

FIRST PRINT

**SUMMARY OFFENCES AND OTHER LEGISLATION
(GRAFFITI) AMENDMENT BILL 1994**

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Children (Parental Responsibility) Bill 1994.

The objects of this Bill are:

- (a) to amend the Summary Offences Act 1988 so as:
 - (i) to make it an offence to damage or deface property by means of spray paint; and
 - (ii) to make it an offence to possess spray paint with the intention of using it to damage or deface property; and
- (b) to amend the Community Service Orders Act 1979 and the Children (Community Service Orders) Act 1987 so as:
 - (i) to enable community service orders under those Acts to recommend that the community service work to be performed by a person against whom such an order is made should include the removal of graffiti from buildings, vehicles, vessels and places and the restoration of the appearance of those buildings, vehicles, vessels and places; and
 - (ii) to require the work performed by a person in respect of whom such a recommendation is made to include, if practicable, work of that kind.

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 the Governor by proclamation published in the Gazette.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Summary Offences Act 1988.

Summary Offences and Other Legislation (Graffiti) Amendment 1994

Clause 4 is a formal provision that gives effect to the Schedule of amendments to the Community Service Orders Act 1979.

Clause 5 is a formal provision that gives effect to the Schedule of amendments to the Children (Community Service Orders) Act 1987.

SCHEDULE 1—AMENDMENT OF SUMMARY OFFENCES ACT 1988

Schedule 1 (1) inserts definitions of “spray can” and “spray paint” into section 3.

Schedule 1 (2) makes a consequential amendment to the heading to Part 2 in recognition of the application of proposed sections 10A and 10B in places other than public places.

Schedule 1 (3) inserts proposed sections 10A and 10B into the Act.

Proposed section 10A makes it an offence for a person to wilfully damage or deface premises or other property by means of spray paint. The proposed maximum penalty for such an offence is 20 penalty units or imprisonment for 12 months.

Proposed section 10B makes it an offence for a person to have spray paint in the person’s possession with the intention that it should be used to damage or deface premises or other property. The proposed maximum penalty for such an offence is 10 penalty units or imprisonment for 6 months. The proposed section provides for the forfeiture of the spray paint in the event that the defendant is convicted of the offence.

SCHEDULE 2—AMENDMENT OF COMMUNITY SERVICE ORDERS ACT 1979

Schedule 2 (1) and (3) amend sections 4 and 26A so as to enable community service orders to recommend that the work to be performed by a person against whom such an order is made should include the removal of graffiti from buildings, vehicles, vessels and places and the restoration of the appearance of those buildings, vehicles, vessels and places.

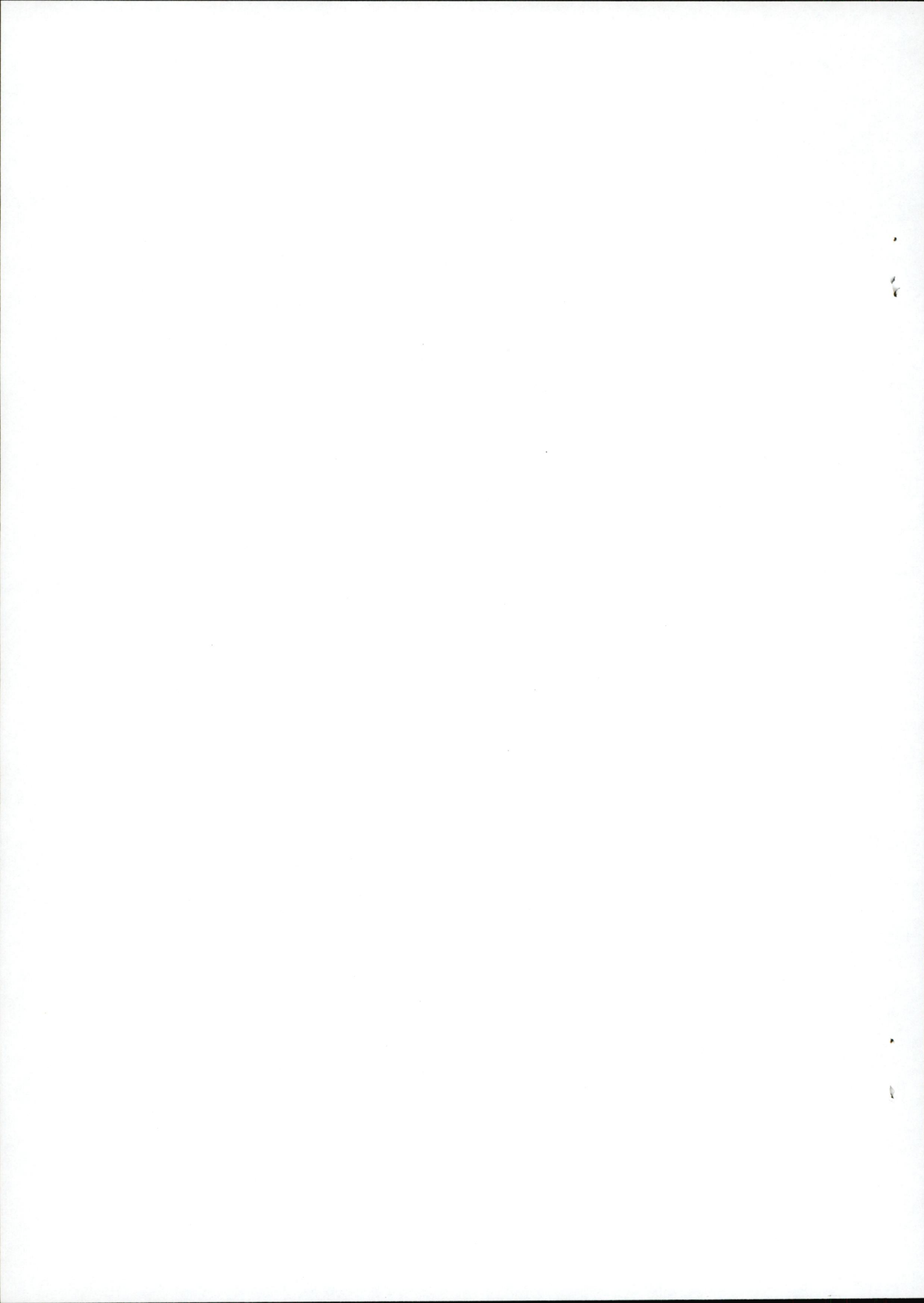
Schedule 2 (2) amends section 14 so as to require the community service work to be performed by a person in respect of whom such a recommendation is made to include, if practicable, the removal of graffiti from buildings, vehicles, vessels and places and the restoration of the appearance of those buildings, vehicles, vessels and places.

