



New South Wales

Crimes Amendment (Display of Nazi Symbols) Bill 2021

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to prohibit the public display of a symbol of, or associated with, the National Socialist German Workers' Party, the Third Reich or Neo-Nazism (a *Nazi symbol*), except in certain circumstances.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

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

Schedule 1 Amendment of Crimes Act 1900 No 40

Schedule 1[2] makes it an offence to display a Nazi symbol by a public act. *Public act* is defined to include any form of written or visual public communication, the wearing or display of clothing and other items in a way that is observable by the public and the distribution or dissemination of material to the public. An act may be a public act for the purposes of the proposed offence even if it occurs on private land. The proposed section makes it clear that the offence does not apply to a swastika used in connection with Hinduism, Buddhism or Jainism.

The proposed offence does not apply if the President of the Anti-Discrimination Board is satisfied the public act is to be done reasonably and in good faith for purposes in the public interest and has granted an exemption from the offence.

If a public act of a person is an offence against the proposed section and the *Crimes Act 1900*, section 93Z, the person may only be punished for an offence under one of the sections. **Schedule 1[1]** makes a consequential amendment.



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New South Wales

Crimes Amendment (Display of Nazi Symbols) Bill 2021

No. , 2021

A Bill for

An Act to amend the *Crimes Act 1900* to prohibit the public display of Nazi symbols.

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Crimes Amendment (Display of Nazi Symbols) Act 2021*.

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2 Commencement

4

This Act commences on the date of assent to this Act.

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Schedule 1 Amendment of Crimes Act 1900 No 40

[1] Part 3A, Division 8, heading

Omit the heading. Insert instead—

Division 8 Public hate crimes

[2] Section 93ZA

Insert after section 93Z—

93ZA Offence of displaying Nazi symbols

- (1) A person who, by a public act, displays a Nazi symbol is guilty of an offence.
Maximum penalty—
 - (a) for an individual—50 penalty units or imprisonment for 6 months, or both, or
 - (b) for a corporation—500 penalty units.
- (2) This section does not apply if the President of the Anti-Discrimination Board has, by order, granted an exemption because the President is satisfied the public act is to be done reasonably and in good faith for—
 - (i) academic, artistic, scientific or research purposes in the public interest, or
 - (ii) other purposes in the public interest, including discussion or debate about and expositions of any act or matter.
- (3) The *Anti-Discrimination Act 1977*, section 126(2)–(11) extends to an exemption granted under this section.
- (4) For the purposes of subsection (3), a reference in the *Anti-Discrimination Act 1977*, section 126(2)–(11) to an exemption under that Act, subsection (1) is to be read as a reference to an exemption granted under this section.
- (5) If a public act of a person is an offence against this section and section 93Z, the person may only be punished for an offence under one of the sections.
- (6) To avoid doubt—
 - (a) an act may be public even if it occurs on private land, and
 - (b) this section does not apply to a swastika used in connection with Hinduism, Buddhism or Jainism.
- (7) In this section—

Nazi symbol means a symbol of or associated with the National Socialist German Workers' Party (the **Nazi Party**), the Third Reich or Neo-Nazism, including—

 - (a) the Nazi flag, and
 - (b) the *Hakenkreuz* (the Nazi hooked cross), the official emblem of the Nazi Party and the Third Reich.

public act includes—

 - (a) any form of written or visual communication to the public, including writing, displaying notices, playing of recorded material, broadcasting and communicating through social media and other electronic methods, and

- (b) the wearing or display of clothing, signs or symbols in a way that is observable by the public, and 1
 - (c) the distribution or dissemination of written or visual material to the public. 2
- symbol** includes the following— 3
- (a) insignia, 4
 - (b) emblem, 5
 - (c) banner, 6
 - (d) flag. 7
- Third Reich** means the Nazi state. 8