

Fact Sheet: NSW Scanning Laws – Knives and Weapons

This factsheet provides information about the new police power to scan for knives or other weapons.

Where can police use scanners?

Police can use scanners in public transport areas, shopping centres (including the car park), retail strips, sporting venues (including a racecourse), special events, and other public places declared designated areas. The police can also use the scanners on public transport for two stops.

What can the scanner detect?

The scanners can detect iron and other metals, including knives, cutting and piercing tools, jewellery or electronic components, foil packets, keys, coins, nail clippers, tin boxes, etc.

When can the police scan you?

Once an area has been declared a designated area by a senior police officer, police can scan you at any time within the area. Police do not need your permission or reasonable suspicion to scan you in such an area.

The authority to operate scanning in an area remains in place no more than 12 hours from the time of declaration. When an area is declared a designated area, police must publish the area on the NSW Police Force website as soon as practicable.

What can police do if the scanner detects an object?

Police only have the power to order you to *produce* the object that has caused the scanner to indicate. You must remove that object (police cannot remove it for you) and show it to the police. Police can then scan you again to see if there are further objects.

If the item is not a knife or other weapon, police must let you leave.

If the item is a knife or weapon and the police officer suspects it may constitute an offence, the officer can seize and detain the item.

The officer will then decide whether to issue you with a caution, fine, court attendance notice or arrest you.

Can the police question you?

Police may only question you if an item that may constitute an offence is found.

Can police search you?

No. The scanning powers do not permit police to search you. This means police cannot direct you to empty your pockets, remove any clothes, or empty your bag.

Police can only search you if they suspect on reasonable grounds that you have something stolen, an item intended to be used in connection with an offence, or drugs.

Can police touch you with the scanner?

No. Police can scan close to your body or your belongings.

Can police search you if an object is found on you?

Police can only search you if they suspect on reasonable grounds that you have something stolen, an item intended to be used in connection with an offence, or drugs.

Depending on the object and circumstances, if the scanner detects an object, this may or may not contribute to any suspicion.

Can police scan your bag or belongings?

Yes.

What if I refuse to be scanned?

Before scanning you, police must provide a warning that you are required by law to comply.

Failure or refusing to comply with a scan is an offence unless you have a reasonable excuse.

The law does not define reasonable excuses. The onus will be on you to provide a reasonable excuse. This will be judged on the specific circumstances of your case.

The maximum penalty for this offence is \$5,500, and you could be arrested for failure to comply.

Are there any safeguards police must follow when conducting a scan?

Yes. Police officers must:

- conduct the scan in the least invasive way practicable
- if practicable, ensure the scan is done by an officer of the same sex
- only detain you as long as necessary to scan you
- tell you their name and police station and the reasons for scanning, and
- if not in uniform, provide proof they are a police officer.

Are there any specific safeguards for children?

No, not for conducting a scan.

However, if a knife or weapon is found on a child, police are required to consider the options under the *Young Offenders Act 1997* (NSW), including issuing a caution instead of a court attendance notice.

Do I have to give the police my name and address?

You do not have to provide your details when being scanned.

However, if an item is found that may constitute an offence, you must provide your name and address.

What if the object that caused the scanner to indicate is a metal pill box or piece of foil? Do I have to open the lid or foil?

The law only requires you to *produce* the item that may have caused the detector to make a sound.

Police can require you to open the lid or foil if they suspect on reasonable grounds that you have something stolen, an item intended to be used in connection with an offence, or drugs.

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