



New South Wales

Law Enforcement (Powers and Responsibilities) and Other Legislation Amendment (Knife Crime) Bill 2024

Explanatory note

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

Overview of Bill

The objects of this Bill are to—

- (a) provide for a trial of powers for police officers to carry out scans in relation to knives and other weapons, and
- (b) increase the penalties for selling knives to children who are less than 16 years of age, and
- (c) make it an offence for a person, without reasonable excuse, to sell a knife to a child who is 16 or 17 years of age.

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.

Schedule 1 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103

Schedule 1 inserts proposed Part 4A to provide for a trial of powers for police officers to scan persons, without warrants, for knives and other weapons in designated areas using hand-held scanners.

Proposed Division 1 provides for certain defined terms, including the following—

- (a) **public transport station (PTS)**, which means a station, platform or other structure for the taking on and letting off of passengers of a PTV and includes certain other areas associated with the PTS such as car parks, passenger set-down facilities, landscaping and other structures,
- (b) **public transport vehicle (PTV)**, which includes certain vehicles, such as trains, light rail vehicles, buses or other motor vehicles and ferries, used to provide passenger services,
- (c) **senior police officer**, which means a police officer of or above the rank of Assistant Commissioner,
- (d) **shopping precinct**, which includes a shopping centre, shopping mall, retail strip or associated car park or passenger set-down area,
- (e) **sporting venue**, which means a designated sporting venue under the *Sporting Venues (Invasions) Act 2003*,
- (f) **use**, of a hand-held scanner in relation to a person, which means passing the hand-held scanner in close proximity to the person or the person's belongings.

Proposed Division 2 sets out the places that may be declared to be a designated area, the requirements for declaring a designated area and the period for which a declaration may be in force.

Proposed section 45F allows a senior police officer to declare a PTS, a shopping precinct, a sporting venue or another public place prescribed by the regulations, including a place that is holding a special event or an event that is part of or supports the night-time economy, as a designated area.

Proposed section 45G sets out the circumstances in which a senior police officer may declare a place to be a designated area. A senior police officer may make a declaration only if—

- (a) certain events involving violence or knife offences have happened at the place in the previous 12 months, and
- (b) the senior police officer considers the use of hand-held scanners likely to be an effective means of detection or deterrence, and
- (c) the senior police officer has considered the impact of the use of hand-held scanners on lawful activity in the area and whether any past use of hand-held scanners in the area has been effective.

Proposed section 45H requires declarations of a designated area to be published on the NSW Police Force website as soon as practicable after the declaration is made.

Proposed sections 45I and 45J provide for the declaration of a designated area to be in force for no more than 12 hours and for more than one declaration to be made in relation to the same place.

Proposed Division 3 sets out the powers a police officer may exercise in a designated area.

Proposed section 45K authorises a police officer, without a warrant, to require a person in a designated area to stop and submit to the use of a hand-held scanner.

Proposed section 45L applies to a designated area that includes a PTS and authorises a police officer, without a warrant, to require a person to stop and submit to the use of a hand-held scanner. The proposed section allows the police officer to exercise this power on board a PTV while the PTV is travelling within 2 scheduled stops in any direction of the PTS or in certain circumstances in a public place of the PTS at the scheduled stop.

Proposed section 45M sets out certain requirements if a police officer uses a hand-held scanner in relation to a person and the hand-held scanner indicates that metal is, or is likely to be, present. The proposed section authorises the police officer to require the person to produce the thing that may be causing the hand-held scanner to indicate the presence of metal and to resubmit to the use of the hand-held scanner. The proposed section makes it clear that proposed section 45M does not

limit the powers of a police officer to search and seize without a warrant under the *Law Enforcement (Powers and Responsibilities) Act 2002*, Part 4.

Proposed section 45N makes it an offence for a person, without reasonable excuse, to fail or refuse to comply with a requirement made of the person by a police officer under proposed Division 3. The proposed section prescribes a maximum penalty of 50 penalty units.

