

Tabled, by leave, Ms Sharpe

**CRIMES AMENDMENT (OBSTRUCTING A RAILWAY) BILL 2024****STATEMENT OF PUBLIC INTEREST****Need: Why is the policy needed based on factual evidence and stakeholder input?**

The Bill seeks to amend the penalty for the offence of obstructing a railway in s 213 of the *Crimes Act 1900* (**Crimes Act**). In recent months there have been instances of people seriously obstructing railway lines for long periods. Obstruction of a railway line poses a safety risk to both the individuals on the railway line, commuters and railway staff. Such actions also cause significant delay to the movement of goods and services to communities that rely upon those railway lines.

The offence in section 213 is currently punishable by up to two years' imprisonment. That section does not specify a fine amount, which means the default maximum fine amount which the Local Court can impose is 100 penalty units (\$11,000).

Section 214A, which contains offences for damaging or disrupting a major facility, provides for penalties of up to 200 penalty units and two years' imprisonment. Obstruction of railway lines does not come within the offence in section 214A, as railway lines are not 'major facilities'.

To deter individuals from engaging in dangerous conduct on railways, this Bill will effectively double the available penalty in the Local Court for the offence in section 213 of the Act. When sentencing a person for a 213 offence the Local Court will be able to impose a sentence of up to 200 penalty units (\$22,000), or two years' imprisonment, or both. The amendments in the Bill also confirm that if the section 213 offence comprises very serious conduct and is dealt with by a higher court on indictment, that court can also impose a sentence of imprisonment for up to two years and can continue to impose a fine up to the jurisdictional limit of 1000 penalty units.

This Bill will bring the penalty for section 213 in line with the penalty in the Local Court for the offence in s 214A of the Act of damaging or disrupting a major facility and the offence in section 144G of the *Roads Act 1993* of damaging, disrupting or obstructing the Sydney Harbour Bridge or other major bridges, tunnels or roads. This will better reflect the seriousness of the section 213 offence and act as a stronger deterrent to dangerous conduct.

The Bill also makes it clear that a person does not commit an offence if their conduct forms part of industrial action, an industrial dispute, or an industrial campaign.

**Objectives: What is the policy's objective couched in terms of the public interest?**

The Bill seeks to discourage people from obstructing railway lines as such conduct is unsafe.

**Options: What alternative policies and mechanisms were considered in advance of the bill?**

Doubling the available penalty in the Local Court for the offence of obstructing a railway in section 213 of the Crimes Act is considered necessary to address risks to the safety of the people of NSW, to the operation of public transport and to the delivery of goods and services.

**Analysis: What were the pros/cons and benefits/costs of each option considered?**

The benefits of specifying a penalty amount in section 213 of the Crimes Act is that it will signal the seriousness of the conduct to the court, and give the Local Court the

discretion to impose a penalty higher than 100 penalty units instead of or additional to a sentence of up to two years' imprisonment.

**Pathway: What are the timetable and steps for the policy's rollout and who will administer it?**

The Bill will commence on assent. The Department of Communities and Justice will notify relevant stakeholders.

**Consultation: Were the views of affected stakeholders sought and considered in making the policy?**

The Government engaged with the Freight on Rail Group, and other rail stakeholders, who have raised serious safety concerns.