



New South Wales

Summary Offences Amendment Bill 2000

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Summary Offences Act 1988* so as:

- (a) to increase the penalty for the offence of damaging or defacing a shrine, monument or statue located in a public place, including a war memorial, and
- (b) to make it an offence to commit any nuisance or any offensive or indecent act in or on a war memorial located in a public place, and
- (c) to provide expressly for the application of those offences to the Anzac Memorial in Hyde Park, Sydney, and to any structure and land prescribed by the regulations as a war memorial, and
- (d) to enable the court that convicts a person of the offence of damaging or defacing a shrine, monument or statue located in a public place, including a war memorial, to order the person to pay an amount by way of compensation to repair or restore the damage caused.

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 [1] proposes to substitute section 8 of the Act.

Proposed section 8 (2) is substantially the same as the existing section 8 (the offence of damaging or defacing a shrine, monument or statue erected in a public place), with the maximum penalty increased from 4 penalty units (currently \$440) to 20 penalty units (currently \$2200).

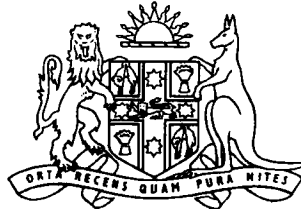
Proposed section 8 (1) contains a definition of *protected place*, which means a shrine, monument or statue located in a public place, with the inclusion of an express reference to war memorials. A *war memorial* is defined to include the Anzac Memorial in Hyde Park, Sydney, and any prescribed war memorial. Proposed section 8 (4) enables regulations to be made prescribing a structure and surrounding land as a war memorial for the purposes of the proposed section. This will enable certain structures to be specifically identified as war memorials, and will enable an area in their vicinity to be included in the protections afforded by the proposed section.

Proposed section 8 (3) makes it an offence to commit any nuisance or any offensive or indecent act in or on a war memorial. This offence is similar to that contained in By-law 11 (d) under the *Anzac Memorial (Building) Act 1923*. The maximum penalty for this offence will be 10 penalty units (currently \$1100).

Certain offences committed in or in the precincts of the Anzac Memorial in Hyde Park, Sydney, will be able to be dealt with under the *Summary Offences Act 1988* or the *Anzac Memorial (Building) Act 1923*. Similar offences against other war memorials will be able to be dealt with under the *Summary Offences Act 1988*. The proposed Act will ensure that there is a greater level of consistency for the treatment of such offences.

Schedule 1 [2] proposes to insert a new section 30A into the Act. The new section enables the court that convicts a person of an offence under proposed section 8 to order the payment of compensation for damage caused to a shrine, monument or statue located in a public place, including a war memorial. The maximum compensation that can be ordered to be paid is an amount equal to 20 penalty units (currently \$2200). The proposed section is the equivalent of section 11 of the *Anzac Memorial (Building) Act 1923*.

First print



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New South Wales

Summary Offences Amendment Bill 2000

No. , 2000

A Bill for

An Act to amend the *Summary Offences Act 1988* with respect to the damaging or defacing of shrines, monuments or statues located in public places, including war memorials, and the desecration of war memorials located in public places.

The Legislature of New South Wales enacts: 1

1 Name of Act 2

 This Act is the *Summary Offences Amendment Act 2000*. 3

2 Commencement 4

 This Act commences on a day or days to be appointed by 5
 proclamation. 6

3 Amendment of Summary Offences Act 1988 No 25 7

 The *Summary Offences Act 1988* is amended as set out in Schedule 1. 8

Schedule 1 Amendments

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(Section 3)

2

[1] Section 8

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Omit the section. Insert instead:

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8 Damaging or desecrating protected places

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(1) In this section:

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protected place means a shrine, monument or statue located in a public place, and (without limitation) includes a war memorial.

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war memorial means a war memorial located in a public place, and (without limitation) includes:

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- (a) the Anzac Memorial in Hyde Park, Sydney, being:
- (i) the memorial building referred to in the *Anzac Memorial (Building) Act 1923*, and
- (ii) the land described in the Schedule to that Act, and
- (iii) any other structure on that land, and

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- (b) any other place prescribed under subsection (4) as a war memorial for the purposes of this section.

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(2) A person must not wilfully damage or deface any protected place.

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Maximum penalty: 20 penalty units.

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(3) A person must not commit any nuisance or any offensive or indecent act in or on any war memorial.

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Maximum penalty: 10 penalty units.

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(4) The regulations may prescribe a place (within a public place) as a war memorial for the purposes of this section, comprising:

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(a) a specified shrine, monument, statue or other structure or place, and

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(b) a specified area (if any) within its vicinity.

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| | |
|---|----------------------------------|
| [2] Section 30A | 1 |
| Insert after section 30: | 2 |
| 30A Compensation | 3 |
| (1) A court that convicts a person of an offence under section 8 (being an offence committed after the commencement of this section) may, in addition to any penalty imposed for the offence, order the person to pay an amount not exceeding 20 penalty units as the cost of, or as a contribution to the cost of, the repair or restoration of any damage caused by the action that resulted in the conviction. | 4 5 6 7 8 9 10 |
| (2) An amount ordered to be paid under subsection (1) is to be paid to such person or body as the court orders, or in the absence of such an order to the Consolidated Fund. | 11 12 13 |
| (3) An order for the payment of money under subsection (1) is taken to be a fine for the purposes of the <i>Fines Act 1996</i> . | 14 15 |
| (4) An order by a court under section 10 of the <i>Crimes (Sentencing Procedure) Act 1999</i> in any proceedings for an offence referred to in subsection (1) operates for the purposes of that subsection as a conviction for the offence. | 16 17 18 19 |