

[Act 2002 No 48]



New South Wales

## Summary Offences Amendment (Public Safety) Bill 2002

### Explanatory note

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

This Bill is cognate with the *Firearms Amendment (Public Safety) Bill 2002*.

### Overview of Bill

The objects of this Bill are as follows:

- (a) to provide a higher penalty for the offence under section 11C of the *Summary Offences Act 1988* (“the Act”) of having a knife in a public place or school if the offender has been dealt with more than once previously for a knife-related offence,
  - (b) to simplify the operation of section 28F of the Act (which enables police officers to give reasonable directions to persons in public places) and to make it clear that such directions may be given to persons in a group.
-

## 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 on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Summary Offences Act 1988* set out in Schedule 1.

## Schedule 1 Amendments

### **Higher penalty for offence of having knife in public place or school to apply to repeat offenders**

At present, the penalty for an offence under section 11C of the Act of having a knife in a public place or school is 5 penalty units (currently \$550) or, in the case of a person dealt with previously for a knife-related offence, 10 penalty units or imprisonment for 12 months (or both). **Schedule 1 [1]** provides that the maximum penalty for a person who commits an offence under section 11C of the Act will be 20 penalty units (currently \$2,200) or imprisonment for 2 years (or both) if the person has been dealt with more than once previously for a knife-related offence.

### **Reasonable directions by police to persons in public places**

Section 28F of the Act currently enables a police officer to give a direction to a person in a public place if the officer has reasonable grounds to believe that the person's behaviour or presence in the place is obstructing or causing fear to other persons, constitutes harassment or intimidation of another person, or is for the purpose of unlawfully supplying prohibited drugs. The officer must provide the person with certain information about the officer and the reasons for the direction, and then warn the person that failure to comply with the direction may be an offence. A person who initially fails to comply with the direction may be warned and requested again. If the person fails to comply with the direction after the second direction and warning, the person is guilty of an offence.

**Schedule 1 [2], [3] and [5]** remove any doubt that the second direction and warning can only be given if the person initially fails to comply with the direction. As a result of the amendment, it will be clear that a police officer can proceed to the second direction and warning if there is non-compliance at any time with the earlier

direction. The amendments also make it clear that failing to comply with a direction under the section includes the situation where a person refuses to comply with the direction.

**Schedule 1 [4]** provides that a direction under section 28F may be given to persons in a group, in which case it will not be necessary for the police officer to repeat the direction, or to repeat the relevant information and warning, to each individual in the group.