

**CRIMES (CRIMINAL DESTRUCTION AND DAMAGE)
AMENDMENT ACT 1987 No. 287**

NEW SOUTH WALES



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**CRIMES (CRIMINAL DESTRUCTION AND DAMAGE)
AMENDMENT ACT 1987 No. 287**

NEW SOUTH WALES



Act No. 287, 1987

An Act to amend the Crimes Act 1900 for the purpose of making fresh provision with respect to criminal destruction of and damage to property and offences involving transport, and for related purposes. [Assented to 16 December 1987]

*Crimes (Criminal Destruction and Damage) Amendment 1987***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Crimes (Criminal Destruction and Damage) Amendment Act 1987.

Amendment of Act No. 40, 1900

2. The Crimes Act 1900 is amended in the manner set out in Schedule 1.

Abolition of the common law felony of arson

3. (1) The common law rule establishing the felony of arson is abolished.

(2) Section 30 of the Interpretation Act 1987 applies to the abolition of the common law rule establishing the felony of arson in the same way as it applies to the repeal of an Act.

SCHEDULE 1—AMENDMENTS

(Sec. 2)

- (1) Section 1 (**Short title and contents of Act**)—
- (a) Section 1, matter relating to Chapter II of Part IV—
Omit the matter, insert instead:
CHAPTER II—Criminal destruction and damage
(1) *Interpretation*—s. 194
(2) *Crimes against property generally*—ss. 195–200
(3) *Crimes relating to particular kinds of property etc.*—ss. 201–203
- (b) Section 1, matter relating to Part IV_{AA}—
After the matter relating to Part IV, insert:
PART IV_{AA}—OFFENCES RELATING TO TRANSPORT SERVICES
(1) *Offences relating to aircraft, vessels etc.*—ss. 204–210
(2) *Offences relating to railways etc.*—ss. 211–214
- (c) Section 1, matter relating to Chapter IV of Part XIV—
After item (3), insert:
(4) *Jurisdiction of Magistrates not affected by certain matters*—
s. 552
- (2) Section 4 (**Interpretation**)—
Section 4 (1)—

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Omit the definition of “Railway”, insert instead:

“Railway” includes a tramway, and also includes all stations, buildings, structures and equipment belonging to or associated with a railway or tramway.

(3) Sections 32A–32C—

Omit the sections.

(4) Sections 50–52—

Omit the sections.

(5) Part IV, Chapter II—

Omit the Chapter, insert instead:

CHAPTER II—Criminal destruction and damage

Division 1—Interpretation

Interpretation

194. (1) In this Chapter, a reference to property does not include a reference to property that is not of a tangible nature.

(2) In this Chapter, a reference to property includes a reference to wild creatures that have been tamed or are ordinarily kept in captivity and also includes any other wild creatures or their carcasses but only if they—

(a) have been reduced into possession that has not been lost or abandoned; or

(b) are in the course of being reduced into possession.

(3) For the purposes of this Chapter, an act done by a person under a reasonable belief that the person had a right to do the act shall be taken not to have been done maliciously.

Division 2—Crimes against property generally

Maliciously destroying or damaging property

195. A person who maliciously destroys or damages property belonging to another or to that person and another is liable—

(a) to penal servitude for 5 years; or

(b) if the destruction or damage is caused by means of fire or explosives, to penal servitude for 10 years.

Maliciously destroying or damaging property with intent to injure a person

196. A person who maliciously destroys or damages property, intending by the destruction or damage to cause bodily injury to another, is liable—

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- (a) to penal servitude for 7 years; or
- (b) if the destruction or damage is caused by means of fire or explosives, to penal servitude for 14 years.

Dishonestly destroying or damaging property

197. A person who dishonestly, with a view to making a gain for that person or another, destroys or damages property is liable—

- (a) to penal servitude for 7 years; or
- (b) if the destruction or damage is caused by means of fire or explosives, to penal servitude for 14 years.

Maliciously destroying or damaging property with the intention of endangering life

198. A person who maliciously destroys or damages property, intending by the destruction or damage to endanger the life of another, is liable to penal servitude for life.

Threatening to destroy or damage property

199. A person who, without lawful excuse, makes a threat to another, with the intention of causing that other to fear that the threat would be carried out—

- (a) to destroy or damage property belonging to that other or to a third person; or
- (b) to destroy or damage the first-mentioned person's own property in a way which that person knows will or is likely to endanger the life of, or to cause bodily injury to, that other or a third person,

is liable to penal servitude for 5 years.

Possession, custody or control of an article with intent to destroy or damage property

200. A person who has possession, custody or control of an article with the intention that it should be used maliciously to destroy or damage property belonging to—

- (a) some other person; or
- (b) the first-mentioned person or the user, or both of them, and some other person,

is liable to penal servitude for 3 years.

