

CLAUSE NOTES

Justice Miscellaneous (Prohibited Symbols and Protection of Worship) Bill 2026

PART 1 – PRELIMINARY

Clause 1 Short title

Specifies the name of the proposed Act.

Clause 2 Commencement

Provides that the Act commences on the day that it receives Royal Assent.

Clause 3 Repeal of Act

This is a standard provision for amending legislation. It repeals this amending Act one year after its amendments have been incorporated into the Principal Acts.

PART 2 – CRIMINAL CODE ACT 1924 AMENDED

Clause 4 Principal Act

Provides that the Principal Act being amended by this Part is the *Criminal Code Act 1924*.

Clause 5 Section 121 substituted

This clause replaces section 121 of the Principal Act with two new sections, being sections 121 and 121A.

The current section 121 provides for the crime of ‘disturbing religious worship’. This crime is limited in its scope because it only applies to ‘disquieting or disturbing’ a meeting of people who have assembled for religious worship, or acts directed against a preacher, teacher or person officiating such a meeting. It does not apply where a religious group is not actually engaged in worship at the time of the offending, or prohibit acts that destroy, damage, deface or otherwise interfere with a place of worship.

The new section 121 provides a definition for *religious assembly* that includes religious worship and also extends more broadly to other related activities, such as spiritual or religious practice, education, ceremony, celebration or other events. The section sets out 2 new crimes.

The crime of 'disturbing religious assembly' applies to the religious assembly itself, in circumstances where a person engages in intentional conduct that disturbs that assembly. The provision ensures that the court has a broad discretion in determining what conduct amounts to an intentional disturbance.

The crime of 'disturbing persons in relation to religious assembly' applies when a person is obstructed, intimidated, menaced or harassed while arriving at or leaving a place where a religious assembly is being held (or is about to be held or has just finished), or where they are assembled with others inside, outside or near the place where the assembly is being held.

Both of these crimes require the offender's conduct to be intentional and without reasonable excuse. A person would not commit a crime if, for example, they disturbed a religious assembly to warn of imminent danger or obstructed a person from entering premises where a fire had broken out.

The new section 121A sets out the crime of 'interference with a place of worship'. It provides definitions for the terms *deface* and *interfere* so as to cover a broad range of actions that may result in damage, destruction, defacement or otherwise interfere with a place of worship in a way that would be likely to cause offence to a reasonable person.

The new section also defines *place of worship* broadly. In addition to specified religious buildings such as a church, temple, mosque, synagogue or gurdwara, it includes any other place used as a place of worship by members of a religious faith, denomination, society or order. It also includes any place while that place is being used for worship by a group of members of a religious faith, denomination, society or order.

PART 3 – POLICE OFFENCES ACT 1935 AMENDED

Clause 6 Principal Act

Provides that the Principal Act being amended by this Part is the *Police Offences Act 1935*.

Clause 7 Section 6C substituted

This clause replaces the current section 6C with a new provision with broader application.

The current section 6C prohibits the public display of a Nazi symbol. The new section retains this prohibition and extends it to symbols of recognised hate groups, symbols of state sponsors of terrorism and symbols of terrorist organisations. The provision also captures the display of symbols, depictions or recordings that are so similar to the

prohibited symbols that they are likely to be confused with or mistaken for those symbols.

The Bill retains the current definitions for *Nazi symbol* and *public act* while defining the additional categories of prohibited symbols by reference to the definitions of the relevant groups or organisations in the Commonwealth *Criminal Code* to ensure that the new section is consistent with national law.

The new section retains the general structure, provisions for exemptions and provisions for police powers that are contained in the current section 6C.

A person commits the offence under this provision if they know or ought to know that the symbol they are publicly displaying is a prohibited symbol and they display it without a legitimate public purpose. The provision provides for a number of broad legitimate public purposes including academic, artistic, religious, scientific, cultural, educational, legal or law enforcement purposes, displaying the symbol to oppose or demonstrate the ideologies or beliefs linked to that symbol or organisation that uses the symbol, displaying it in the making of a fair and accurate report of an event or matter, or displaying it for another purpose that is in the public interest.

The display of the swastika is expressly permitted where it is displayed in connection with the religions which have a longstanding connection with that symbol.

The defence of a prohibited symbol being a permanent tattoo or body marking is retained due to considerations regarding the disproportionately significant impact that its removal would have on a very small group of people.

Subsections (5)-(7) provide police powers to direct the removal of a prohibited symbol and provide a written direction where necessary. Where the police officer has reasonable grounds to believe a person has failed to comply with a direction, they can detain and search that person, or a vehicle or premises in respect of which the direction was given, and seize any object containing a prohibited symbol.

Clause 8 Section 13 amended (Public annoyance)

Amends the section to remove subsection 13(3) of the offence of 'public annoyance' that covers the wilful disquieting or disturbing of any meeting, assembly, or congregation of persons assembled for religious worship. This provision is being removed as the conduct will now be covered more comprehensively by the new offences of disturbance of

religious assembly and interference with places of worship which Clause 9 of this Bill inserts into the Principal Act.

Several further amendments are made to section 13 to remove any references to subsection (3).

Clause 9 Part II, Division VIII inserted

This clause inserts Division VIII into Part II of the Principal Act. The Division consists of sections 34C, 34D and 34E.

The new section 34C is an interpretation provision containing the definitions for *place of worship* and *religious assembly* for the purposes of the new Division. Both definitions adopt the meanings of these terms contained in sections 121A and 121 of the Criminal Code respectively to ensure consistency.

The new section 34D contains the summary offence of disturbing a religious assembly. The structure for the offence is the same as that found in the criminal offence to be contained in section 121 of the Criminal Code. Section 34D provides for a maximum fine of 20 penalty units or 3 months imprisonment, or a maximum fine of 40 penalty units or 6 months imprisonment for a second or subsequent offence committed within a 6-month period.

The new section 34E contains the summary offence of interfering with a place of worship. The section does not include a definition for *deface* and contains its own definition of *interfere* rather than using the definitions found in the criminal offence to be contained in section 121A of the Criminal Code. This is due to the existing definition of *mark graffiti* found in section 3 of the Principal Act covering the same type of conduct as contained in the proposed definition for *deface* in the Criminal Code.

The section provides for a maximum fine of 20 penalty units or 3 months imprisonment, or a maximum fine of 40 penalty units or 6 months imprisonment for a second or subsequent offence committed within a 6-month period.

Clause 10 Section 58A amended (Power to search for liquor)

Amends the section to remove the reference to section 13(3) of the Principal Act.

This is a consequential amendment due to the removal of section 13(3).