Proposed section 45O sets out certain safeguards a police officer must comply with if exercising a power conferred under proposed Division 3. The safeguards include the following—

- (a) The police officer must exercise the power in the least invasive way practicable.
- (b) If reasonably practicable, the police officer must be of the same sex as the person.
- (c) The police officer may detain the person for as long as is reasonably necessary to exercise the power.
- (d) Before exercising the power, the police officer must give the person evidence that the police officer is a police officer unless in uniform, the name and place of duty of the police officer and the reason for the exercise of the power.
- (e) The police officer must give a warning to the person that the person is required by law to comply with the direction.

Proposed section 45P requires the Commissioner of Police to keep certain records about the use of the powers under proposed Division 3, including the information prescribed by the regulations. The information prescribed by the regulations must be included in the NSW Police Force's annual reporting information under the *Government Sector Finance Act 2018*, Division 7.3.

Proposed section 45Q requires the Minister for Police and Counter-terrorism to review proposed Part 4A as soon as possible after the period of 2 years from the commencement of the proposed part to determine whether the policy objectives remain valid and the terms remain appropriate for securing the objectives. A report on the outcome of the review must be tabled in each House of Parliament within 3 years after the commencement of proposed Part 4A.

Proposed section 45R provides for proposed Part 4A to expire 3 years after the date on which the proposed part commences.

Schedule 2 Amendment of Summary Offences Act 1988 No 25

Schedule 2[1] amends section 11F to increase the maximum penalty for the sale of knives to children who are less than 16 years of age to 100 penalty units or imprisonment for 12 months, or both.

Schedule 2[2] makes it an offence for a person, without reasonable excuse, to sell a knife to a child who is 16 or 17 years of age. The maximum penalty is 100 penalty units or imprisonment for 12 months, or both. **Schedule 2[5]** makes a consequential amendment.

Schedule 2[3] and [4] provide that it is a reasonable excuse for a person to sell a knife to a child if—

- (a) for a child who is less than 16 years of age—the person believes on reasonable grounds the child is at least 16 years of age, or
- (b) for a child who is 16 or 17 years of age—the person—
 - (i) believes on reasonable grounds the child is at least 18 years of age, or
 - (ii) is satisfied the child reasonably requires the knife for the lawful pursuit of the child's occupation, education or training.



New South Wales

Law Enforcement (Powers and Responsibilities) and Other Legislation Amendment (Knife Crime) Bill 2024

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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Law Enforcement (Powers and Responsibilities) and Other Legislation Amendment (Knife Crime) Bill 2024

No. _____, 2024

A Bill for

An Act to amend the *Law Enforcement (Powers and Responsibilities) Act 2002* to provide for a trial of powers for police officers to use, without warrant, hand-held scanners on persons in certain areas to detect knives and other weapons; and to amend the *Summary Offences Act 1988* in relation to offences involving the sale of knives to children.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Law Enforcement (Powers and Responsibilities) and Other Legislation Amendment (Knife Crime) Act 2024*.

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4

2 Commencement

5

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

6

Schedule 1	Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103	1
		2
Part 4A		3
Insert after section 45C—		4
Part 4A	Additional powers without warrant in designated areas	5
		6
Division 1	Preliminary	7
45D	Definitions	8
	In this part—	9
	<i>designated area</i> means a place declared under Division 2 to be a designated area.	10
	<i>public transport station</i> —see section 45E.	11
	<i>public transport vehicle</i> means the following vehicles—	12
	(a) a train or other vehicle being used to provide a rail passenger service within the meaning of the <i>Passenger Transport Act 2014</i> ,	13
	(b) a light rail vehicle or other public passenger vehicle being operated by a light rail manager or light rail operator,	14
	(c) a bus or other motor vehicle being used for a public passenger service within the meaning of the <i>Passenger Transport Act 2014</i> ,	15
	(d) a ferry being used to provide a ferry service within the meaning of the <i>Passenger Transport Act 2014</i> .	16
	<i>senior police officer</i> means a police officer of or above the rank of Assistant Commissioner.	17
	<i>shopping precinct</i> includes the following—	18
	(a) a shopping centre,	19
	(b) a shopping mall,	20
	(c) a retail strip,	21
	(d) a car park or passenger set-down area associated with a place mentioned in paragraphs (a)–(c).	22
	<i>sporting venue</i> means a designated sporting venue under the <i>Sporting Venues (Invasions) Act 2003</i> .	23
	<i>use</i> , of a hand-held scanner in relation to a person, means passing the hand-held scanner in close proximity to the person or the person’s belongings.	24
45E	Meaning of “public transport station”	25
	A <i>public transport station</i> —	26
	(a) means a station, platform or other structure for the taking on and letting off of passengers of a public transport vehicle, and	27
	Example — The following are stations, platforms or other structures—	28
	(a) a railway station or platform,	29
	(b) a light rail station or platform,	30
	(c) facilities for passengers to change between the same or different modes of transport,	31
	(d) a bus station,	32

