

FIRST PRINT

## CRIMES (DOGS) AMENDMENT BILL 1993

NEW SOUTH WALES



### EXPLANATORY NOTE

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

This Bill is cognate with the Dog (Amendment) Bill 1993.

The object of this Bill is to amend the Crimes Act 1900 to make it an offence for a person who has the control of a dog:

- (a) to maliciously do any act or omit to do any act which causes the dog to inflict grievous bodily harm on another person (proposed section 35A (1)); or
- (b) to maliciously do any act or omit to do any act which causes the dog to inflict actual bodily harm on another person (proposed section 35A (2)).

A maximum penalty of 7 years' imprisonment is imposed in the case of the more serious offence (proposed section 35A (1)) and a maximum penalty of 5 years' imprisonment is imposed for the other offence.

"Maliciously" as defined in section 5 of the Crimes Act 1900 means an act "done of malice, whether against an individual or any corporate body or number of individuals, or done without malice but with indifference to human life or suffering, or with intent to injure some person or persons, or corporate body, in property or otherwise, and in any such case without lawful cause or excuse . . .".

It will therefore be a defence to a prosecution under the proposed section if the person who had control of the dog had a lawful excuse for his or her actions, e.g. self-defence.

Consequential amendments are made to the Crimes Act 1900 to allow these offences to be dealt with by a Magistrate in certain circumstances.

The Dog (Amendment) Bill 1993 (by proposed section 19A) will enable a Court, in certain circumstances, to disqualify a person from owning a dog if the person has been convicted of an offence under section 6 of the Dog Act 1966 or proposed section 35A of the Crimes Act 1900 or an order under section 556A of that Act has been made in respect of the person for any such offence.

*Crimes (Dogs) Amendment 1993*

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That Bill (by proposed sections 9P and 9Q) will also enable a Court dealing with an offence under proposed section 35A of the Crimes Act 1900 to order the destruction of the dog concerned if the person charged with the offence is convicted or an order under section 556A of that Act is made in respect of that person for such an offence.

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Clause 1 specifies 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 which gives effect to the Schedule of amendments described above.

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**CRIMES (DOGS) AMENDMENT BILL 1993**