SCHEDULE 3—AMENDMENT OF CHILDREN (COMMUNITY SERVICE ORDERS) ACT 1987

Schedule 3 (1) and (2) amend sections 5 and 5A so as to enable community service orders to recommend that the work to be performed by a person against whom such an order is made should include the removal of graffiti from buildings, vehicles, vessels and places and the restoration of the appearance of those buildings, vehicles, vessels and places.

Summary Offences and Other Legislation (Graffiti) Amendment 1994

Schedule 3 (3) amends section 17 so as to require the community service work to be performed by a person in respect of whom such a recommendation is made to include, if practicable, the removal of graffiti from buildings, vehicles, vessels and places and the restoration of the appearance of those buildings, vehicles, vessels and places.



FIRST PRINT

**SUMMARY OFFENCES AND OTHER LEGISLATION
(GRAFFITI) AMENDMENT BILL 1994**

NEW SOUTH WALES



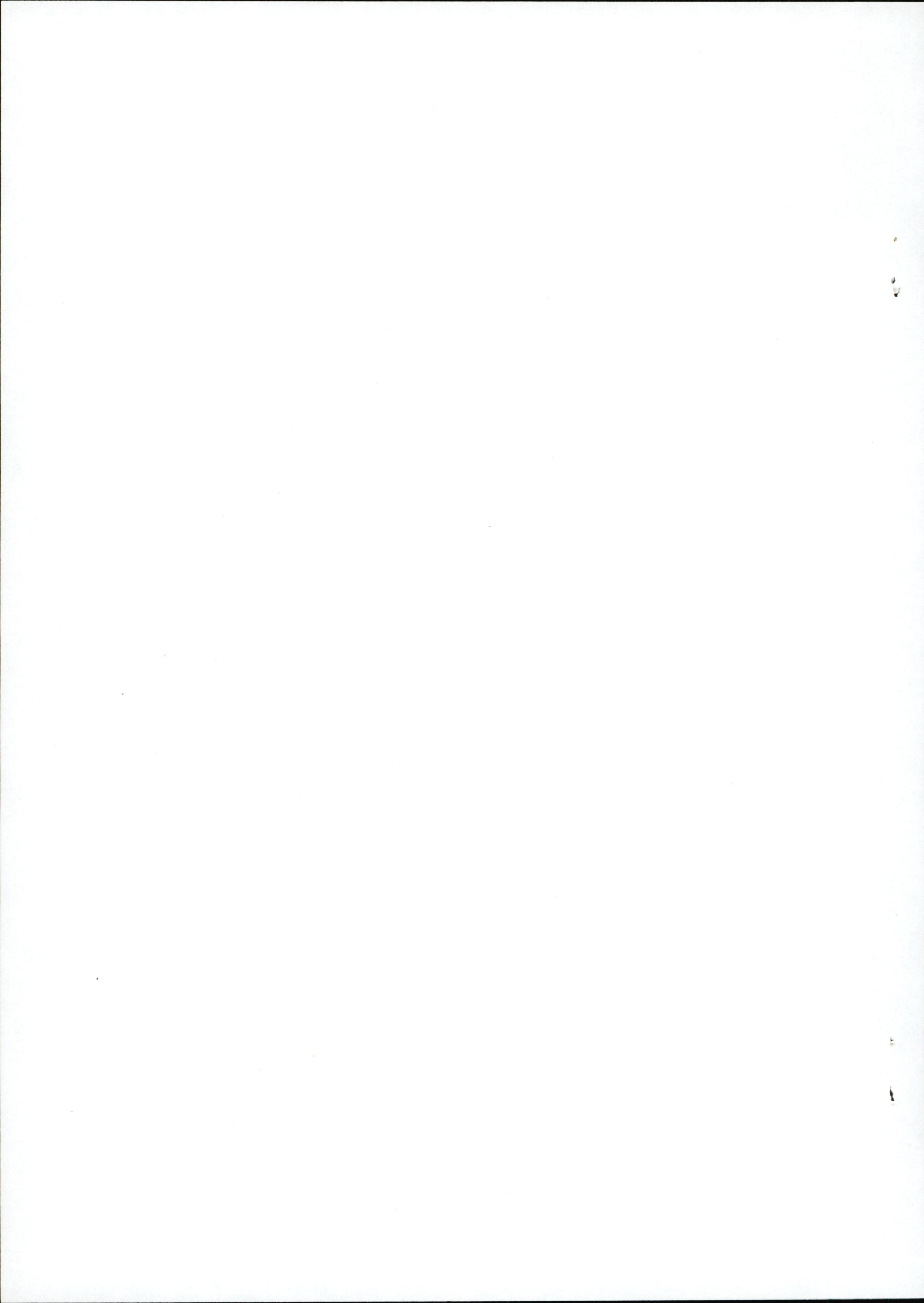
TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Summary Offences Act 1988 No. 25
4. Amendment of Community Service Orders Act 1979 No. 192
5. Amendment of Children (Community Service Orders) Act 1987 No. 56

