

Passed by both Houses



New South Wales

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

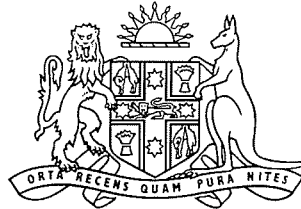
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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2024



New South Wales

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

Act No _____, 2024

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.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

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

2 Commencement

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

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

Part 4A

Insert after section 45C—

Part 4A Additional powers without warrant in designated areas

Division 1 Preliminary

45D Definitions

In this part—

designated area means a place declared under Division 2 to be a designated area.

public transport station—see section 45E.

public transport vehicle means the following vehicles—

- (a) a train or other vehicle being used to provide a rail passenger service within the meaning of the *Passenger Transport Act 2014*,
- (b) a light rail vehicle or other public passenger vehicle being operated by a light rail manager or light rail operator,
- (c) a bus or other motor vehicle being used for a public passenger service within the meaning of the *Passenger Transport Act 2014*,
- (d) a ferry being used to provide a ferry service within the meaning of the *Passenger Transport Act 2014*.

senior police officer means a police officer of or above the rank of Assistant Commissioner.

shopping precinct includes the following—

- (a) a shopping centre,
- (b) a shopping mall,
- (c) a retail strip,
- (d) a car park or passenger set-down area associated with a place mentioned in paragraphs (a)–(c).

sporting venue means a designated sporting venue under the *Sporting Venues (Invasions) Act 2003*.

use, 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.

45E Meaning of “public transport station”

A **public transport station**—

- (a) means a station, platform or other structure for the taking on and letting off of passengers of a public transport vehicle, and

Example— The following are stations, platforms or other structures—

- (a) a railway station or platform,
- (b) a light rail station or platform,
- (c) facilities for passengers to change between the same or different modes of transport,
- (d) a bus station,

- (e) a bus stop, including the area in the immediate vicinity of the bus stop,
 - (f) a jetty or other structure at which a ferry makes a scheduled stop for a ferry service, and any associated structure.
- (b) includes—
- (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
 - (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
Examples of other structures or facilities— overhead or underground walkways between platforms, footpaths and seating
 - (iii) landscaping associated with the station, platform or other structure.

Division 2 Declaration of designated areas

45F Declaration of designated areas

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

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

45G Circumstances in which place may be declared designated area

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

- (a) any of the following has occurred at the place in the previous 12 months—
 - (i) at least 1 offence committed by a person armed with a knife or other weapon,
 - (ii) at least 1 serious indictable offence involving violence against a person,
 - (iii) more than 1 offence of possessing a knife or prohibited weapon in a public place or school, and
Note— See the *Crimes Act 1900*, Part 3A, Division 2A and the *Weapons Prohibition Act 1998*, section 7.
- (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
- (c) the senior police officer has considered—
 - (i) the effect the use of hand-held scanners may have on lawful activity in the area, and
 - (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.

45H Requirement for declaration to be published

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.

45I Period during which declaration of designated area is in force

The declaration of a designated area remains in force for the period, not more than 12 hours, specified in the declaration.

45J More than one declaration may be made in relation to same place

More than one declaration of a designated area may be made in relation to the same place.

Division 3 Powers within designated areas

45K Authorised use of hand-held scanner without warrant in designated areas

- (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.
- (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.

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.

45L Authorised use of hand-held scanner without warrant on board public transport vehicles

- (1) This section applies if a designated area includes a public transport station.
- (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—
 - (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
 - (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.
- (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.

45M Requirements if hand-held scanner indicates metal

- (1) This section applies if—
 - (a) a police officer uses a hand-held scanner in relation to a person in a designated area, and
 - (b) the hand-held scanner indicates that metal is, or is likely to be, present.
- (2) The police officer may require the person to—

- (a) produce the thing that may be causing the hand-held scanner to indicate that metal is, or is likely to be, present, and
- (b) resubmit to the use of a hand-held scanner.

Note— See also section 45L(3) in relation to the continued use of a power under this section.

- (3) To avoid doubt, this section does not limit the powers of a police officer under Part 4.

45N Failure to comply with requirement under this division

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.

Maximum penalty—50 penalty units.

45O Safeguards for exercise of powers

- (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.
- (2) The police officer must exercise the power in the least invasive way practicable in the circumstances.
- (3) If reasonably practicable, the police officer must be of the same sex as the person.
- (4) The police officer may detain the person for as long as is reasonably necessary to exercise the power.
- (5) Part 15 applies to the exercise of a power by a police officer, including the issuing of a direction, under this part.

45P Records to be kept

- (1) The Commissioner must keep records about the use of the powers under this division, including the information prescribed by the regulations.
- (2) 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.

45Q Review of part

- (1) The Minister must review this part to determine whether—
 - (a) the policy objectives of the part remain valid, and
 - (b) the terms of the part remain appropriate for securing the objectives.
- (2) The review must be undertaken as soon as possible after the period of 12 months from the assent date.
- (3) A report on the outcome of the review must be tabled in each House of Parliament within 2 years after the assent date.
- (4) In this section—

assent date means the date of assent of the *Law Enforcement (Powers and Responsibilities) and Other Legislation Amendment (Knife Crime) Act 2024*.

45R Expiry of part

This part expires 3 years after the date on which the part commences.

Schedule 2 Amendment of Summary Offences Act 1988 No 25

[1] Section 11F Sale of knives to children

Omit “50 penalty units” from section 11F(1), penalty.

Insert instead “100 penalty units or imprisonment for 12 months, or both”.

[2] Section 11F(1A)

Insert after section 11F(1)—

- (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.
Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

[3] Section 11F(2)

Omit “that the child was of or above the age of 16 years.”. Insert instead—

that—

- (a) for an offence under subsection (1)—the child was at least 16 years of age, or
(b) for an offence under subsection (1A)—the child was at least 18 years of age.

[4] Section 11F(2A)

Insert after section 11F(2)—

- (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.

[5] Section 11F(3) and (5)

Insert “or (1A)” after “(1)” wherever occurring.