

[Act 2000 No 26]



New South Wales

Summary Offences Amendment Bill 2000

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Summary Offences Act 1988* so as:

- (a) to increase the penalty for the offence of damaging or defacing a shrine, monument or statue located in a public place, including a war memorial, and
- (b) to make it an offence to commit any nuisance or any offensive or indecent act in or on a war memorial located in a public place, and
- (c) to provide expressly for the application of those offences to the Anzac Memorial in Hyde Park, Sydney, and to any structure and land prescribed by the regulations as a war memorial, and
- (d) to enable the court that convicts a person of the offence of damaging or defacing a shrine, monument or statue located in a public place, including a war memorial, to order the person to pay an amount by way of compensation to repair or restore the damage caused.

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

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 a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Summary Offences Act 1988* set out in Schedule 1.

Schedule 1 [1] proposes to substitute section 8 of the Act.

Proposed section 8 (2) is substantially the same as the existing section 8 (the offence of damaging or defacing a shrine, monument or statue erected in a public place), with the maximum penalty increased from 4 penalty units (currently \$440) to 20 penalty units (currently \$2200).

Proposed section 8 (1) contains a definition of *protected place*, which means a shrine, monument or statue located in a public place, with the inclusion of an express reference to war memorials. A *war memorial* is defined to include the Anzac Memorial in Hyde Park, Sydney, and any prescribed war memorial. Proposed section 8 (4) enables regulations to be made prescribing a structure and surrounding land as a war memorial for the purposes of the proposed section. This will enable certain structures to be specifically identified as war memorials, and will enable an area in their vicinity to be included in the protections afforded by the proposed section.

Proposed section 8 (3) makes it an offence to commit any nuisance or any offensive or indecent act in or on a war memorial. This offence is similar to that contained in By-law 11 (d) under the *Anzac Memorial (Building) Act 1923*. The maximum penalty for this offence will be 10 penalty units (currently \$1100).

Certain offences committed in or in the precincts of the Anzac Memorial in Hyde Park, Sydney, will be able to be dealt with under the *Summary Offences Act 1988* or the *Anzac Memorial (Building) Act 1923*. Similar offences against other war memorials will be able to be dealt with under the *Summary Offences Act 1988*. The proposed Act will ensure that there is a greater level of consistency for the treatment of such offences.

Schedule 1 [2] proposes to insert a new section 30A into the Act. The new section enables the court that convicts a person of an offence under proposed section 8 to order the payment of compensation for damage caused to a shrine, monument or statue located in a public place, including a war memorial. The maximum compensation that can be ordered to be paid is an amount equal to 20 penalty units (currently \$2200). The proposed section is the equivalent of section 11 of the *Anzac Memorial (Building) Act 1923*.