SCHEDULE 1—AMENDMENT OF SUMMARY OFFENCES ACT 1988

SCHEDULE 2—AMENDMENT OF COMMUNITY SERVICE ORDERS ACT 1979

SCHEDULE 3—AMENDMENT OF CHILDREN (COMMUNITY SERVICE ORDERS) ACT 1987



**SUMMARY OFFENCES AND OTHER LEGISLATION
(GRAFFITI) AMENDMENT BILL 1994**

NEW SOUTH WALES



No. , 1994

A BILL FOR

An Act to amend the Summary Offences Act 1988 with respect to the possession and use of spray cans, and the Community Service Orders Act 1979 and the Children (Community Service Orders) Act 1987 so as to encourage the removal of graffiti as a preferred form of community service work; and for other purposes.

Summary Offences and Other Legislation (Graffiti) Amendment 1994

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Summary Offences and Other Legislation (Graffiti) Amendment Act 1994.

5 **Commencement**

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

Amendment of Summary Offences Act 1988 No. 25

10 3. The Summary Offences Act 1988 is amended as set out in Schedule 1.

Amendment of Community Service Orders Act 1979 No. 192

4. The Community Service Orders Act 1979 is amended as set out in Schedule 2.

15 **Amendment of Children (Community Service Orders) Act 1987 No. 56**

5. The Children (Community Service Orders) Act 1987 is amended as set out in Schedule 3.

SCHEDULE 1—AMENDMENT OF SUMMARY OFFENCES ACT 1988

20 (Sec. 3)

(1) Section 3 (**Definitions**):

In section 3 (1), insert, in alphabetical order:

25 “**spray can**” includes anything that is made or adapted for use for emitting a liquid or substance and that operates by means of air, gas or vapour pressure;

“**spray paint**” includes any liquid or other substance that is designed to stain, mark or corrode and to be applied from a spray can, and includes the spray can;

(2) Part 2, heading:

30 After “PUBLIC”, insert “AND OTHER”.

Summary Offences and Other Legislation (Graffiti) Amendment 1994

SCHEDULE 1—AMENDMENT OF SUMMARY OFFENCES ACT
1988—*continued*

(3) Sections 10A, 10B:

After section 10, insert:

Damaging and defacing property by means of spray paint 5

10A. A person must not, without reasonable excuse (proof of which lies on the person), wilfully damage or deface any premises or other property by means of spray paint. 10

Maximum penalty: 20 penalty units or imprisonment for 12 months.

Possession of spray paint

10B. (1) A person must not have spray paint in the person's possession with the intention that it should be used to damage or deface premises or other property. 15

Maximum penalty: 10 penalty units or imprisonment for 6 months.

(2) If a person is convicted of an offence under this section, the court may, in addition to any other penalty it may impose, make an order that the spray paint be forfeited to the Crown, and the spray paint is forfeited accordingly. 20

SCHEDULE 2—AMENDMENT OF COMMUNITY SERVICE
ORDERS ACT 1979 25

(Sec. 4)

(1) Section 4 (Community service orders in respect of convicted persons):

After section 4 (1), insert:

(1A) An order under this section may recommend that the community service work to be performed by the person in respect of whom the order is made should include: 30

(a) the removal of graffiti from buildings, vehicles, vessels and places; and

(b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them. 35

Summary Offences and Other Legislation (Graffiti) Amendment 1994

**SCHEDULE 2—AMENDMENT OF COMMUNITY SERVICE
ORDERS ACT 1979—*continued***

**(2) Section 14 (Obligations of persons in respect of whom orders
are in force):**

5 At the end of the section, insert:

(2) The work to be performed by a person in respect of
whom a community service order is in force (being an
order containing a recommendation referred to in section 4
(1A) or 26A (1AA)) must, if practicable, include:

- 10 (a) the removal of graffiti from buildings, vehicles,
 vessels and places; and
- (b) the restoration of the appearance of buildings,
 vehicles, vessels and places consequent on the
 removal of graffiti from them.

15 **(3) Section 26A (Community service work in default of payment
of fine):**

 After section 26A (1), insert:

 (1AA) An order under this section may recommend that
the community service work to be performed by the person
in respect of whom the order is made should include:

- 20 (a) the removal of graffiti from buildings, vehicles,
 vessels and places; and
- (b) the restoration of the appearance of buildings,
 vehicles, vessels and places consequent on the
25 removal of graffiti from them.

**SCHEDULE 3—AMENDMENT OF CHILDREN (COMMUNITY
SERVICE ORDERS) ACT 1987**

(Sec. 5)

(1) Section 5 (Making of children's community service orders):

30 After section 5 (1), insert:

(1A) An order under this section may recommend that
the community service work to be performed by the person
in respect of whom the order is made should include:

- 35 (a) the removal of graffiti from buildings, vehicles,
 vessels and places; and

Summary Offences and Other Legislation (Graffiti) Amendment 1994

SCHEDULE 3—AMENDMENT OF CHILDREN (COMMUNITY SERVICE ORDERS) ACT 1987—*continued*

- (b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them. 5
- (2) Section 5A (**Community service work in default of payment of fine**):
- After section 5A (1), insert:
- (1AA) An order under this section may recommend that the community service work to be performed by the person in respect of whom the order is made should include: 10
- (a) the removal of graffiti from buildings, vehicles, vessels and places; and
- (b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them. 15
- (3) Section 17 (**Obligations of persons subject to children's community service orders**):
- At the end of the section, insert:
- (2) The work to be performed by a person in respect of whom a children's community service order is in force (being an order containing a recommendation referred to in section 5 (1A) or 5A (1AA)) must, if practicable, include: 20
- (a) the removal of graffiti from buildings, vehicles, vessels and places; and 25
- (b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them.
-

FIRST PRINT

**SUMMARY OFFENCES AND OTHER LEGISLATION
(GRAFFITI) AMENDMENT BILL 1994**

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Children (Parental Responsibility) Bill 1994.

