

## STREET LAWS & POLICE POWERS (the law as of 22 August 2010)



The police have been given new powers to:

- **require people to move on and stay away**
- **fine people on-the-spot with a new offence of “disorderly conduct in a public place”**
- **impose increased fines for public drunkenness**
- **search for weapons without a warrant**
- **charge people with buying and carrying knives**

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

Police can require 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 report the incident to a lawyer:**

- **contact your local community legal centre (on 9652 1500 or visit [http://www.communitylaw.org.au/find\\_a\\_clc.php](http://www.communitylaw.org.au/find_a_clc.php) )**
- **if you are under 25, contact Youthlaw (on 9611 2412 , email [info@youthlaw.asn.au](mailto:info@youthlaw.asn.au), or visit 19 King Street, Melbourne, Monday to Friday, 2pm to 5pm.)**

**Penalty:** You can be fined approximately \$239 (as of July 2010) for refusing to obey police directions to move on or stay away from an area.

If the matter goes to court, the maximum fine is around \$597 (as of July 2010)

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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 fine of around \$239.

### **Public Drunkenness**

The law now clearly 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 around \$239 can be issued for public drunkenness. If the matter goes to court, the maximum fine has increased to around \$478.

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.

# STREET LAWS & POLICE POWERS

(the law as of 22 August 2010)



## Searches for weapons

Under new laws police now have greater powers to search for weapons.  
You can now be searched for weapons anywhere, at anytime.

### Where searches can happen

Police already have the power to search a person for weapons if they reasonably suspect the person is carrying one.

The new laws mean that police may search a person for weapons in a public area which has been declared a '**designated area**' for up to 12 hours, even without a reasonable suspicion that they are carrying a weapon.

Searches for weapons in a '**designated area**' can be either **planned** in advance or **unplanned**, random searches.

- For **planned** weapons searches – police must give 7 days notice of the area or event being designated for weapons searches. The area or event must have been associated with violent incidents involving weapons in the past.
- For **unplanned** weapons searches – police can undertake random searches, without notice, anywhere there has been a weapons-related incident, or where people have been caught carrying weapons unlawfully, in the past 12 months.

### Searches in designated areas

Before police conduct a search they must:

- explain what they are going to do
- explain that they are allowed to search you & that it is an offence to hinder that search
- if you ask - tell you their name, rank and place of duty and put it in writing.

### What a search involves

Police can:

- run a metal detection device over your outer clothing, or ask you to walk through an airport style scanner;
- 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, after police have searched you & your belongings in these ways, & they still have reasonable suspicion that you are carrying a weapon they may require you to have a strip search.

The search must be conducted by an officer of the same sex as you.  
The police must protect your dignity and privacy during the strip search.

### If you are under 18 years

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

If you are under 18 years police must conduct a search in an **unplanned designation area** "if practicable" be conducted with your parent, guardian or an independent person present. If it is not practicable i.e. it will take the police too long to get them there, they can use another person, any person, whether or not they are a police officer.

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.

## Weapon searches and offences

### 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 objects (anything that has been modified to make it dangerous, like a sharpened stick or a broken bottle)

### Offence of refusing a search:

It is an offence to refuse to be searched. You may be fined around \$239 if you do.

### Offence of buying a knife (to take effect from 1 January 2011)

If you are under 18 you are prohibited from legally buying a prohibited or controlled weapon. From 1 January 2011, if you are under 18 you will no longer be able to buy any type of knife, including kitchen knives or knives for school or work.

**Penalty:** An on the spot fine of around \$239 or if the matter goes to court a maximum court fine of \$1433.40

### Offence of carrying a weapon

It is an offence to carry a knife or other controlled weapon without a lawful excuse.

### 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** you may face an **on-the spot-fine of \$1000**, or you may have to go to court and face a court fine of up to **\$14,334, or 1 year imprisonment**.

The penalties are doubled if you are inside or within 20 metres of a pub, club or bar. (i.e. \$2000 on-the-spot fine or over \$28,000 court fine).

If you are **under 16** and get caught carrying a controlled weapon such as a knife, you will be charged and need to go to court.

### Seizing weapons

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

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

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.