

Summary Offences Act

The Summary Offences Act is a set of laws which deal with what you can and can't do in a public place. This covers a wide range of areas which are open to the public or used by the public such as parks, streets, schools hospitals and churches. It covers things like swearing, protest, getting asked to move along by the police, underage drinking and carrying knives.

This means that it mainly affects young or homeless people because they are the ones who spend the most time in these places.

The laws give wide powers to the police to caution, demand information and ask you to move on. It is important you know your rights under the Act.

If you are charged with an offence under the Act you will be issued with an infringement notice requiring payment of a fine, or you will have to go to a Local Court to put your position to a magistrate. Go and get legal advice immediately. A range of free and confidential services are listed in this guide. Penalties are usually fines, good behaviour bonds or community service rather than prison sentences. You can access the Act on the internet at: www.austlii.edu.au or: www.austlii.edu.au/au/legis/nsw/consol_act_1988189



Location

Kingsford Legal Centre is located on the ground floor of the Law Building, University of New South Wales, Anzac Parade, Kensington.

Enter the university at the main entrance on Anzac Parade, walk down the main walkway and turn down the second path on the left. The entrance to the legal centre is opposite the Uni Bar.

Postal address

F8-303
Kingsford Legal Centre
University of New South Wales
NSW 2052

Contact details

Phone: 02 9385 9566
Fax: 02 9385 9583
E-mail: legal@unsw.edu.au
www.kingsfordlegalcentre.org

Your guide to swearing, drinking, protesting & carrying knives

The Summary Offences Act 1988



Information

Never Stand Still

Offensive language and behaviour

It is illegal to use offensive language in, near or within hearing of a public place or a school. It is also illegal to act in an offensive way in these areas. Offensive behaviour can be things like having sex where you know people will be able to see you, urinating in public, or making rude hand gestures.

The court describes offensive words or actions as what a “reasonable person” would find offensive. For example, words or actions that are meant to hurt someone’s feelings, make them angry, resentful or disgusted.

It is an arguable defence if you have reasonable excuse for acting in an offensive way. An example of a reasonable excuse is swearing because you dropped something heavy on your foot.

Underage drinking

If you are under 18 and drinking or carrying alcohol in a public place then you may be fined.

It may be an excuse to be under supervision of a responsible adult. Police may take away the alcohol and require you to give your name and address.

Giving your name and address

It is an offence to refuse to give your name and address to a police officer unless you have a reasonable excuse. In most cases there is no harm in doing so, and it will save hassles. It is also an offence give a false name and address. Situations where a police officer may stop you and ask for your name and address include when the police reasonably suspect you of underage drinking, or where they believe you can assist their investigation of a serious crime. A police officer who reasonably suspects a motor vehicle is being or may have been used in committing a serious crime may also request that the owner, driver or a passenger give their name and address.

Move along directions

Police can ask you (or a group of people) to move along in a public place if they reasonably believe that your presence or your behaviour is obstructing traffic or people, constitutes harassment or intimidation, is or is likely to cause fear to others, or is for the purpose of supplying or obtaining prohibited drugs. It is an offence to refuse to obey to a police direction unless you have a reasonable excuse.

Carrying knives

It is an offence to carry dangerous implement (including a knife) in public. Police may frisk search you if they reasonably suspect you of carrying such an item in a public place or a school. If you are a student at the school, the police may also ask to search your bag or your locker. It is an offence to refuse to be searched or to fail to produce anything which the police officer detects during the search. Police may then confiscate the dangerous implement and serve you with a penalty notice. You can apply to the police to have your item returned to you. You should apply in writing and give reasons.

Reasonable excuses for carrying a knife include needing it for:

- your work, study or training
- preparing or consuming food or drink
- lawful entertainment, recreation or sport; or
- genuine religious purposes.

It is important that the knife is reasonably necessary at the time when you are carrying it. Self defence or defence of another person is NOT a reasonable excuse.

Answering police questions if you are under 18

Except in a few situations, such as giving your name and address, you need not answer any questions asked by police. Police should not question you until you have a lawyer or an adult support person with you.