The objects of this Bill are:

- (a) to amend the Summary Offences Act 1988 so as:
 - (i) to make it an offence to damage or deface property by means of spray paint; and
 - (ii) to make it an offence to possess spray paint with the intention of using it to damage or deface property; and
- (b) to amend the Community Service Orders Act 1979 and the Children (Community Service Orders) Act 1987 so as:
 - (i) to enable community service orders under those Acts to recommend that the community service work to be performed by a person against whom such an order is made should include the removal of graffiti from buildings, vehicles, vessels and places and the restoration of the appearance of those buildings, vehicles, vessels and places; and
 - (ii) to require the work performed by a person in respect of whom such a recommendation is made to include, if practicable, work of that kind.

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 the Governor by proclamation published in the Gazette.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Summary Offences Act 1988.

Summary Offences and Other Legislation (Graffiti) Amendment 1994

Clause 4 is a formal provision that gives effect to the Schedule of amendments to the Community Service Orders Act 1979.

Clause 5 is a formal provision that gives effect to the Schedule of amendments to the Children (Community Service Orders) Act 1987.

SCHEDULE 1—AMENDMENT OF SUMMARY OFFENCES ACT 1988

Schedule 1 (1) inserts definitions of “spray can” and “spray paint” into section 3.

Schedule 1 (2) makes a consequential amendment to the heading to Part 2 in recognition of the application of proposed sections 10A and 10B in places other than public places.

Schedule 1 (3) inserts proposed sections 10A and 10B into the Act.

Proposed section 10A makes it an offence for a person to wilfully damage or deface premises or other property by means of spray paint. The proposed maximum penalty for such an offence is 20 penalty units or imprisonment for 12 months.

Proposed section 10B makes it an offence for a person to have spray paint in the person’s possession with the intention that it should be used to damage or deface premises or other property. The proposed maximum penalty for such an offence is 10 penalty units or imprisonment for 6 months. The proposed section provides for the forfeiture of the spray paint in the event that the defendant is convicted of the offence.

SCHEDULE 2—AMENDMENT OF COMMUNITY SERVICE ORDERS ACT 1979

Schedule 2 (1) and (3) amend sections 4 and 26A so as to enable community service orders to recommend that the work to be performed by a person against whom such an order is made should include the removal of graffiti from buildings, vehicles, vessels and places and the restoration of the appearance of those buildings, vehicles, vessels and places.

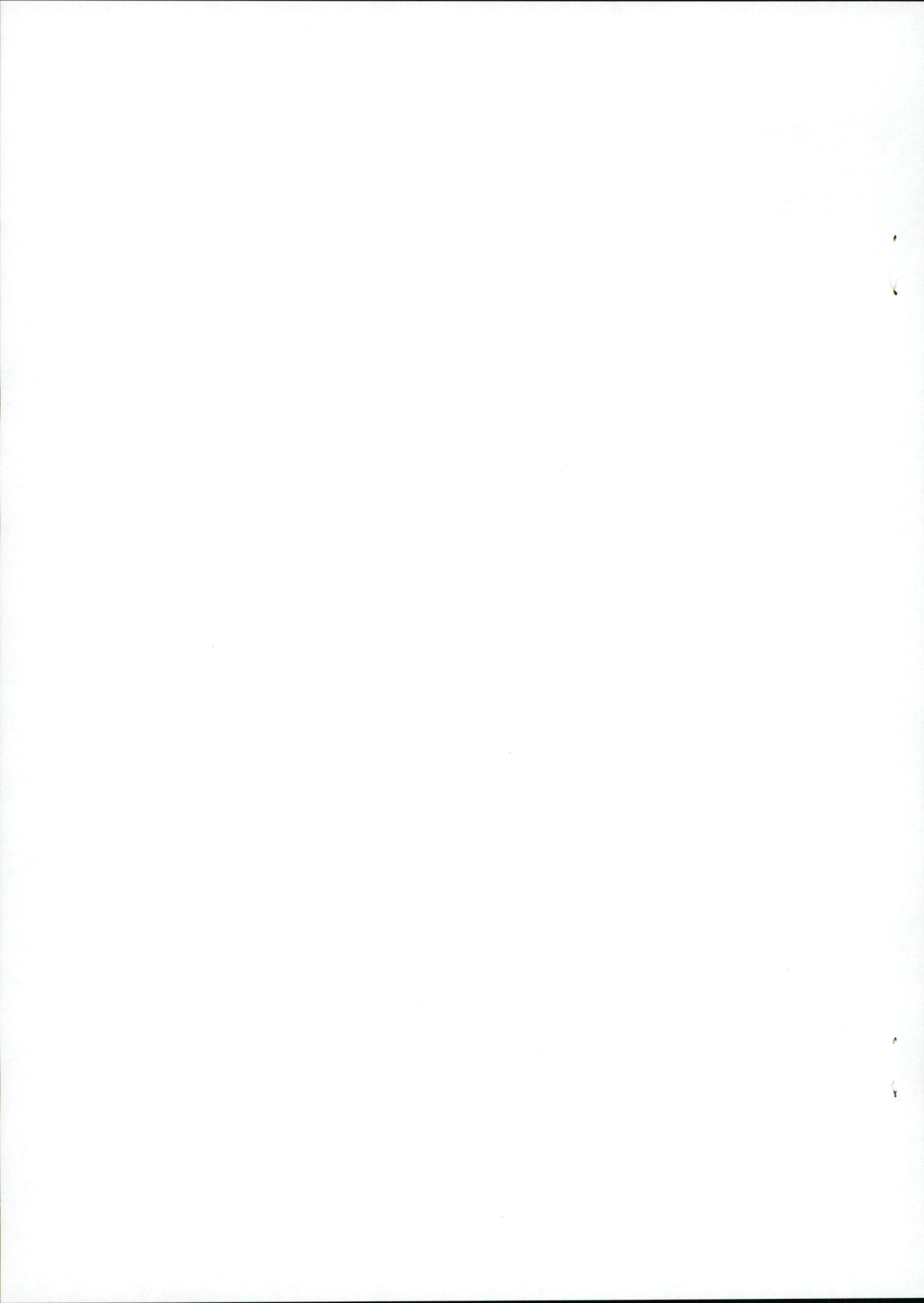
Schedule 2 (2) amends section 14 so as to require the community service work to be performed by a person in respect of whom such a recommendation is made to include, if practicable, the removal of graffiti from buildings, vehicles, vessels and places and the restoration of the appearance of those buildings, vehicles, vessels and places.