- (e) a bus stop, including the area in the immediate vicinity of the bus stop, 1
- (f) a jetty or other structure at which a ferry makes a scheduled stop for a ferry service, and any associated structure. 2
3
- (b) includes— 4
 - (i) car parks and set-down facilities for passengers of a public transport vehicle that makes scheduled stops at the station, platform or other structure, and 5
6
7
 - (ii) another structure or facility for the use or convenience of passengers of a public transport vehicle that makes scheduled stops at the station, platform or other structure, and 8
9
10
Examples of other structures or facilities— overhead or 11
underground walkways between platforms, footpaths and seating 12
 - (iii) landscaping associated with the station, platform or other structure. 13
14

Division 2 Declaration of designated areas 15

45F Declaration of designated areas 16

A senior police officer may, by written instrument, declare any of the following places to be a designated area— 17
18

- (a) public transport stations, 19
- (b) shopping precincts, 20
- (c) sporting venues, 21
- (d) other public places prescribed by the regulations, including, for example, places at which the following are being or to be held— 22
23
 - (i) special events, 24
 - (ii) events that are part of or support the night-time economy. 25

45G Circumstances in which place may be declared designated area 26

A senior police officer may declare a place referred to in section 45F to be a designated area only if— 27
28

- (a) any of the following has occurred at the place in the previous 12 months— 29
30
 - (i) at least 1 offence committed by a person armed with a knife or other weapon, 31
32
 - (ii) at least 1 serious indictable offence involving violence against a person, 33
34
 - (iii) more than 1 offence of possessing a knife or prohibited weapon in a public place or school, and 35
36
Note— See the *Crimes Act 1900*, Part 3A, Division 2A and the *Weapons Prohibition Act 1998*, section 7. 37
38
- (b) the senior police officer considers the use of hand-held scanners is likely to be effective in detecting or deterring the commission of an offence involving a knife or other weapon, and 39
40
41
- (c) the senior police officer has considered— 42
 - (i) the effect the use of hand-held scanners may have on lawful activity in the area, and 43
44
 - (ii) if the place was previously a designated area—whether knives or other weapons were found during the period the place was previously a designated area. 45
46
47

45H	Requirement for declaration to be published	1
	An instrument declaring a place to be a designated area must be published on the NSW Police Force website as soon as practicable after the declaration is made.	2 3 4
45I	Period during which declaration of designated area is in force	5
	The declaration of a designated area remains in force for the period, not more than 12 hours, specified in the declaration.	6 7
45J	More than one declaration may be made in relation to same place	8
	More than one declaration of a designated area may be made in relation to the same place.	9 10
Division 3 Powers within designated areas		11
45K	Authorised use of hand-held scanner without warrant in designated areas	12
(1)	A police officer may, without a warrant, require a person in a designated area to stop and submit to the use of a hand-held scanner.	13 14
(2)	To avoid doubt, subsection (1) does not authorise the use of a hand-held scanner on board a public transport vehicle in a designated area.	15 16
	Note— Although this section authorises the use of a hand-held scanner at a public transport station in a designated area, it does not extend to the use of hand-held scanners on board public transport vehicles in the designated area. Section 45L provides for the use of hand-held scanners on board public transport vehicles in certain circumstances.	17 18 19 20 21
45L	Authorised use of hand-held scanner without warrant on board public transport vehicles	22 23
(1)	This section applies if a designated area includes a public transport station.	24
(2)	In addition to the authority under section 45K(1) to require a person to stop and submit to the use of a hand-held scanner at the public transport station, a police officer may, without a warrant, require a person to stop and submit to the use of a hand-held scanner—	25 26 27 28
(a)	on board a public transport vehicle while the vehicle is travelling within 2 scheduled stops in any direction of the public transport station, or	29 30
(b)	if the person leaves the public transport vehicle within 2 scheduled stops of the public transport station—in a public place at the public transport station at the scheduled stop.	31 32 33
(3)	If a police officer starts to exercise a power in relation to a person under this section or section 45M while on board a public transport vehicle travelling in the area mentioned in subsection (2)(a), the police officer may continue to exercise the power in relation to the person, even if the public transport vehicle travels out of the area.	34 35 36 37 38
45M	Requirements if hand-held scanner indicates metal	39
(1)	This section applies if—	40
(a)	a police officer uses a hand-held scanner in relation to a person in a designated area, and	41 42
(b)	the hand-held scanner indicates that metal is, or is likely to be, present.	43
(2)	The police officer may require the person to—	44

