

FIRST PRINT

SUMMARY OFFENCES (AMENDMENT) BILL 1993

NEW SOUTH WALES



EXPLANATORY NOTE

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

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

- (a) to remove the option of sentencing a person to imprisonment for the offence of using offensive language in or near, or within hearing from, a public place or a school; and
- (b) to enable the court to make an order requiring the person convicted of that offence to perform community service work instead of imposing a fine.

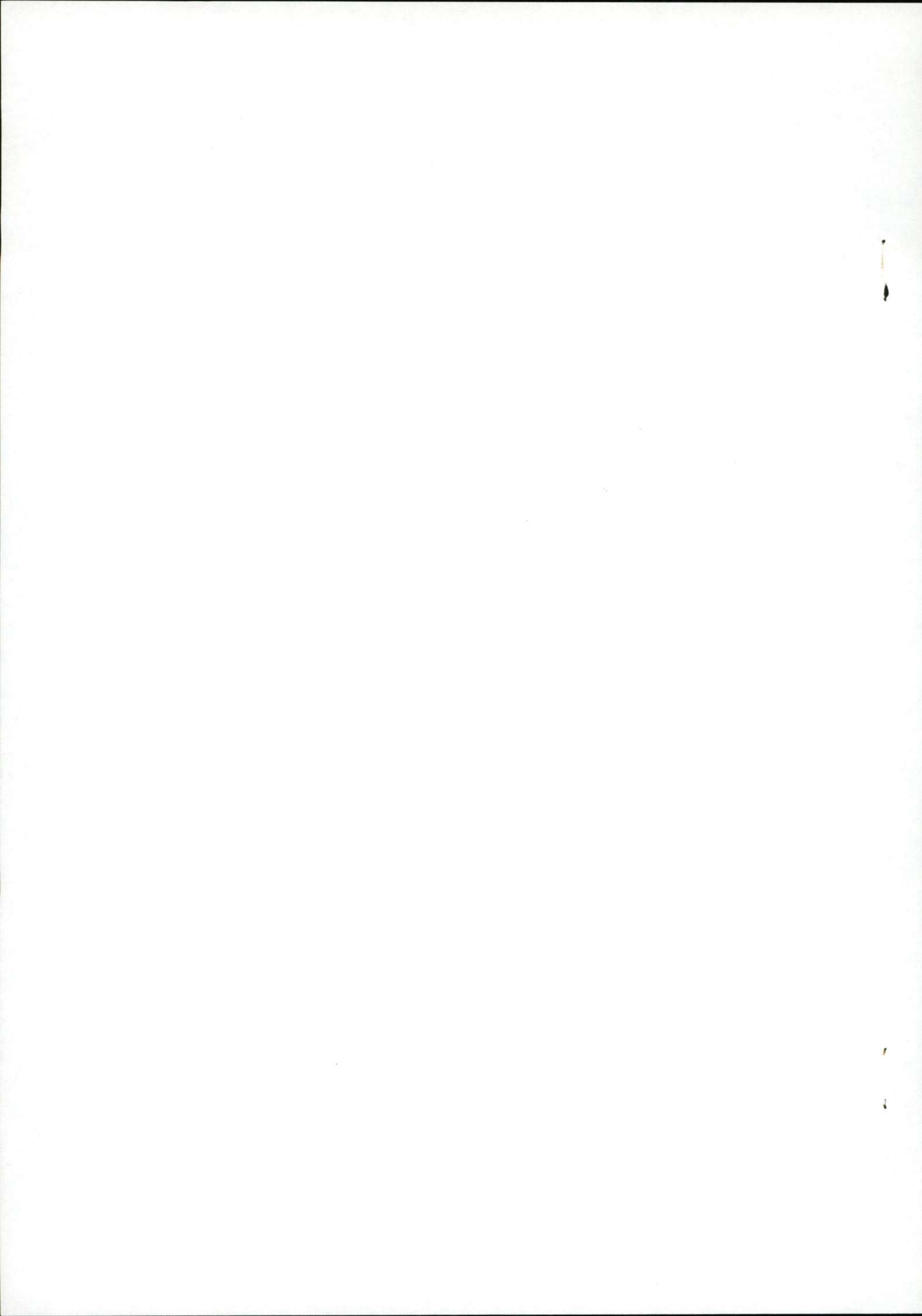
Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a proclaimed day.

Clause 3 replaces section 4 of the Act (**Offensive conduct or language**) with two sections. The new section 4 deals with the offence of behaving in an offensive manner and the new section 4A deals with the offence of using offensive language.

The effect of the amendments is to change the penalty for the offence of using offensive language in or near, or within hearing from, a public place or a school. Currently, the penalty for that offence is the same as for the offence of behaving in an offensive manner near a public place or a school (that is, \$600 or imprisonment for 3 months). The amendment will change the penalty to a \$600 fine or community service work.

Section 55 (2) of the Interpretation Act 1987 provides that if an Act reduces the penalty for an offence, the reduced penalty extends to offences committed before the commencement of the Act, although the reduction does not affect any penalty imposed before that commencement.



FIRST PRINT

SUMMARY OFFENCES (AMENDMENT) BILL 1993

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
 2. Commencement
 3. Amendment of Summary Offences Act 1988 No. 25
-

SUMMARY OFFENCES (AMENDMENT) BILL 1993

NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to amend the Summary Offences Act 1988 in relation to the
offence of using offensive language.

Summary Offences (Amendment) 1993

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Summary Offences (Amendment) Act 1993.

5 Commencement

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

Amendment of Summary Offences Act 1988 No. 25

3. The Summary Offences Act 1988 is amended by omitting section 4 and by inserting instead the following sections:

10 Offensive conduct

4. (1) A person must not conduct himself or herself in an offensive manner in or near, or within view or hearing from, a public place or a school.