SCHEDULE 3—AMENDMENT OF CHILDREN (COMMUNITY SERVICE ORDERS) ACT 1987

Schedule 3 (1) and (2) amend sections 5 and 5A so as to enable community service orders to recommend that the work to be performed by a person against whom such an order is made should include the removal of graffiti from buildings, vehicles, vessels and places and the restoration of the appearance of those buildings, vehicles, vessels and places.

Summary Offences and Other Legislation (Graffiti) Amendment 1994

Schedule 3 (3) amends section 17 so as to require the community service work to be performed by a person in respect of whom such a recommendation is made to include, if practicable, the removal of graffiti from buildings, vehicles, vessels and places and the restoration of the appearance of those buildings, vehicles, vessels and places.



FIRST PRINT

**SUMMARY OFFENCES AND OTHER LEGISLATION
(GRAFFITI) AMENDMENT BILL 1994**

NEW SOUTH WALES



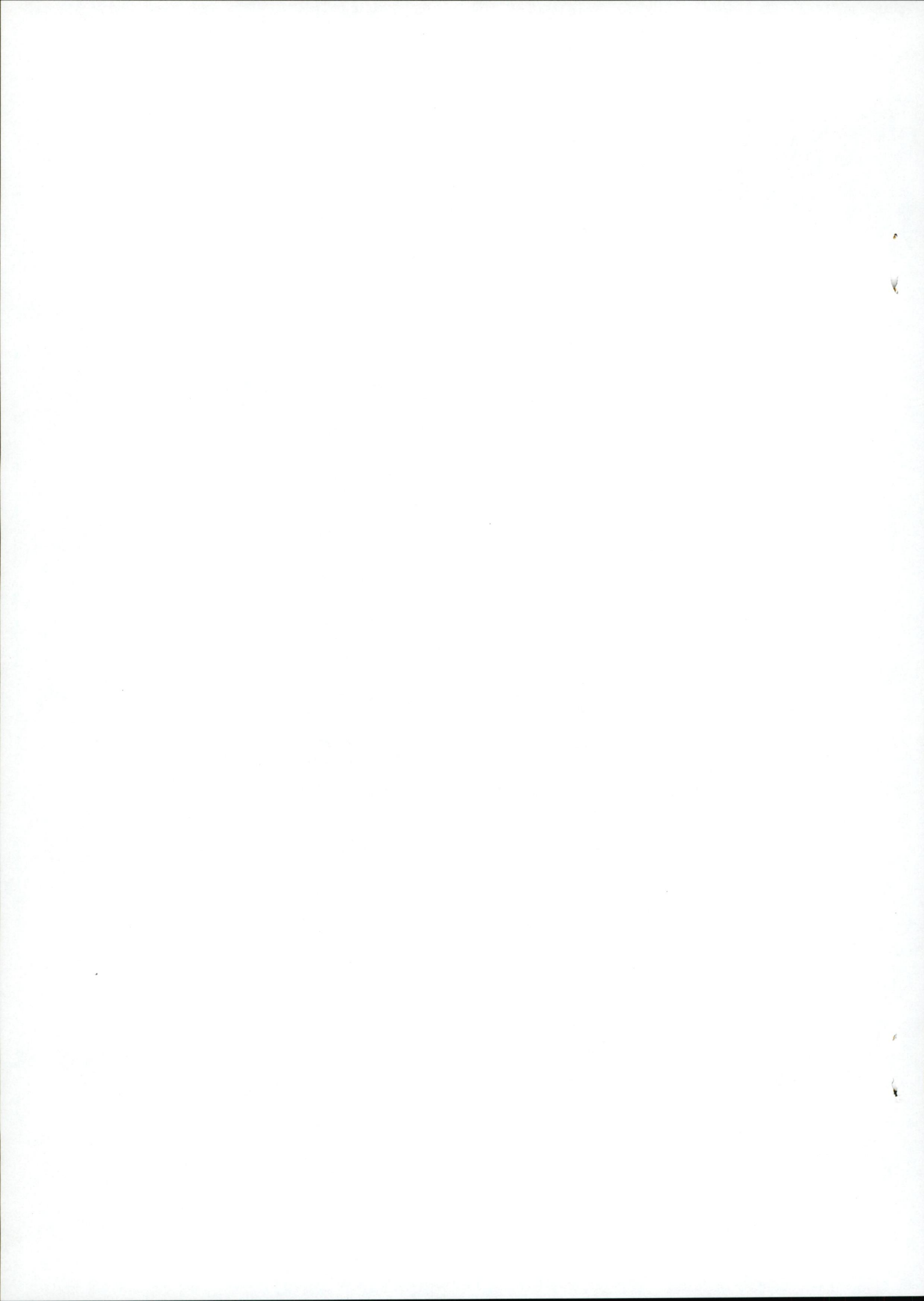
TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Summary Offences Act 1988 No. 25
4. Amendment of Community Service Orders Act 1979 No. 192
5. Amendment of Children (Community Service Orders) Act 1987 No. 56

