

The Shopfront

YOUTH LEGAL CENTRE

Graffiti

1 Is it legal?

If you are tagging someone's wall without their consent – NO.

But if you have consent from the owner of the property – YES.

2 Offences relating to graffiti

- **Malicious damage** to property (which may include graffiti) (*Crimes Act section 195*)
max penalty: 5 years imprisonment (or 10 years if destruction/damage is caused by fire/explosives)
 - **Defacing walls or posting bills** - posting paper or marking on walls with chalk, paint, or any material (*Graffiti Control Act s6*)
max penalty: \$440
 - **Damaging or defacing property by graffiti implement** – a graffiti implement can include spray paint, a marker pen or something which produces a mark not easily removed by wiping or washing (*Graffiti Control Act s4*)
max penalty: \$2200, or 6 months imprisonment (or community service at the court's discretion, which means the court can order the offender to clean up graffiti).
 - **Having graffiti implement in your possession with intention to use it to damage or deface property** (*Graffiti Control Act s5*)
max penalty: \$1100, or 3 months imprisonment (or community service at the court's discretion, which means the court can order the offender to clean up graffiti).
 - **Having custody of an offensive implement** – as well as weapons, offensive implements can include things intended to be used to damage property (*Summary Offences Act s11B*)
max penalty: \$5500, or 2 years imprisonment.
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3 Penalties for graffiti offences

The fines and prison terms listed above are all *maximum* penalties, which are rarely imposed. The court may also impose other penalties such as a good behaviour bond or a community service order. If you are under 18, you may be dealt with by warning, caution or youth justice conference instead of having to go to court.

4 Special laws for people under 18

- **If you are under 18 it is not illegal to buy or possess spray paint, but:**
- **It is an offence to sell a spray paint can to a person under 18** (*Graffiti Control Act s7*)
max penalty: \$1100
- **If you are under 18 and have a spray paint can in a public place, police may confiscate it from you**, unless you can convince them that you have it for a lawful purpose (*Graffiti Control Act s9*).

Shopfront Youth Legal Centre Updated April 2009

Shopfront Youth Legal Centre
356 Victoria Street
Darlinghurst NSW 2010
Tel: 02 9322 4808
Fax: 02 9331 3287
www.theshopfront.org
shopfront@freehills.com

The Shopfront Youth Legal Centre is a service provided by Freehills, in association with Mission Australia and the Salvation Army.

This document was last updated in April 2009 and to the best of our knowledge is an accurate summary of the law in New South Wales at that time.

This document provides a summary only of the subject matter covered, without the assumption of a duty of care. The summary should not be relied on as a substitute for legal or other professional advice.

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