

Act 1994 No. 90

**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.

* Amended in committee—see table at end of volume.

Summary Offences and Other Legislation (Graffiti) Amendment 1994 [Act 1994 No. 90]

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

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 (Act 1994 No. 90)

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.