SCHEDULE 1—AMENDMENT OF SUMMARY OFFENCES ACT 1988

SCHEDULE 2—AMENDMENT OF COMMUNITY SERVICE ORDERS ACT 1979

SCHEDULE 3—AMENDMENT OF CHILDREN (COMMUNITY SERVICE ORDERS) ACT 1987



**SUMMARY OFFENCES AND OTHER LEGISLATION
(GRAFFITI) AMENDMENT BILL 1994**

NEW SOUTH WALES



No. , 1994

A BILL FOR

An Act to amend the Summary Offences Act 1988 with respect to the possession and use of spray cans, and the Community Service Orders Act 1979 and the Children (Community Service Orders) Act 1987 so as to encourage the removal of graffiti as a preferred form of community service work; and for other purposes.

Summary Offences and Other Legislation (Graffiti) Amendment 1994

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Summary Offences and Other Legislation (Graffiti) Amendment Act 1994.

5 **Commencement**

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

Amendment of Summary Offences Act 1988 No. 25

10 3. The Summary Offences Act 1988 is amended as set out in Schedule 1.

Amendment of Community Service Orders Act 1979 No. 192

4. The Community Service Orders Act 1979 is amended as set out in Schedule 2.

15 **Amendment of Children (Community Service Orders) Act 1987 No. 56**

5. The Children (Community Service Orders) Act 1987 is amended as set out in Schedule 3.

SCHEDULE 1—AMENDMENT OF SUMMARY OFFENCES ACT 1988

20 (Sec. 3)

(1) Section 3 (**Definitions**):

In section 3 (1), insert, in alphabetical order:

25 “**spray can**” includes anything that is made or adapted for use for emitting a liquid or substance and that operates by means of air, gas or vapour pressure;

“**spray paint**” includes any liquid or other substance that is designed to stain, mark or corrode and to be applied from a spray can, and includes the spray can;

(2) Part 2, heading:

30 After “PUBLIC”, insert “AND OTHER”.

Summary Offences and Other Legislation (Graffiti) Amendment 1994

**SCHEDULE 1—AMENDMENT OF SUMMARY OFFENCES ACT
1988—continued**

(3) Sections 10A, 10B:

After section 10, insert:

**Damaging and defacing property by means of spray
paint** 5

10A. A person must not, without reasonable excuse (proof of which lies on the person), wilfully damage or deface any premises or other property by means of spray paint. 10

Maximum penalty: 20 penalty units or imprisonment for 12 months.

Possession of spray paint

10B. (1) A person must not have spray paint in the person's possession with the intention that it should be used to damage or deface premises or other property. 15

Maximum penalty: 10 penalty units or imprisonment for 6 months.

(2) If a person is convicted of an offence under this section, the court may, in addition to any other penalty it may impose, make an order that the spray paint be forfeited to the Crown, and the spray paint is forfeited accordingly. 20

**SCHEDULE 2—AMENDMENT OF COMMUNITY SERVICE
ORDERS ACT 1979** 25

(Sec. 4)

(1) Section 4 (**Community service orders in respect of convicted persons**):

After section 4 (1), insert:

(1A) An order under this section may recommend that the community service work to be performed by the person in respect of whom the order is made should include: 30

(a) the removal of graffiti from buildings, vehicles, vessels and places; and

(b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them. 35

Summary Offences and Other Legislation (Graffiti) Amendment 1994

**SCHEDULE 2—AMENDMENT OF COMMUNITY SERVICE
ORDERS ACT 1979—*continued***

**(2) Section 14 (Obligations of persons in respect of whom orders
are in force):**

5 At the end of the section, insert:

(2) The work to be performed by a person in respect of
whom a community service order is in force (being an
order containing a recommendation referred to in section 4
(1A) or 26A (1AA)) must, if practicable, include:

- 10 (a) the removal of graffiti from buildings, vehicles,
 vessels and places; and
- (b) the restoration of the appearance of buildings,
 vehicles, vessels and places consequent on the
 removal of graffiti from them.

15 **(3) Section 26A (Community service work in default of payment
of fine):**

 After section 26A (1), insert:

(1AA) An order under this section may recommend that
the community service work to be performed by the person
in respect of whom the order is made should include:

- 20 (a) the removal of graffiti from buildings, vehicles,
 vessels and places; and
- (b) the restoration of the appearance of buildings,
 vehicles, vessels and places consequent on the
25 removal of graffiti from them.

**SCHEDULE 3—AMENDMENT OF CHILDREN (COMMUNITY
SERVICE ORDERS) ACT 1987**

(Sec. 5)

(1) Section 5 (Making of children's community service orders):

30 After section 5 (1), insert:

(1A) An order under this section may recommend that
the community service work to be performed by the person
in respect of whom the order is made should include:

- 35 (a) the removal of graffiti from buildings, vehicles,
 vessels and places; and

Summary Offences and Other Legislation (Graffiti) Amendment 1994

SCHEDULE 3—AMENDMENT OF CHILDREN (COMMUNITY SERVICE ORDERS) ACT 1987—*continued*

- (b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them. 5
- (2) Section 5A (**Community service work in default of payment of fine**):
- After section 5A (1), insert:
- (1AA) An order under this section may recommend that the community service work to be performed by the person in respect of whom the order is made should include: 10
- (a) the removal of graffiti from buildings, vehicles, vessels and places; and
- (b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them. 15
- (3) Section 17 (**Obligations of persons subject to children's community service orders**):
- At the end of the section, insert:
- (2) The work to be performed by a person in respect of whom a children's community service order is in force (being an order containing a recommendation referred to in section 5 (1A) or 5A (1AA)) must, if practicable, include: 20
- (a) the removal of graffiti from buildings, vehicles, vessels and places; and 25
- (b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them.
-

