

## NEW POLICE POWERS (the law as of May 2010)

### **The law has changed to give police more power to tackle public violence and disorder.**

The new police powers include:

- giving directions to move on and stay away
- fining people on-the-spot with a new offence of “disorderly conduct in a public place”
- increased fines for public drunkenness
- **searching people for weapons without a warrant in some locations**
- **fining people on-the spot for carrying knives**

#### **Directions to move on and stay away**

Police can ask you to move on and stay away from a public place if they think you are:

- disturbing or likely to disturb the peace
- behaving in a way that may be dangerous to public safety; or
- behaving in a way that is likely to cause injury or damage to property.

If police have directed you verbally to move away from a public place, you will usually have to stay away from that area for a particular period of time, being anything up to 24 hours.

If you need more information to understand the direction you may ask police why you are being moved on, where you must stay away from and for how long.

If you feel you have been moved on unfairly by police we encourage you to contact your local community legal centre (to find it ring: 9652 1500, or look at [http://www.communitylaw.org.au/find\\_a\\_clc.php](http://www.communitylaw.org.au/find_a_clc.php)) or if you are under 25, Youthlaw by phone: 9611 2412 or email: [info@youthlaw.asn.au](mailto:info@youthlaw.asn.au), or visit 19 King Street, Melbourne, Monday to Friday, 2pm to 5pm.

**Penalty:** If you refuse to move away and/ or stay away from the area as directed by police, they may issue an on-the-spot fine (infringement notice) of penalty of two units (approx \$234) (as of December 2009) for refusing to stay away from that area for a particular period of time.

If the matter goes to court, the maximum fine is 5 units (around \$585, as of December 2009)

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#### **Disorderly conduct in a public place**

Any person who behaves in a disorderly manner in a public place can now be fined.

There is no clear definition of “disorderly conduct”. It is up to police to make an assessment of this. It does not apply to anyone who is demonstrating, protesting, or picketing about an issue or view.

**Penalty:** On-the-spot penalties with a fine 2 penalty units (that's around \$234).

#### **Public Drunkenness**

The law now allows police to place a person in safe custody if they're found drunk in a public place.

**Penalties:** An on-the-spot fine of two penalty units (approx \$234) can be issued for public drunkenness. If the matter goes to court, the maximum fine has increased to four penalty units (approx \$468).

#### **Searches for weapons**

Police may search a person for weapons without a warrant in a public area (e.g. train station) declared to be a 'designated area' for up to 12 hours.

**Offence of refusing a search:** It is an offence to refuse to be searched

**Penalty:** You may be fined 2 penalty units or around \$234.

### Where searches can happen: Designated areas

A public area may be declared a **planned** designated area (notice of the declaration is advertised 7 days before searches happen) if the Chief Commissioner or a senior police officer (ranked inspector or above) is satisfied:

- more than one incident of violence involving weapons has occurred during the last 12 months;
- an event is going to be held in that area and violent incidents involving weapons have occurred when the event has been held before (even if the event was at a different location); or
- they get information to say that an incident involving the use of weapons is about to happen.

OR

A public area may be declared as an **unplanned** designated area (without notice of the declaration), if the Chief Commissioner or a senior police officer is satisfied:

- it is likely that violence or disorder with a weapon will happen in the area: and
- it is necessary to declare the area to prevent or discourage violence or disorder with a weapon happening

**\*\* Please note: New laws will come in soon which allow all designated areas to be declared, without notice..**

### Searches in designated areas

Before police conduct a search they must:

- explain what they are going to do
- give you a search notice/ or explain that they are allowed to search you & that it is an offence to hinder that search
- tell the person their name, rank and place of duty if you ask for it

### What a search involves

Police usually start by running a metal detection device over your outer clothing, or asking you to walk through an airport style scanner (the search does not often go beyond this point). After this, the police may:

- ask you to empty your pockets, bag etc;
- pat or rub their hands over your outer clothing (pat down search); or
- ask you to take off your outer clothing (e.g. jacket)

As a last resort, the police may require you to have a strip search (only after other less intrusive searches & only if they have a reasonable suspicion that this is necessary i.e. you maybe hiding a weapon)

### If you are under 18 years

If you are under 18 years police must conduct a search with your parent, guardian or an independent person present.

### What weapons are police searching for?

- prohibited weapons (weapons that are banned) like flick knives, daggers, and knuckle dusters
- controlled weapons (items that can be used legitimately but are potentially dangerous in other situations, like a kitchen knife, martial arts equipment, hammer, spear-gun or nail gun)
- dangerous articles e.g. sharpened sticks, cricket bat with nails in it...

**\*\*Please note:** If you are under 18 you are prohibited from legally buying a prohibited or controlled weapon.

### Offence of carrying a weapon

If the police find anything that they believe is a weapon or dangerous articles including knives, guns, knuckle-dusters, nail gun, daggers, broken bottle etc... they will take it off you and keep it.

If the police find anything else illegal on you like drugs, stolen goods, spray cans they will also take these items off you.

### Lawful excuses for carrying weapons

There are limited lawful excuses for carrying some weapons, for instance you are carrying an item:

- for legitimate sport purposes i.e. cricket bat
- for legitimate employment purposes e.g. kitchen knives for a chef.

Self defence or fearing that you will need to defend yourself are not lawful excuses for carrying weapons.

**Penalty:** If you are aged 16 or above and caught carrying a knife or other weapon without a lawful excuse you may be issued \$1000 on-the-spot fines for a first offence. *(announced in March 2010, but not yet law)*

**You should obtain legal advice if you have a weapon or other item taken off you or if you are charged or fined in relation to any of these offences. If you are under 25 you can get free legal advice from Youthlaw by phone: 9611 2412, email: [info@youthlaw.asn.au](mailto:info@youthlaw.asn.au), or by visiting 19 King Street, Melbourne, Monday to Friday, 2pm - 5pm.**