Division 3—Crimes relating to particular kinds of property etc.**Interfering with a mine**

201. A person who maliciously—

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- (a) causes water to run into a mine or any subterranean channel connected to it;
 - (b) destroys, damages or obstructs any shaft, passage, pit, airway, waterway or drain of, or associated with, a mine;
 - (c) destroys, damages or renders useless any equipment, building, road or bridge belonging to a mine; or
 - (d) hinders the working of equipment belonging to a mine,
- is liable to penal servitude for 7 years.

Causing damage etc. to sea, river, canal and other works

202. A person who—

- (a) maliciously destroys, damages, removes or interferes with piles or other materials that form part of, or have been fixed or placed in position in order to secure—
 - (i) a sea wall or other structure designed to prevent erosion by the sea;
 - (ii) the bank or bed of, or a dam, weir or lock located on, a river or canal;
 - (iii) a drain, aqueduct, marsh or reservoir; or
 - (iv) a dock, quay, wharf, jetty or other harbour installation;
- (b) maliciously opens a floodgate or sluice that is located at or on a dam, weir, reservoir or watercourse; or
- (c) with the intention of obstructing or hindering the navigation of vessels or boats on a navigable river or canal—
 - (i) interferes with or obstructs the flow of the river or canal;
 - (ii) damages or interferes with the bank or bed of the river or canal; or
 - (iii) destroys, damages or interferes with any structure or equipment constructed or installed in connection with the use of the river or canal for the purposes of navigation,

is liable to penal servitude for 7 years.

False statement that a person or property is in danger

203. If—

- (a) a person—
 - (i) makes to another person a statement that the first-mentioned person knows to be false or misleading; or

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(ii) sends to another person a document containing such a statement; and

(b) the statement is likely to make that other person fear for the safety of a person (including the maker of the statement or the person to whom it is made) or for the safety of property, or both,

the first-mentioned person is liable to imprisonment for 5 years.

(6) Part IV_{AA}—

After Part IV, insert:

PART IV_{AA}—OFFENCES RELATING TO TRANSPORT SERVICES

Division 1—Offences relating to aircraft, vessels etc.

Destruction of, or damage to, an aircraft or vessel with intent or reckless indifference

204. Any person who—

(a) with intent to cause the death of a person; or

(b) with reckless indifference for the safety of the life of a person,

destroys or damages an aircraft or vessel is liable to penal servitude for life.

Prejudicing the safe operation of an aircraft or vessel

205. A person who, whether on board the aircraft or vessel or not, does anything with the intention of prejudicing the safety of an aircraft or vessel is liable to penal servitude for 14 years.

Assault etc. on member of crew of aircraft or vessel

206. A person who, while on board an aircraft or vessel, assaults or threatens with violence a member of the crew of the aircraft or vessel—

(a) so as to interfere with the functions or duties performed by the crew member in connection with the safe operation of the aircraft or vessel; or

(b) so as to diminish the ability of the crew member to perform those functions or duties,

is liable to penal servitude for 14 years.

Placing etc. dangerous articles on board an aircraft or vessel

207. (1) In this section—

“dangerous article” means—

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- (a) a firearm, ammunition for a firearm, a weapon or an explosive; or
 - (b) a substance or thing that, because of its nature or condition, could endanger the safety of an aircraft or vessel or persons on board an aircraft or vessel.
- (2) A person who—
- (a) places or carries on board an aircraft or vessel an article knowing that it is a dangerous article;
 - (b) knowing that an article is a dangerous article, delivers the article to a person for the purpose of having the article placed or carried on board an aircraft or vessel; or
 - (c) has possession of an article while on board an aircraft or vessel knowing that the article is a dangerous article,
- is liable to penal servitude for 7 years.
- (3) Subsection (2)—
- (a) does not apply to or in relation to anything done with an article in relation to an aircraft or vessel with the consent of the owner or operator of the aircraft or vessel where that consent is given with a knowledge of the nature or condition of the article; and
 - (b) does not apply to or in relation to the carrying or placing of a firearm or ammunition for a firearm on board an aircraft or vessel with permission given in accordance with regulations in force under the Air Navigation Act 1920 of the Commonwealth.

Threatening to destroy etc. an aircraft, vessel or vehicle

208. (1) In this section—

“threat” includes—

- (a) an expression of intention; or
- (b) the making of a statement from which an expression of intention could reasonably be inferred;

“transport vehicle” means—

- (a) a mechanically or electrically driven vehicle that is used or designed to be used for the purpose of conveying passengers or goods, or passengers and goods, or for the purpose of drawing a vehicle or vehicles of the kind referred to in paragraph (b); or

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) a vehicle not so driven that is directly or indirectly connected to and drawn by, or designed to be connected to and drawn by, a vehicle of the kind first referred to in paragraph (a),

but does not include an aircraft or vessel.

(2) A person who makes a demand of another person with a threat—

- (a) to destroy or damage, or endanger the safety of, an aircraft, vessel or transport vehicle; or
 (b) to kill, or inflict bodily injury on, persons who are in or on an aircraft, vessel or transport vehicle,

is liable to penal servitude for 14 years.