SECOND PRINT

**SUMMARY OFFENCES AND OTHER LEGISLATION
(GRAFFITI) AMENDMENT BILL 1994**

NEW SOUTH WALES



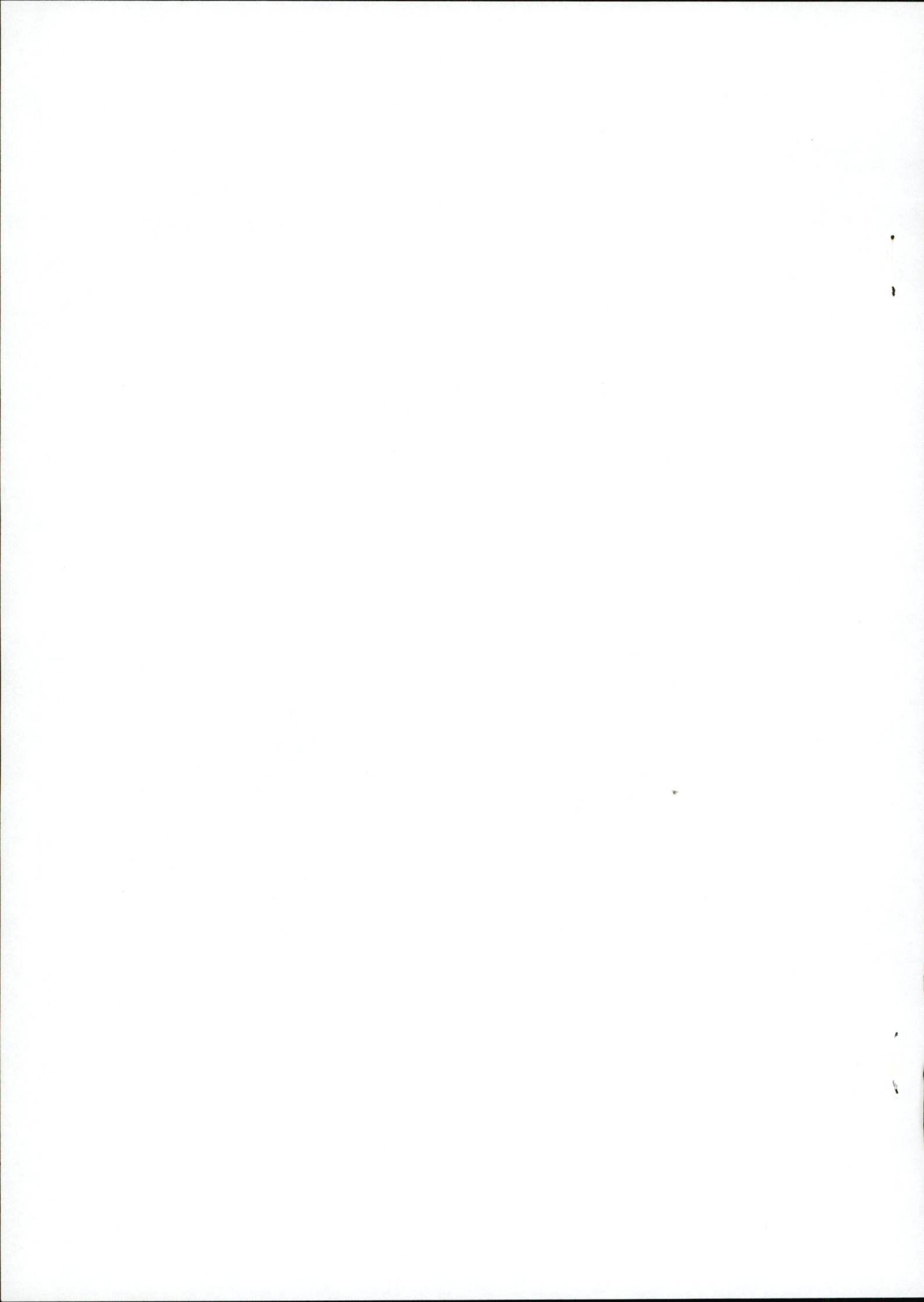
TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Summary Offences Act 1988 No. 25
4. Amendment of Community Service Orders Act 1979 No. 192
5. Amendment of Children (Community Service Orders) Act 1987 No. 56

SCHEDULE 1—AMENDMENT OF SUMMARY OFFENCES ACT 1988

SCHEDULE 2—AMENDMENT OF COMMUNITY SERVICE ORDERS ACT
1979

SCHEDULE 3—AMENDMENT OF CHILDREN (COMMUNITY SERVICE
ORDERS) ACT 1987



This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly.

NEW SOUTH WALES



Act No. , 1994

An Act to amend the Summary Offences Act 1988 with respect to the possession and use of spray cans, and the Community Service Orders Act 1979 and the Children (Community Service Orders) Act 1987 so as to encourage the removal of graffiti as a preferred form of community service work; and for other purposes.

Summary Offences and Other Legislation (Graffiti) Amendment 1994

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Summary Offences and Other Legislation (Graffiti) Amendment Act 1994.

5 **Commencement**

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

Amendment of Summary Offences Act 1988 No. 25

10 3. The Summary Offences Act 1988 is amended as set out in Schedule 1.

