



New South Wales

Sydney Opera House Trust Amendment Bill 2004

Explanatory note

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

This Bill is cognate with the *Crimes Legislation Amendment (Terrorism) Bill 2004*.

Overview of Bill

The object of this Bill is to amend the *Sydney Opera House Trust Act 1961*:

- (a) to better protect the Opera House by creating new offences of trespassing at the Opera House, trespassing at the Opera House with intent to cause damage or serious disruption or to commit certain offences, and intentionally or recklessly damaging the Opera House, and
- (b) to increase from 10 to 50 penalty units the maximum penalty that may be imposed for a breach of the by-laws under the Act, and
- (c) to remove the need for the Governor to approve delegations under the Act, and
- (d) to update provisions for the employment of staff of the Opera House Trust.

The Bill also makes consequential amendments to the *Criminal Procedure Act 1986* to provide for the summary disposal of certain of the new offences that are indictable offences.

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 that gives effect to the amendments to the *Sydney Opera House Trust Act 1961* set out in Schedules 1 and 2.

Clause 4 is a formal provision that gives effect to the amendments to the *Criminal Procedure Act 1986* set out in Schedule 3.

Schedule 1 Amendments to Sydney Opera House Trust Act 1961 relating to Opera House security

Schedule 1 inserts proposed sections 28A–28E into the *Sydney Opera House Trust Act 1961*, which provide as follows:

- (a) Proposed section 28A creates the offence of trespassing at the Opera House. The new offence will carry a maximum penalty of 200 penalty units or imprisonment for 2 years, or both.
- (b) Proposed section 28B creates the offence of trespassing at the Opera House with intent to cause damage to the Opera House, seriously disrupt the operations of the Opera House, or commit any offence punishable by imprisonment or arising under the *Summary Offences Act 1988*. The new offence will carry a maximum penalty on indictment of 7 years imprisonment.
- (c) Proposed section 28C creates the offence of intentionally or recklessly damaging the Opera House. The new offence will carry a maximum penalty on indictment of 5 years imprisonment.
- (d) Proposed section 28D provides that the penalty for the offence of attempting to commit an offence under proposed section 28B or 28C is the same as the penalty for the offence.
- (e) Proposed section 28E deals with the taking of proceedings for offences. The offences under proposed sections 28B and 28C are indictable offences that will be dealt with summarily unless an election is made under the *Criminal Procedure Act 1986* to proceed on indictment.

The creation of these new offences does not limit the operation of any other offence in connection with the Opera House (for example, the sabotage offence under section 203B of the *Crimes Act 1900*).

Schedule 2 Miscellaneous amendments to Sydney Opera House Trust Act 1961

Schedule 2 [1] removes the need for the Governor to approve a delegation of functions by the Opera House Trust to a member of its staff.

Schedule 2 [4] replaces existing provisions for the appointment of staff of the Trust by the Governor with current provisions for the appointment of staff under the *Public Sector Employment and Management Act 2002*. **Schedule 2 [2], [3] and [5]** make consequential amendments.

Schedule 2 [6] increases the maximum penalty that may be imposed by the by-laws under the Act from 10 to 50 penalty units.

Schedule 2 [7] repeals an existing provision dealing with the taking of proceedings for offences (as a consequence of the enactment of proposed section 28E).

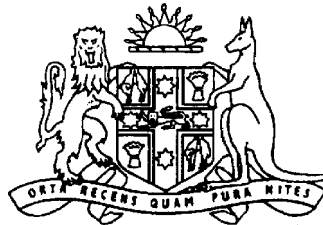
Schedule 3 Amendment of Criminal Procedure Act 1986

Schedule 3 amends the *Criminal Procedure Act 1986* to provide for the summary disposal of proceedings for the new indictable offences to be created by proposed sections 28B and 28C of the *Sydney Opera House Trust Act 1961* unless an election to proceed on indictment is made in accordance with the procedures set out in the Act.

