

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 substitute section 4 of the Summary Offences Act 1988:

- (a) to remove the existing offence of offensive language; and
- (b) to replace the existing offence of offensive conduct with a new offence of seriously offensive conduct; and
- (c) to remove imprisonment (currently a maximum of 3 months) from the penalties available for the new offence.

Currently section 4 of the Act makes it an offence for a person:

- (a) to conduct himself or herself in an offensive manner in or near, or within view or hearing from, a public place or a school; or
- (b) to use offensive language in or near, or within hearing from, a public place or a school.

The maximum penalty under the existing section is 6 penalty units (currently \$600) or imprisonment for 3 months.

The new section will make it an offence for a person, in or near, or within view or hearing from, a public place or a school, to conduct himself or herself in a manner which is seriously offensive.

The new offence will have a maximum penalty of 10 penalty units (currently \$1000).

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 makes the amendments described above.

FIRST PRINT

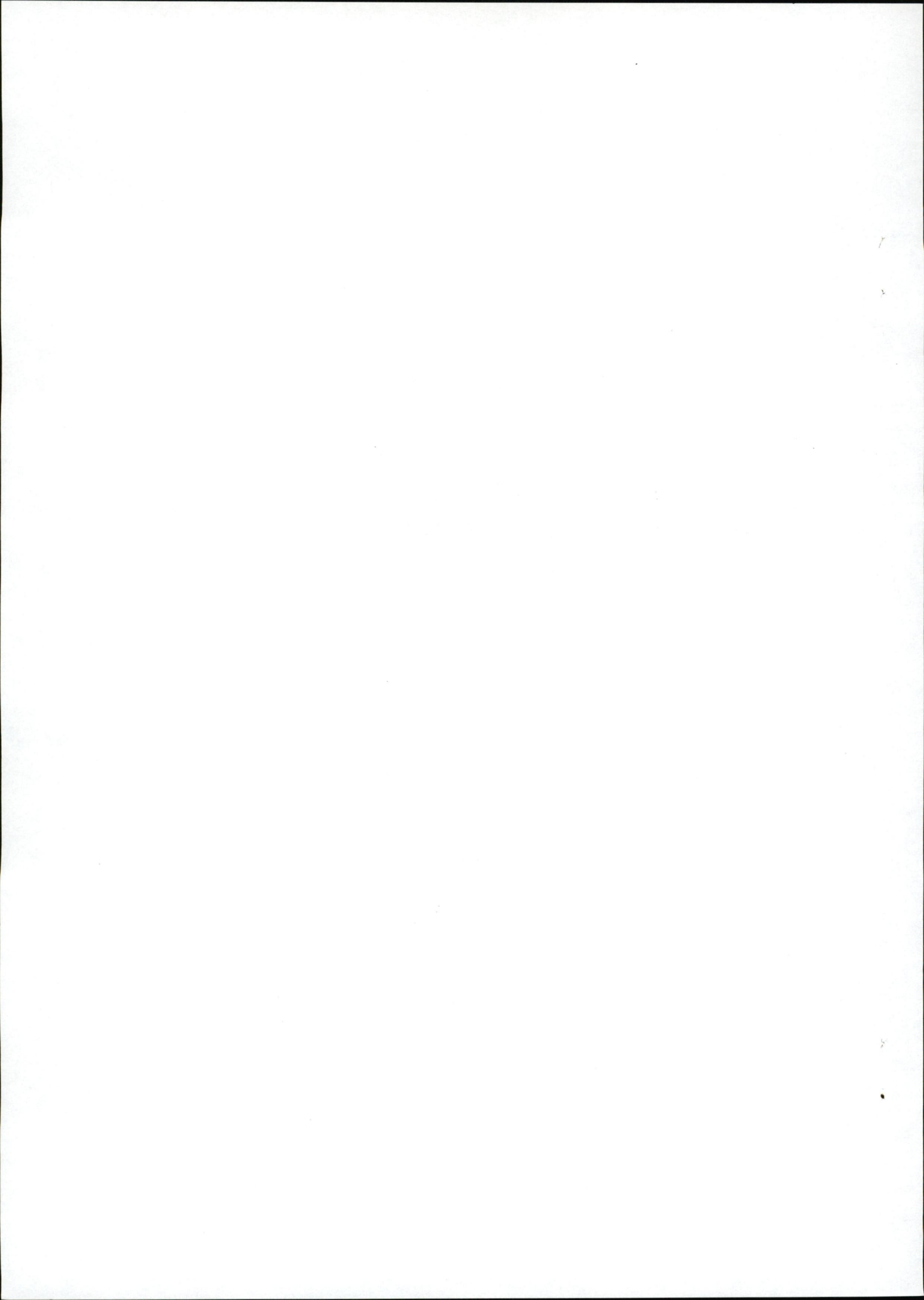
SUMMARY OFFENCES (AMENDMENT) BILL 1993

NEW SOUTH WALES



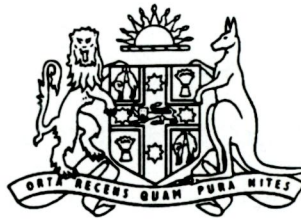
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SUMMARY OFFENCES (AMENDMENT) BILL 1993

NEW SOUTH WALES



No. , 1993

A BILL FOR

An Act to amend the Summary Offences Act 1988 to make further provision with respect to the offence concerning offensive conduct or language; and for related purposes.