NEW SOUTH WALES

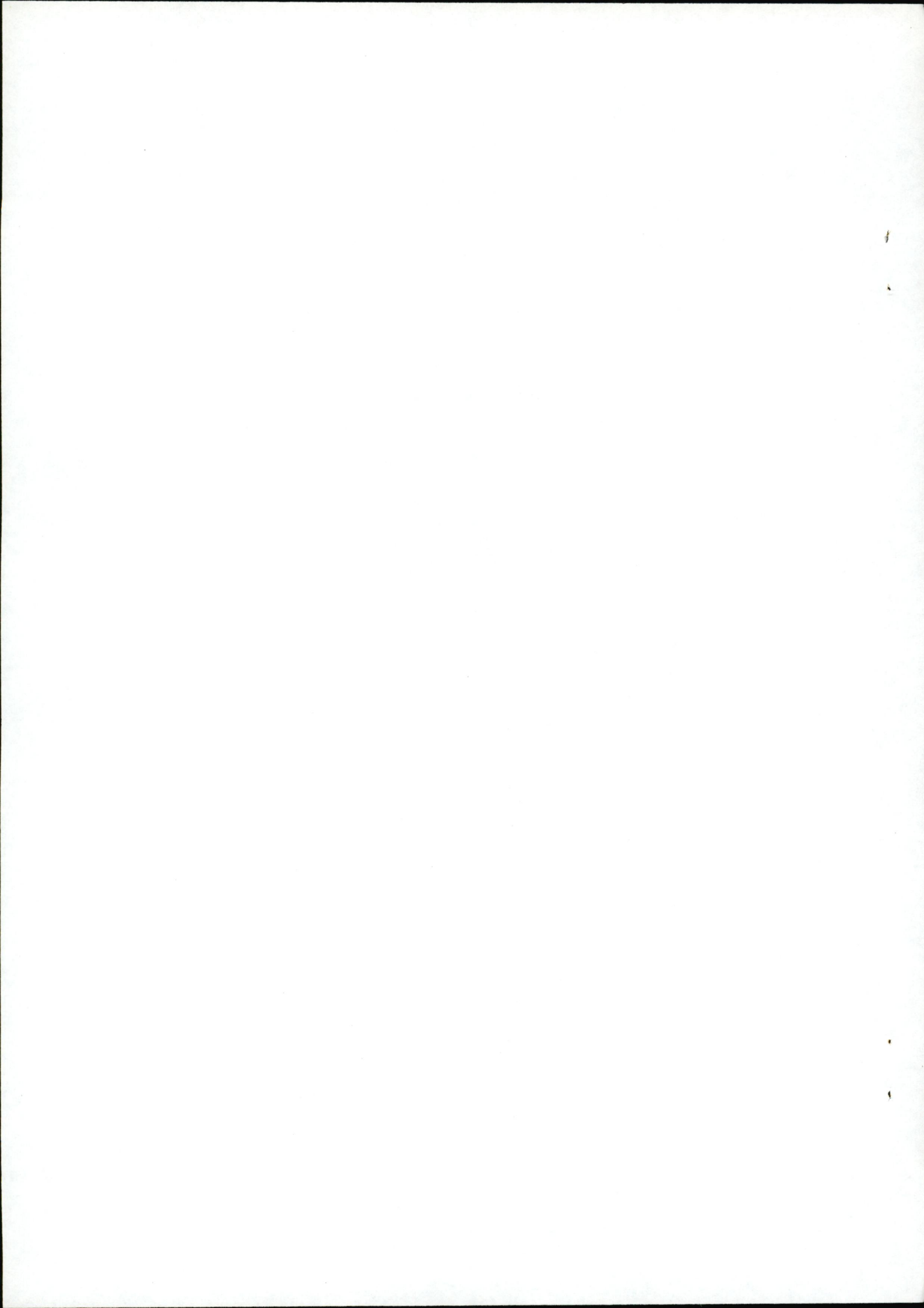


**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Crimes Act 1900 No. 40

**SCHEDULE 1—AMENDMENTS**

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**CRIMES (DOGS) AMENDMENT BILL 1993**

NEW SOUTH WALES



No.     , 1993

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**A BILL FOR**

An Act to amend the Crimes Act 1900 to create offences concerned with attacks by dogs on persons and for related purposes.

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*Crimes (Dogs) Amendment 1993*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Crimes (Dogs) Amendment Act 1993.

**Commencement**

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

**Amendment of Crimes Act 1900 No. 40**

3. The Crimes Act 1900 is amended as set out in Schedule 1.

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**SCHEDULE 1—AMENDMENTS**

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(Sec. 3)

(1) Section 35A:

After section 35, insert:

**Maliciously cause dog to inflict grievous bodily harm or actual bodily harm**

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35A. (1) **Maliciously cause dog to inflict grievous bodily harm.** A person who, having control of a dog, maliciously does any act which causes the dog to inflict grievous bodily harm on another person is liable to penal servitude for 7 years.

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(2) **Maliciously cause dog to inflict actual bodily harm.** A person who, having control of a dog, maliciously does any act which causes the dog to inflict actual bodily harm on another person is liable to penal servitude for 5 years.

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(3) **Alternative finding.** If, on the trial of a person for an offence under subsection (1), it appears that grievous bodily harm was not inflicted on the other person but that actual bodily harm was inflicted, the person may be found not guilty of the offence charged but guilty of an offence under subsection (2) and be liable to punishment accordingly.

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(4) **Doing an act includes omitting to do the act.** In this section, a reference to the doing of an act includes a reference to omitting to do the act.

*Crimes (Dogs) Amendment 1993*

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SCHEDULE 1—AMENDMENTS—*continued*

- (2) Section 476 (**Indictable offences punishable summarily with consent of accused**):

In section 476 (6) (d), after “35 (a),”, insert “35A (1),”.

- (3) Section 495 (**Indictable offences punishable summarily without consent of accused: assaults etc.**) 5

(a) In section 495 (1), before “56”, insert “35A (2),”.

(b) In section 495 (3), before “58”, insert “35A (2),”.

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# CRIMES (DOGS) AMENDMENT ACT 1993 No. 23