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No. , 2004

A Bill for

An Act to amend the *Sydney Opera House Trust Act 1961* to provide for offences with respect to trespass and damaging the Opera House and to make further provision for by-laws and staff; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Sydney Opera House Trust Amendment Act 2004</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5 6
3 Amendment of Sydney Opera House Trust Act 1961 No 9	7
The <i>Sydney Opera House Trust Act 1961</i> is amended as set out in Schedules 1 and 2.	8 9
4 Amendment of Criminal Procedure Act 1986 No 209	10
The <i>Criminal Procedure Act 1986</i> is amended as set out in Schedule 3.	11 12

Schedule 1 Amendments to Sydney Opera House Trust Act 1961 relating to Opera House security

(Section 3)

Sections 28A–28E

Insert after section 28:

28A Trespassing at Opera House

A person who enters, or remains at, any part of the Opera House as a trespasser is guilty of an offence.

Maximum penalty: 200 penalty units or imprisonment for 2 years, or both.

28B Trespassing at Opera House with intent

A person who enters, or remains at, any part of the Opera House as a trespasser with intent to:

- (a) cause damage to the Opera House, or
- (b) seriously disrupt the operations of the Opera House, or
- (c) commit any offence punishable by imprisonment or arising under the *Summary Offences Act 1988*,

is guilty of an offence.

Maximum penalty on indictment: imprisonment for 7 years.

28C Damage to Opera House

A person who intentionally or recklessly damages the Opera House is guilty of an offence.

Maximum penalty on indictment: imprisonment for 5 years.

28D Penalty for attempt

A person who attempts to commit an offence under section 28B or 28C is liable to the penalty provided for the offence concerned.

28E Proceedings for offences

- (1) Proceedings for an offence against this Act or the by-laws, except sections 28B and 28C, are to be dealt with summarily before a Local Court.
- (2) Chapter 5 of the *Criminal Procedure Act 1986* (which relates to the summary disposal of certain indictable offences unless an election is made to proceed on indictment) applies to and in respect of an offence under section 28B or 28C.

Schedule 2 Miscellaneous amendments to Sydney Opera House Trust Act 1961

(Section 3)

[1] Section 12 Delegation to committees, and other persons

Omit “Any officer or employee appointed pursuant to section 16 may, where the delegation has been approved by the Governor,” from section 12 (4).

Insert instead “Any member of staff of the Trust may”.

[2] Section 12 (4)

Omit “the officer or employee”. Insert instead “the member of staff”.

[3] Section 15 Common seal

Omit “officer” from section 15 (2). Insert instead “member of staff”.

[4] Section 16

Omit the section. Insert instead:

16 Staff of Trust

- (1) Such staff as may be necessary to enable the Trust to exercise and perform its powers, authorities, duties and functions are to be employed under Chapter 2 of the *Public Sector Employment and Management Act 2002*.
- (2) The Trust may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a government department or public or local authority.
- (3) For the purposes of this Act, a person employed under subsection (1) or whose services are made use of under this section is a member of staff of the Trust.

[5] Section 17 Sydney Opera House Management Account

Omit “officers and employees referred to in section 16” from section 17 (4).

Insert instead “members of staff of the Trust”.

[6] Section 28 By-laws

Omit “10 penalty units” from section 28 (2).

Insert instead “50 penalty units”.

[7] Section 28 (2A)

Omit the subsection.

Schedule 3 Amendment of Criminal Procedure Act 1986

(Section 4)

[1] Section 268 Maximum penalties for Table 2 offences

Insert “or 3” after “Part 2” in section 268 (2) (c).

[2] Schedule 1 Indictable offences triable summarily

Insert after clause 23A in Table 1 (Indictable offences that are to be dealt with summarily unless prosecutor or person charged elects otherwise):

23B Sydney Opera House Trust Act 1961

An offence under section 28B of the *Sydney Opera House Trust Act 1961*, or an offence under section 28C of that Act where the value of the damage exceeds \$5,000.

[3] Schedule 1

Insert as Part 3 in Table 2 (Indictable offences that are to be dealt with summarily unless prosecutor elects otherwise):

Part 3 Offences under Sydney Opera House Trust Act 1961

5 Offence of damaging Opera House

An offence under section 28C of the *Sydney Opera House Trust Act 1961* where the value of the damage does not exceed \$5,000.