

PARLIAMENT OF VICTORIA

**Summary Offences Amendment (Nazi Symbol
Prohibition) Bill 2022**

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PARLIAMENT OF VICTORIA

Introduced in the Assembly

**Summary Offences Amendment (Nazi
Symbol Prohibition) Bill 2022**

A Bill for an Act to amend the **Summary Offences Act 1966** to make the public display of Nazi symbols an offence and for other purposes.

The Parliament of Victoria enacts:

1 Purpose

The main purpose of this Act is to amend the **Summary Offences Act 1966** to make the public display of Nazi symbols an offence.

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2 Commencement

(1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.

(2) If a provision of this Act does not come into operation before the first anniversary of the day on which it receives the Royal Assent, it comes into operation on that day.

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3 New Division 4C of Part I inserted

After Division 4B of Part I of the **Summary Offences Act 1966** insert—

"Division 4C—Public display of Nazi symbols

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41I Statement for this Division

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In enacting this Division, the Parliament recognises the continued importance of the swastika as an ancient and auspicious symbol of purity, love, peace and good fortune in Buddhist, Hindu, Jain and other religions. The swastika has had immense significance to these faiths for millennia, long before it was misappropriated by the Nazi party and Third Reich in Germany. The misuse of the swastika is an affront and cause of deep regret to people of the Buddhist, Hindu and Jain religions. The swastika continues to be embraced by members of these religions and can be found in places of worship, architecture and religious books, as well as in commercial and personal settings such as people's homes.

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The distorted version of the symbol is also known as the Hakenkreuz (meaning twisted or hooked cross in German). The Hakenkreuz became a symbol of the Third Reich, under which heinous crimes were perpetrated against humanity, particularly the Jewish people. The Hakenkreuz is a symbol of antisemitism and hatred and of an ideology fundamentally incompatible with Victoria's multicultural, multiethnic and democratic society.

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41J Definitions

In this Division—

child means a person under the age of 18 years;

5 *intelligence agency* means—

(a) the Australian Security Intelligence Organisation; or

(b) the Australian Secret Intelligence Service; or

10 (c) the Australian Signals Directorate; or

(d) the Office of National Intelligence;

15 *law enforcement officer* has the same meaning as in section 40;

like process has the same meaning as in section 42(1AA);

Nazi symbol means—

20 (a) a Hakenkreuz, being a symbol of a cross with the arms bent at right angles in a clockwise direction; or

25 (b) a symbol that so nearly resembles the symbol referred to in paragraph (a) that it is likely to be confused with or mistaken for that symbol;

Example

A cross with the arms bent at right angles in a counter clockwise direction.

30 *non-Government school* has the same meaning as in section 1.1.3(1) of the **Education and Training Reform Act 2006**;

post-secondary education institution has the same meaning as in section 1.1.3(1) of the **Education and Training Reform Act 2006**.

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41K Public display of Nazi symbols

- (1) A person must not intentionally display a Nazi symbol if—
- (a) the person knows, or ought reasonably to know, that the symbol is associated with Nazi ideology; and
 - (b) the display—
 - (i) occurs in a public place, a non-Government school or a post-secondary education institution; or
 - (ii) occurs in sight of a person who is in a public place, a non-Government school or a post-secondary education institution.

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Penalty: 120 penalty units or imprisonment for 12 months or both.

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- (2) A person does not contravene subsection (1) if the person establishes that the display was engaged in reasonably and in good faith—
- (a) for a genuine academic, artistic, religious or scientific purpose; or

Examples

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- 1 A person of Hindu faith displays a swastika in the front window of the person's shop as a symbol of good luck.
- 2 A person of Jain faith draws a swastika on the person's new vehicle before using it as a symbol of good fortune.

- 3 A person of Buddhist faith displays a sculpture of Buddha with a swastika on the chest, as a symbol of auspiciousness, at a Buddhist temple.
- 5 (b) for a genuine cultural or educational purpose; or
- Examples**
- 1 The floor of a shop is patterned with swastikas in the hope of bringing prosperity.
- 10 2 A member of the Hindu community wears a T-shirt in public with a swastika on the front as a symbol of peace.
- 15 3 A bookshop displays for sale an educational textbook on World War II, which has a Hakenkreuz on the cover.
- (c) in making or publishing a fair and accurate report of any event or matter of public interest; or
- 20 (d) in opposition to fascism, Nazism, neo-Nazism or other related ideologies.
- Examples**
- 1 A person who displays a flag of Nazi Germany with a marking through it to signal the person's opposition to Nazism.
- 25 2 A person participating in a protest who displays a Nazi symbol on a placard which also contains words stating opposition to fascism.
- 30 (3) A person does not contravene subsection (1) if the Nazi symbol is displayed on the person's body by means of tattooing or other like process.
- 35 (4) A law enforcement officer or a member of an intelligence agency does not contravene subsection (1) if the display occurs in the

performance of the officer's or member's duties and is done in good faith.

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- (5) A person does not contravene subsection (1) if the display occurs in the course of official duties connected with the administration of the justice system, including the investigation or prosecution of offences, and is done in good faith.

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- (6) A prosecution of a child for an offence against subsection (1) must not be commenced without the written consent of the Director of Public Prosecutions.

41L Direction to remove Nazi symbol from public display

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- (1) A police officer may give a direction to a person to remove from display a Nazi symbol if the police officer reasonably believes the person is committing an offence against section 41K by displaying the Nazi symbol.

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- (2) A police officer may give a direction to a person to remove from display a Nazi symbol if—

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(a) the person is the owner or occupier of a property on which the Nazi symbol is being displayed; and

(b) the police officer reasonably believes an offence is being committed against section 41K by the display of that Nazi symbol.

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- (3) A direction under subsection (1) or (2)—

(a) may be given orally or in writing; and

(b) must include the period within which it is to be complied with.

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- (4) If a direction cannot be given in person, a police officer may leave the written direction under subsection (1) or (2)—
- (a) at the property on which the Nazi symbol is being displayed; or
- (b) if the display is in or on a vehicle, by affixing or placing the direction on that vehicle in a conspicuous manner.
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- (5) A person must not, without reasonable excuse, contravene a direction given to the person under subsection (1) or (2).

Penalty: 10 penalty units.

41M Issue of search warrant by magistrate

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Section 465 of the **Crimes Act 1958** applies to and in respect of an offence against section 41K of this Act as if it were an indictable offence."

4 Repeal of this Act

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This Act is **repealed** on the second anniversary of the day on which it receives the Royal Assent.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.