Amendment of Community Service Orders Act 1979 No. 192

4. The Community Service Orders Act 1979 is amended as set out in Schedule 2.

15 **Amendment of Children (Community Service Orders) Act 1987 No. 56**

5. The Children (Community Service Orders) Act 1987 is amended as set out in Schedule 3.

SCHEDULE 1—AMENDMENT OF SUMMARY OFFENCES ACT 1988

20 (Sec. 3)

(1) Section 3 (**Definitions**):

In section 3 (1), insert, in alphabetical order:

25 “**spray can**” includes anything that is made or adapted for use for emitting a liquid or substance and that operates by means of air, gas or vapour pressure;

“**spray paint**” includes any liquid or other substance that is designed to stain, mark or corrode and to be applied from a spray can, and includes the spray can;

(2) Part 2, heading:

30 After “PUBLIC”, insert “AND OTHER”.

Summary Offences and Other Legislation (Graffiti) Amendment 1994

SCHEDULE 1—AMENDMENT OF SUMMARY OFFENCES ACT
1988—*continued*

(3) Sections 10A, 10B:

After section 10, insert:

Damaging and defacing property by means of spray paint 5

10A. A person must not, without reasonable excuse (proof of which lies on the person), wilfully damage or deface any premises or other property by means of spray paint. 10

Maximum penalty: 20 penalty units or imprisonment for 6 months.

Possession of spray paint

10B. (1) A person must not have spray paint in the person's possession with the intention that it should be used to damage or deface premises or other property. 15

Maximum penalty: 10 penalty units or imprisonment for 3 months.

(2) Instead of imposing a fine on the person or sentencing the person to imprisonment, the court: 20

(a) may make an order under section 4 of the Community Service Orders Act 1979 requiring the person to perform community service work, being an order containing a recommendation of the kind referred to in section 4 (1A) of that Act; or 25

(b) may make an order under section 5 of the Children (Community Service Orders) Act 1987 requiring the person to perform community service work, being an order containing a recommendation of the kind referred to in section 5 (1A) of that Act, 30

as the case requires.

(3) A court that convicts a person of an offence under this section must not sentence the person to imprisonment unless the person has previously been convicted of an offence under this section or section 10A on so many occasions that the court is satisfied that the person is a serious and persistent offender and is likely to commit such an offence again. 35

Summary Offences and Other Legislation (Graffiti) Amendment 1994

SCHEDULE 1—AMENDMENT OF SUMMARY OFFENCES ACT
1988—*continued*

- 5 (4) If a person is convicted of an offence under this section, the court may, in addition to any other penalty it may impose, make an order that the spray paint be forfeited to the Crown, and the spray paint is forfeited accordingly.

SCHEDULE 2—AMENDMENT OF COMMUNITY SERVICE
ORDERS ACT 1979

10 (Sec. 4)

- (1) Section 4 (**Community service orders in respect of convicted persons**):

After section 4 (1), insert:

15 (1A) An order under this section may recommend that the community service work to be performed by the person in respect of whom the order is made should include:

- 20 (a) the removal of graffiti from buildings, vehicles, vessels and places; and
(b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them.

- (2) Section 14 (**Obligations of persons in respect of whom orders are in force**):

At the end of the section, insert:

25 (2) The work to be performed by a person in respect of whom a community service order is in force (being an order containing a recommendation referred to in section 4 (1A) or 26A (1AA)) must, if practicable, include:

- 30 (a) the removal of graffiti from buildings, vehicles, vessels and places; and
(b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them.

Summary Offences and Other Legislation (Graffiti) Amendment 1994

**SCHEDULE 2—AMENDMENT OF COMMUNITY SERVICE
ORDERS ACT 1979—continued**

**(3) Section 26A (Community service work in default of payment
of fine):**

After section 26A (1), insert:

5

(1AA) An order under this section may recommend that the community service work to be performed by the person in respect of whom the order is made should include:

(a) the removal of graffiti from buildings, vehicles, vessels and places; and

10

(b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them.

**SCHEDULE 3—AMENDMENT OF CHILDREN (COMMUNITY
SERVICE ORDERS) ACT 1987**

15

(Sec. 5)

(1) Section 5 (Making of children's community service orders):

After section 5 (1), insert:

(1A) An order under this section may recommend that the community service work to be performed by the person in respect of whom the order is made should include:

20

(a) the removal of graffiti from buildings, vehicles, vessels and places; and

(b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them.

25

**(2) Section 5A (Community service work in default of payment of
fine):**

After section 5A (1), insert:

(1AA) An order under this section may recommend that the community service work to be performed by the person in respect of whom the order is made should include:

30

Summary Offences and Other Legislation (Graffiti) Amendment 1994

SCHEDULE 3—AMENDMENT OF CHILDREN (COMMUNITY SERVICE ORDERS) ACT 1987—*continued*

- 5
- (a) the removal of graffiti from buildings, vehicles, vessels and places; and
 - (b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them.

10 (3) Section 17 (**Obligations of persons subject to children's community service orders**):

At the end of the section, insert:

- 15
- (2) The work to be performed by a person in respect of whom a children's community service order is in force (being an order containing a recommendation referred to in section 5 (1A) or 5A (1AA)) must, if practicable, include:
- (a) the removal of graffiti from buildings, vehicles, vessels and places; and
 - (b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them.
-

C-111
ALP

LEGISLATIVE COUNCIL

Summary Offences and Other Legislation (Graffiti) Amendment Bill 1994

Second Print

Amendment to be moved in Committee

Page 3, Schedule 1. After line 12, insert:

(2) Instead of imposing a fine on the person or sentencing the person to imprisonment, the court:

- (a) may make an order under section 4 of the Community Service Orders Act 1979 requiring the person to perform community service work, being an order containing a recommendation of the kind referred to in section 4 (1A) of that Act; or
- (b) may make an order under section 5 of the Children (Community Service Orders Act 1987 requiring the person to perform community service work, being an order containing a recommendation of the kind referred to in section 5 (1A) of that Act,

as the case requires.

(3) A court that convicts a person of an offence under this section must not sentence the person to imprisonment unless the person has previously been convicted of an offence under this section or section 10B on so many occasions that the court is satisfied that the person is a serious and persistent offender and is likely to commit such an offence again.