	(a) produce the thing that may be causing the hand-held scanner to indicate that metal is, or is likely to be, present, and	1 2
	(b) resubmit to the use of a hand-held scanner.	3
	Note— See also section 45L(3) in relation to the continued use of a power under this section.	4 5
	(3) To avoid doubt, this section does not limit the powers of a police officer under Part 4.	6 7
45N	Failure to comply with requirement under this division	8
	A person must not, without reasonable excuse, fail or refuse to comply with a requirement made of the person by a police officer under this division.	9 10
	Maximum penalty—50 penalty units.	11
45O	Safeguards for exercise of powers	12
	(1) This section applies if a police officer exercises a power under a hand-held scanner authority to require a person to stop and submit, or resubmit, to the use of a hand-held scanner.	13 14 15
	(2) The police officer must exercise the power in the least invasive way practicable in the circumstances.	16 17
	(3) If reasonably practicable, the police officer must be of the same sex as the person.	18 19
	(4) The police officer may detain the person for as long as is reasonably necessary to exercise the power.	20 21
	(5) Part 15 applies to the exercise of a power by a police officer, including the issuing of a direction, under this part.	22 23
45P	Records to be kept	24
	(1) The Commissioner must keep records about the use of the powers under this division, including the information prescribed by the regulations.	25 26
	(2) The information prescribed by the regulations must be included in the NSW Police Force’s annual reporting information under the <i>Government Sector Finance Act 2018</i> , Division 7.3.	27 28 29
45Q	Review of part	30
	(1) The Minister must review this part to determine whether—	31
	(a) the policy objectives of the part remain valid, and	32
	(b) the terms of the part remain appropriate for securing the objectives.	33
	(2) The review must be undertaken as soon as possible after the period of 2 years from the commencement of this part.	34 35
	(3) A report on the outcome of the review must be tabled in each House of Parliament within 3 years after the commencement of this part.	36 37
45R	Expiry of part	38
	This part expires 3 years after the date on which the part commences.	39

Schedule 2	Amendment of Summary Offences Act 1988 No 25	1
		2
[1] Section 11F Sale of knives to children		3
Omit “50 penalty units” from section 11F(1), penalty.		4
Insert instead “100 penalty units or imprisonment for 12 months, or both”.		5
[2] Section 11F(1A)		6
Insert after section 11F(1)—		7
(1A) A person who, without reasonable excuse, sells a knife to a child who is 16 or 17 years of age is guilty of an offence.		8
Maximum penalty—100 penalty units or imprisonment for 12 months, or both.		9
		10
		11
[3] Section 11F(2)		12
Omit “that the child was of or above the age of 16 years.”. Insert instead—		13
that—		14
(a) for an offence under subsection (1)—the child was at least 16 years of age, or		15
(b) for an offence under subsection (1A)—the child was at least 18 years of age.		16
		17
		18
[4] Section 11F(2A)		19
Insert after section 11F(2)—		20
(2A) For subsection (1A), it is a reasonable excuse for a person to sell a knife to a child who is 16 or 17 years of age if the person is satisfied the child reasonably requires the knife for the lawful pursuit of the child’s occupation, education or training.		21
		22
		23
		24
[5] Section 11F(3) and (5)		25
Insert “or (1A)” after “(1)” wherever occurring.		26