(3) A person who makes a demand of another person together with a threat to do any of the things mentioned in subsection (2) (a) or (b) and, while that threat still has effect—

- (a) discharges a firearm;
 (b) causes an explosion; or
 (c) inflicts grievous bodily harm on, or wounds, a person,

is liable to penal servitude for life.

(4) A person who makes a threat—

- (a) to destroy or damage, or endanger the safety of, an aircraft, vessel or transport vehicle; or
 (b) to kill, or inflict bodily injury on, persons who are in or on an aircraft, vessel or transport vehicle,

is liable to imprisonment for 5 years.

False information as to plan etc. to prejudice the safety of an aircraft or vessel or persons on board an aircraft or vessel

209. A person who makes a statement or conveys information, knowing it to be false, to the effect, or from which it could reasonably be inferred, that there has been, is or is to be a plan, proposal, attempt, conspiracy or threat to—

- (a) take, or exercise control of, an aircraft or vessel by force;
 (b) destroy or damage, or endanger the safety of, an aircraft or vessel; or
 (c) kill, or inflict bodily injury on, persons in or on an aircraft or vessel,

is liable to imprisonment for 2 years.

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SCHEDULE 1—AMENDMENTS—*continued*

Destroying, damaging etc. an aid to navigation

210. A person who—

- (a) maliciously destroys, damages, removes, conceals or interferes with a mark, device or equipment used or designed to be used to assist the navigation of aircraft or vessels; or
- (b) does any act with the intention of causing any such destruction, damage, concealment or interference,

is liable to penal servitude for 7 years.

Division 2—Offences relating to railways etc.

Criminal acts relating to railways

211. (1) A person who—

- (a) maliciously does any act on or in connection with the operation of a railway; or
- (b) maliciously omits to do any act on or in connection with a railway that it is the person's duty to do,

with the intention of causing the death of, inflicting bodily injury on or endangering the safety of any person who is on the railway, or who is in or on any locomotive or other rolling stock on the railway, is liable to penal servitude for life.

(2) A person who—

- (a) maliciously does any act on or in connection with the operation of a railway; or
- (b) maliciously omits to do any act on or in connection with the operation of a railway that it is the person's duty to do,

with the intention of causing any locomotive or other rolling stock on the railway to be derailed, destroyed or damaged, is liable to penal servitude for 14 years.

Endangering passengers etc. on railway

212. A person who, by an unlawful act or a negligent omission, endangers the safety of any person who is on, or who is being conveyed on, a railway is liable to imprisonment for 3 years.

Obstructing a railway

213. A person who—

- (a) intentionally and without lawful excuse, does an act, or omits to do an act, which causes the passage or operation of a locomotive or other rolling stock on a railway to be obstructed; or

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(b) assists a person to do or omit to do such an act, with the knowledge that the person's intention to do or omit to do that act is without lawful excuse,

is liable to imprisonment for 2 years.

Obstructing a railway—verdict of misdemeanour

214. (1) If, on the trial of a person for an offence under section 211, the jury is not satisfied that the person is guilty of the offence, but is satisfied that the person is guilty of an offence under section 212 or 213, it may acquit the person of the offence charged and instead find the person guilty of an offence under section 212 or 213.

(2) If, in accordance with subsection (1), a jury finds a person guilty of an offence under section 212 or 213, the person is liable to be punished as provided by that section.

(7) **Section 476 (Indictable offences punishable summarily with consent of accused)—**

(a) Section 476 (6) (a) (iii)—

Omit “, 208, 209, 210, 220, 229, 244, 245, 247, 248”, insert instead “, 195, 196, 197, 201, 202, 210”.

(b) Section 476 (6) (d)—

After “178BB”, insert “, 199, 200, 203, 207, 208 (4), 209, 212, 213”.

(8) **Section 501 (Indictable offences punishable summarily without consent of accused)—**

Section 501 (1) (c)—

Omit “247”, insert instead “195”.

(9) **Section 552 and heading—**

After section 551, insert:

*Jurisdiction of Magistrates not affected by certain matters***Jurisdiction of Magistrates in respect of offences arising under Chapter II of Part IV**

552. In a case where, by virtue of section 476 or 501, a Magistrate has jurisdiction to deal with a charge arising under Chapter II of Part IV (Criminal destruction and damage), the Magistrate may hear the charge irrespective of whether, in order to determine the charge, it is necessary to determine title to any property.

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SCHEDULE 1—AMENDMENTS—*continued*

- (10) Second Schedule (**Application of certain Parts and sections of Act**)—
- (a) After “SECOND SCHEDULE”, insert in the appropriate place “(Sec. 3)”.
 - (b) Omit “193 to 195 inclusive, 206, 231”, insert instead “193, 194”.
- (11) Fourth Schedule (**As to allegation of property**)—
- Omit clause (3), insert instead:
- (3) Any thing mentioned in section 202 or 210.