon as reasonably practicable after the end of the calendar month in which it was reported to the Director-General. 25

(2) The report to the Commissioner of Police is to contain a brief description of each act of violence and is to identify the school involved but is not to identify any person involved. 30

Statistics on school violence in annual report

117H. (1) The report of the operations of the Department of School Education in its annual report under the Annual Reports (Departments) Act 1985 is to include particulars of the incidence of acts of violence in government schools during the reporting year. 35

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5 (2) Those particulars are to include statistics extracted from the reports of acts of violence received by the Director-General under this Part and are to identify any patterns or trends in the incidence of reported acts of violence but must not identify any school or person involved.

(3) Examples of patterns and trends are those relating to location of the schools concerned (by region or cluster) and the type of violence concerned.

Discretion to report offence to police unaffected

10 117I. Nothing in this Part affects any duty or discretion of any person (including a teacher or the principal of a school) to bring a matter to the attention of a police officer or other appropriate authority.