NEW SOUTH WALES

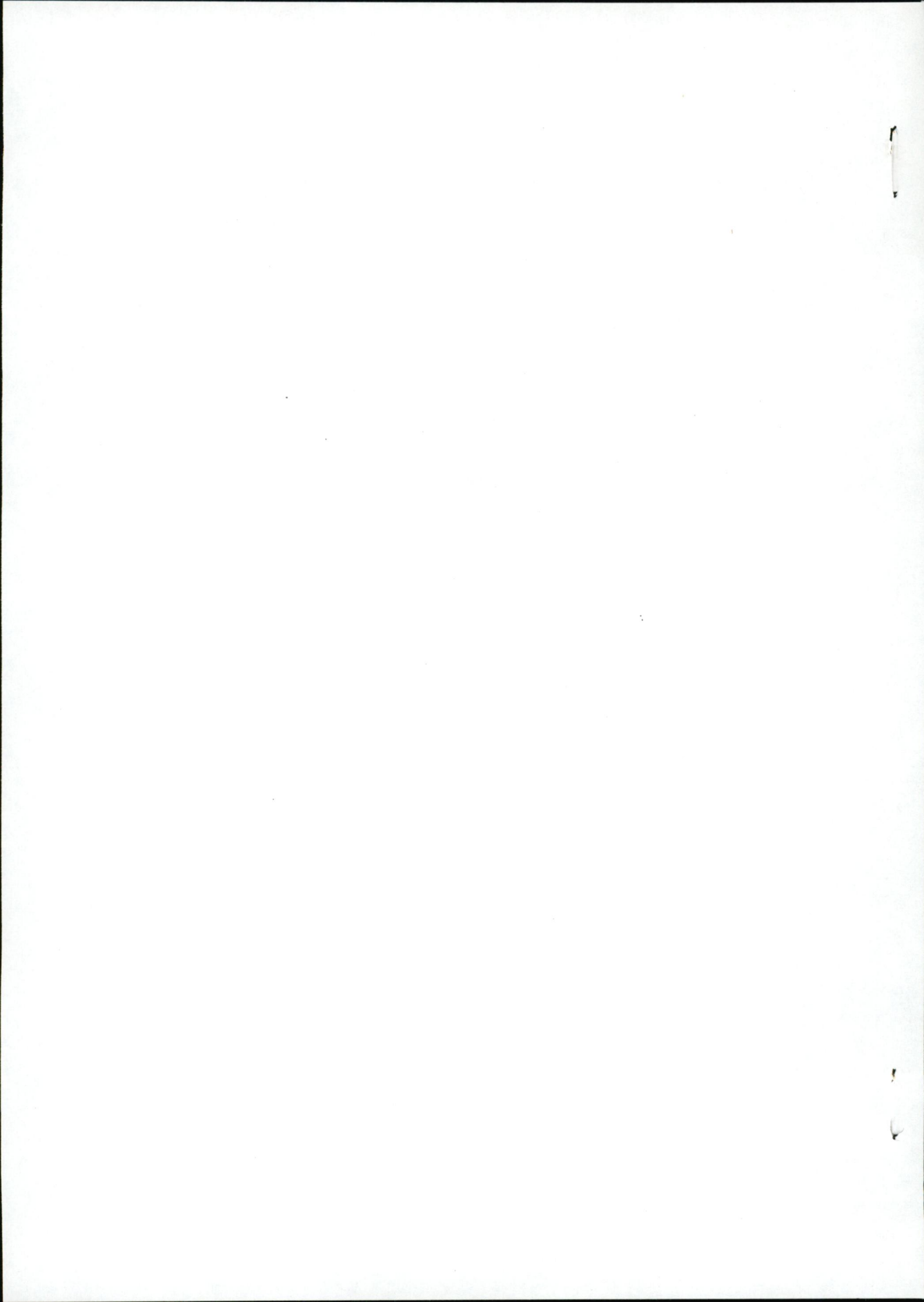


## TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Crimes Act 1900 No. 40

## SCHEDULE 1—AMENDMENTS

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**CRIMES (DOGS) AMENDMENT ACT 1993 No. 23**

**NEW SOUTH WALES**



**Act No. 23, 1993**

An Act to amend the Crimes Act 1900 to create offences concerned with attacks by dogs on persons and for related purposes. [Assented to 8 June 1993]

*Crimes (Dogs) Amendment Act 1993 No. 23*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Crimes (Dogs) Amendment Act 1993.

**Commencement**

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

**Amendment of Crimes Act 1900 No. 40**

3. The Crimes Act 1900 is amended as set out in Schedule 1.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

(1) Section 35A:

After section 35, insert:

**Maliciously cause dog to inflict grievous bodily harm or actual bodily harm**

35A. (1) **Maliciously cause dog to inflict grievous bodily harm.** A person who, having control of a dog, maliciously does any act which causes the dog to inflict grievous bodily harm on another person is liable to penal servitude for 7 years.

(2) **Maliciously cause dog to inflict actual bodily harm.** A person who, having control of a dog, maliciously does any act which causes the dog to inflict actual bodily harm on another person is liable to penal servitude for 5 years.

(3) **Alternative finding.** If, on the trial of a person for an offence under subsection (1), it appears that grievous bodily harm was not inflicted on the other person but that actual bodily harm was inflicted, the person may be found not guilty of the offence charged but guilty of an offence under subsection (2) and be liable to punishment accordingly.

(4) **Doing an act includes omitting to do the act.** In this section, a reference to the doing of an act includes a reference to omitting to do the act.

*Crimes (Dogs) Amendment Act 1993 No. 23*

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SCHEDULE 1—AMENDMENTS—*continued*

- (2) Section 476 (**Indictable offences punishable summarily with consent of accused**):

In section 476 (6) (d), after “35 (a),”, insert “35A (1),”.

- (3) Section 495 (**Indictable offences punishable summarily without consent of accused: assaults etc.**)

(a) In section 495 (1), before “56”, insert “35A (2),”.

(b) In section 495 (3), before “58”, insert “35A (2),”.

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*[Minister's second reading speech made in—  
Legislative Assembly on 21 April 1993  
Legislative Council on 19 May 1993]*

