

The Shopfront

YOUTH LEGAL CENTRE

Weapons and Implements

1 Firearms

A person must not use or possess a **firearm** unless the person has a licence or permit (*Firearms Act 1996, section 7*).

Max penalty: 14 years imprisonment if the firearm is a prohibited firearm. 5 years in any other case.

A firearm is considered to be in the possession of a person so long as it is in or on the premises owned, leased or occupied or in the care, control or management of the person. Premises can include a person's car.

There are also various offences relating to selling firearms, storing them in an unsafe manner, carrying them in public places, etc. These all attract serious penalties.

2 Prohibited Weapons

It is an offence to be in unauthorised possession of, or to use, a **prohibited weapon**. Objects that constitute a "prohibited weapon" include replica firearms (including some that most people would regard as toys), spear guns, certain kinds of knives (e.g. flick knives and butterfly knives), and other items such as lasers, chemical defence sprays, nunchakus, crossbows, slingshots, whips and knuckle-dusters. (*Weapons Prohibition Act 1998, section 7*)

Max penalty:

on summary conviction (dealt with in the Children's Court or a Local Court): \$11 000 fine and/or 2 years imprisonment.

on conviction on indictment (dealt with in the District Court): 14 years imprisonment.

3 Knives

It is an offence to carry a **knife in a school or public place**, without a reasonable excuse (*Summary Offences Act s11C*)

A knife includes a blade such as scissors or a razor blade. A person will have a reasonable excuse if they need to carry the knife for purposes such as preparation of food or drink, pursuit of their occupation, lawful recreation, or genuine religious purposes. Self-defence is not a reasonable excuse.

Max penalty:

for a first offence, \$550 fine (NB: for a first offence, the police are authorised to issue infringement notices to people aged 14 and over);

for a second offence: \$1,100 fine and/or 12 months imprisonment;

for a third or subsequent offence: \$2,200 fine and/or 2 years imprisonment.

Wielding a knife in a public place or school, in a way that is likely to cause people to fear for their safety (*Summary Offences Act s11E*)

Max penalty: \$5,500 fine or 2 years imprisonment

Parents who allow children to carry knives can be convicted of an offence even if the child is not prosecuted (*Summary Offences Act s11D*).

Max penalty: \$550

It is an offence to sell **knives to children under 16 years of age** unless the person believed on reasonable grounds that the child was 16 or older (*Summary Offences Act s11F*).

4 Offensive Implements

A person must not, without reasonable excuse, have in his or her custody an **offensive implement in a school or public place** (*Summary Offences Act 1988, section 11B*).

An offensive implement is anything made or adapted for causing injury to a person, or intended to be used to menace a person or damage property.

Max penalty: \$5,500 fine or 2 years imprisonment.

5 Car-breaking or house-breaking implements

It is an offence to be in possession of any implement capable of house-breaking or safe-breaking, or being used to enter and/or drive a conveyance, without lawful excuse (*Crimes Act 1900, section 114(1)(b)*).

A “conveyance” includes a motor vehicle, bicycle, caravan, trailer or boat.

It is for the accused to prove that he/she had a lawful excuse for having the implement in possession.

Max penalty: 7 years imprisonment.

On conviction after previous conviction of any indictable offence: 10 years imprisonment.

Note: the penalties listed here 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. Some offences (e.g. possession of knives) can be dealt with by infringement notice (on-the-spot fine).

Shopfront Youth Legal Centre Updated February 2006

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

This document was last updated in February 2006 and to the best of our knowledge is an accurate summary of the law in New South Wales at that time.

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