

FACT SHEET

Police Offences Amendment (Nazi Symbol Prohibition) Bill 2023

The Police Offences Amendment (Nazi Symbol Prohibition) Bill 2023 (the Bill) inserts new offences of prohibiting the display of Nazi symbols and prohibiting a person performing a Nazi gesture in the *Police Offences Act 1935* (the Act).

In summary, the Bill proposes to amend the Act to:

Prohibit display of Nazi symbols

- Insert a new offence that a person must not, by a public act and without legitimate public purpose, display a Nazi symbol if the person knows, or ought to know, that the symbol is a Nazi symbol.
- Provide that 'Nazi symbol' means a symbol associated with the Nazis or with Nazi ideology, or a symbol that so nearly resembles a Nazi symbol that it is likely to be confused with, or mistaken for, such a symbol or gesture; or a depiction of recording of a Nazi gesture.
- Provide that 'public act' includes any form of communication of the symbol to the public; and the placement of the symbol in a location observable by the public; and the distribution of the symbol, or of an object containing the symbol, to the public. This includes online communication available to the public.
- Provide a definition of a 'legitimate public purpose', which includes a display done reasonably and in good faith for a genuine academic, artistic, religious, scientific, cultural, educational or law enforcement purpose; or for the purpose of opposing, or demonstrating against, fascism, Nazism, neo-Nazism or other similar or related ideologies or beliefs; or is displayed for another purpose that is in the public interest. The definition of 'legitimate public purpose' is non-exhaustive, and does not exclude other legitimate public purposes.
- Provide police officers with appropriate powers to enforce the offence provisions, where the police officer has reasonable grounds to believe the person is contravening or has contravened the offence provisions. A directions power is provided in the first instance and (where the direction is not complied with), search and seizure powers.
- Provide a defence for tattoos and similar forms of permanent body modification.
- The legislative reform acknowledges the continued importance of the ancient swastika to the Buddhist, Hindu and Jain communities. The Bill explicitly states that the offence does not apply to the display of a swastika in connection with Buddhism, Hinduism or Jainism.

Prohibit performance of Nazi gestures

- Insert a new offence that a person must not perform a Nazi gesture if the person knows, or ought to know, that the gesture is a Nazi gesture; and the gesture is performed by the

person in a public place or in a place where, if another person were in a public place, the gesture would be visible to the other person.

- Provide a defence if the defendant proves that the gesture was performed in good faith for a genuine, academic, artistic, religious, scientific, cultural, educational, legal or law enforcement purpose.
- Provide that *Nazi gesture* includes the gesture known as the Nazi salute; a gesture prescribed for the purposes of the definition; and a gesture that so nearly resembles a Nazi salute or a gestures prescribed, that is likely to be confused with, or mistaken for, such a gesture.
- Provide that in any proceedings for an offence against the new section, an allegation that a gesture is a Nazi gesture is taken to be evidence of that fact in the absence of evidence to the contrary.

The Bill provides that a person convicted of committing the new offences of displaying Nazi symbols or performing Nazi gestures is liable to a maximum penalty not exceeding 20 penalty units or imprisonment for a term not exceeding three months, or if the person has previously been convicted of the offence within six months, liable to a penalty not exceeding 40 penalty units or imprisonment not exceeding six months.

Section 55 of the Police Offences Act is amended to provide that a police officer may, without warrant, arrest any person whom the police officer has reasonable grounds for believing has committed the new offences.

The Act does not limit other existing police powers, such as the power to apply for a search warrant.

The Bill is to commence on a day to be proclaimed.