

CRIMES LEGISLATION AMENDMENT (RACIAL AND RELIGIOUS HATRED) BILL 2025

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

The Crimes Legislation Amendment (Racial and Religious Hatred) Bill 2025 (**the Bill**) amends:

1. The *Crimes Act 1900* to:
 - a. clarify that graffiti is a public act, to put beyond doubt that the new and existing offences at section 93Z and 93ZA apply to any Nazi symbol graffiti; and
 - b. introduce a new offence into section 93ZA of knowingly displaying, by public act and without reasonable excuse, a Nazi symbol on or near a synagogue, Jewish school or the Sydney Jewish Museum. This new offence has a maximum penalty of two years' imprisonment, which is double the maximum term of imprisonment for the existing offence in section 93ZA that prohibits the display of Nazi symbols generally.
2. Section 21A(2)(h) of the *Crimes (Sentencing Procedure) Act 1999* to clarify that partial motivation by hatred or prejudice against a group of people is an aggravating factor to be taken into account when a person is sentenced. It is currently unclear if this aggravating factor only applies when an offender was wholly motivated by hatred or prejudice.
3. The *Graffiti Control Act 2008* to add a circumstance of aggravation to the offence of 'marking premises or property' that applies if the premises or property was a place of worship. This enables a sentence of imprisonment to be given in some circumstances where graffiti is marked on a place of worship, regardless of the manner in which the graffiti is marked.

The Bill is part of a suite of reforms the NSW Government is progressing to address recent antisemitic conduct in the community, which has included antisemitic graffiti and graffiti involving the posting of Nazi symbols, including on or near synagogues and Jewish schools.

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

The Bill provides a more tailored criminal law response to recent antisemitic conduct, clarifies existing legislation, and supports appropriate sentencing for crimes relating to display of Nazi symbols and defacing places of worship or conduct that is motivated partially by hatred or prejudice.

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

The Bill provides a more tailored response to recent antisemitic conduct and complements existing legislation that may apply to racially and religiously motivated crimes.

The Government is also progressing non-legislative measures to combat antisemitism. These include initiatives under the NSW Countering Violent Extremism program,

funding to support safety and security at places of worship, and collaboration with federal and other state and territory governments.

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

The amendments to the *Crimes Act 1900* clarify legislation by confirming that graffiti is a public act for the new and existing offences at section 93Z and 93ZA. The aggravated version of the section 93ZA offence will apply when a Nazi symbol is displayed on or near a synagogue, a Jewish school or the Sydney Jewish Museum. The higher maximum penalty for this conduct recognises that the display of a Nazi symbol on or near one of these types of premises is distinctly violent, threatening and offensive to Jewish people.

The amendment to the *Crimes (Sentencing Procedure) Act 1999* has broad application across all forms of criminal offending that are partially or wholly motivated by hatred. This amendment responds to an issue raised in the NSW Law Reform Commission Report 151 – Serious Racial and Religious Vilification, which noted that other jurisdictions use broader wording in relation to this aggravating factor and cover cases with mixed motivation, such as Victoria and New Zealand, where an offence can be aggravated by proving that it was ‘motivated wholly or partly’ by hatred or prejudice.

The amendment to the *Graffiti Control Act 2008* enables a sentence of imprisonment to be given in some circumstances where graffiti is marked on a place of worship, regardless of the manner in which the graffiti is marked. This enables sentencing to take into account the seriousness of defacing a place of worship.

A statutory review clause has been included for the Minister to review and report on the operation of the legislative amendments in the Bill as soon as possible after two years of their commencement.

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

The Bill will commence on assent and will be enforced by the NSW Police Force.

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

The NSW Government consulted the NSW Jewish Board of Deputies, the Special Envoy to Combat Antisemitism and various NSW Government agencies, including the Office of the Director of Public Prosecutions and NSW Police Force.