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 the date of assent.

Amendment of Summary Offences Act 1988 No. 25

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

10 Seriously offensive conduct

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

Maximum penalty: 10 penalty units.

15 (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.

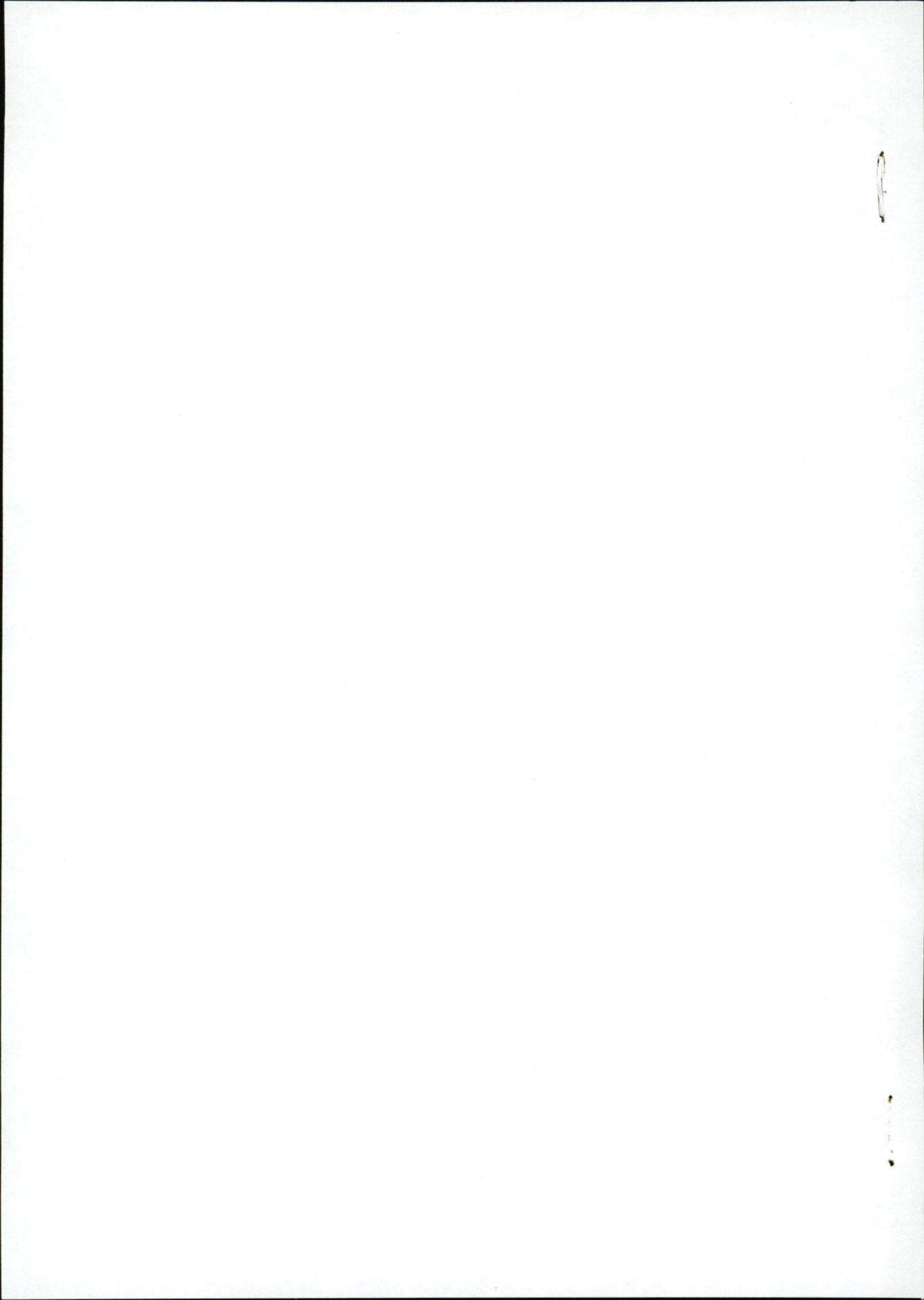
SUMMARY OFFENCES (AMENDMENT) ACT 1993 No. 84

NEW SOUTH WALES



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SUMMARY OFFENCES (AMENDMENT) ACT 1993 No. 84

NEW SOUTH WALES



Act No. 84, 1993

An Act to amend the Summary Offences Act 1988 in relation to the offence of using offensive language. [Assented to 24 November 1993]

The Legislature of New South Wales enacts:

Short title

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

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:

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.

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

(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.

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.

(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.

(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) Act 1993 No. 84

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.

(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:

- (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.

(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.

[Minister's second reading speech made in—
Legislative Assembly on 27 October 1993
Legislative Council on 16 November 1993]

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