Maximum penalty: 6 penalty units or imprisonment for 3 months.

15 (2) A person does not conduct himself or herself in an offensive manner as referred to in subsection (1) merely by using offensive language.

20 (3) It is a sufficient defence to a prosecution for an offence under this section if the defendant satisfies the court that the defendant had a reasonable excuse for conducting himself or herself in the manner alleged in the information for the offence.

Offensive language

4A. (1) A person must not use offensive language in or near, or within hearing from, a public place or a school.

25 Maximum penalty: 6 penalty units.

(2) It is a sufficient defence to a prosecution for an offence under this section if the defendant satisfies the court that the defendant had a reasonable excuse for conducting himself or herself in the manner alleged in the information for the offence.

30 (3) A court may, in respect of a person convicted of an offence under this section, make an order requiring the person to perform community service work instead of imposing a fine.

35 (4) The Community Service Orders Act 1979 and the regulations under that Act apply to an order to perform community service work made under this section in the same way as they apply to a community service order made by a court in the circumstances referred to in

Summary Offences (Amendment) 1993

section 4 (1) of that Act if the person in respect of whom the order was made:

- (a) had attained the age of 18 years when the offence was committed; or
- (b) had not then attained that age but had attained the age of 21 years when the person was charged before a court with the offence.

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(5) The Children (Community Service Orders) Act 1987 and the regulations under that Act apply to an order to perform community service work made under this section in the same way as they apply to a children's community service order made by a court in the circumstances referred to in section 5 (1) of that Act if the person in respect of whom the order was made:

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- (a) was under the age of 18 years when the offence was committed; and
- (b) was under the age of 21 years when charged before the court with the offence.

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(6) However, the maximum number of hours of community service work that a person may be required to perform under an order in respect of an offence under this section is 100 hours.

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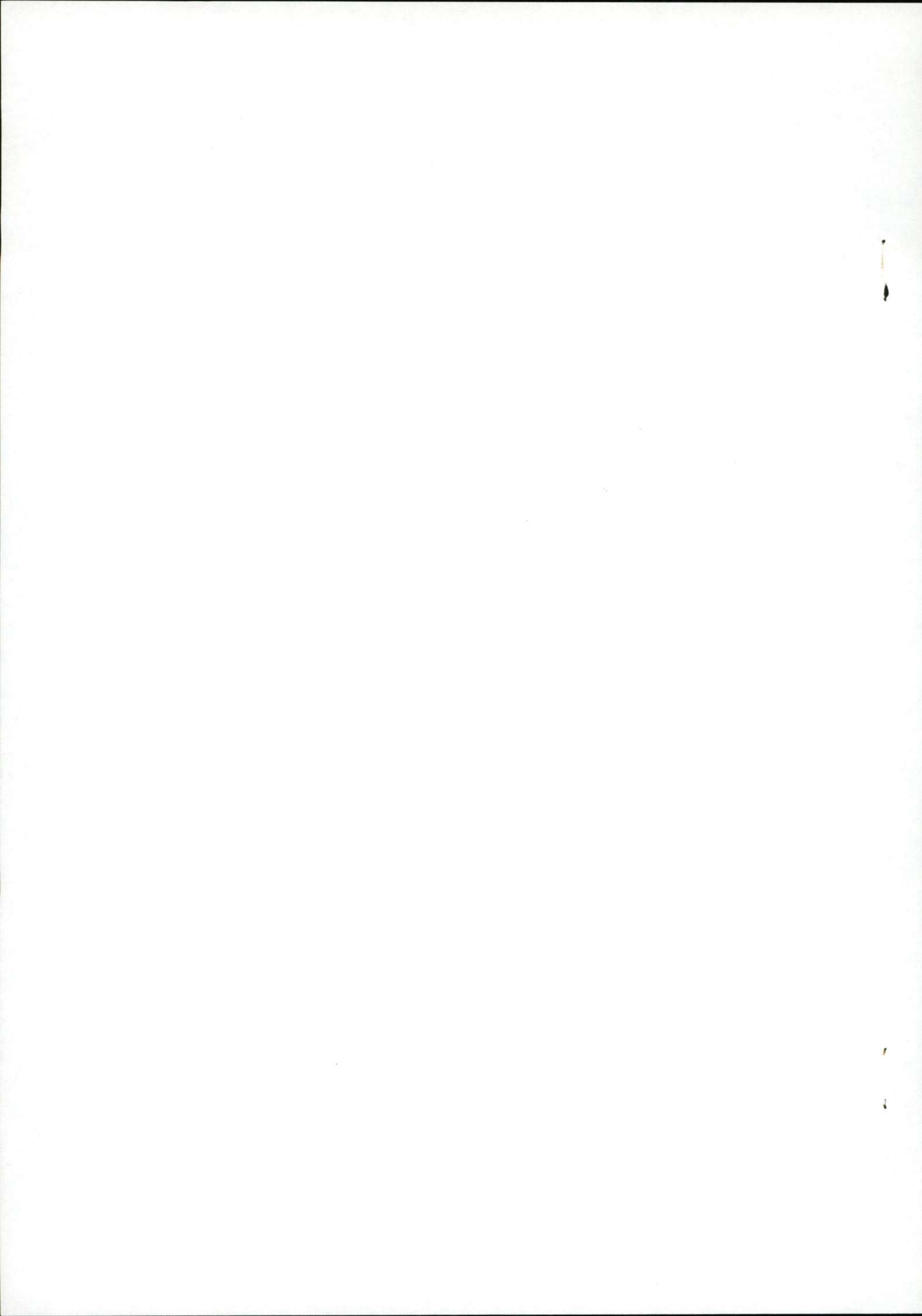
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