



Information sheet no.1

Graffiti Prevention Act 2007

Graffiti laws & graffiti management

Why graffiti laws have been introduced

“Graffiti” describes any form of writing, drawing, marking, scratching or otherwise defacing of property by any means so that the defacement is not readily removable by wiping with a dry cloth.

Some graffiti is legal (eg. a mural painted by street artists at the express invitation of a council), but mostly it involves markings applied to a surface without the property owner’s consent.

But, in fact, graffiti is more than just paint on a wall or fence. It is a criminal offence that impacts:

- the appearance and use of an area – shoppers may avoid a graffitied shopfront or shopping strip and local residents and visitors may be reluctant to use graffitied public amenities;
- property owners who bear the cost of graffiti removal;
- the general community, which is subject to unwanted graffiti; and
- graffiti offenders who can be injured or killed.

The government’s graffiti management strategy aims to address the problem of graffiti in Victorian communities and a key element is the *Graffiti Prevention Act 2007*.

The Act aims to reduce the incidence of graffiti and the financial and social costs by:

- creating new offences for marking graffiti and possessing a graffiti implement;
- creating new offences for the sale of spray paint cans to minors and advertising spray paint cans to incite or promote illegal graffiti;
- providing Victoria Police with new graffiti specific search and seizure powers; and
- providing councils with the power to enter private property, with the owner’s or occupier’s permission, to remove graffiti.

The Act is being introduced in two stages:

- **17 April 2008** – all offences related to graffiti marking and the restriction on the advertising of graffiti implements commenced.
- **30 June 2008** – the restriction on the sale of spray paint cans will commence.

Community concerns about graffiti

Graffiti clean-up costs

In 2003, the estimated cost of graffiti clean-up across Australia was \$300 million. Graffiti removal costs can be passed on to the community through higher service costs, insurance premiums and council rates.

Community perceptions of safety

In the Australian Bureau of Statistics’ 2005 household survey on crime, 26 per cent of Victorians identified graffiti and vandalism as the third most important problem in their neighbourhood after dangerous driving and theft from homes.

Community perceptions of social decline

Graffiti in a neighbourhood can lead to the perception that authorities (for example, police and councils) and residents are not in control or concerned about the area.

Potential harm to graffiti offenders

The quest to mark graffiti on hard-to-reach locations, including moving trains, drains and the exteriors of buildings, exposes graffiti offenders to injury and even death. This affects not only the offenders, but also their families and friends.



The new graffiti offences

Graffiti offender-specific offences	Penalties [#]
Marking publicly visible graffiti on property without the owner's consent	Up to 2 years imprisonment (level 7 imprisonment) and a fine of up to 240 penalty units (\$27,220.80)
Marking publicly visible graffiti that would offend a reasonable person	Up to 2 years imprisonment (level 7 imprisonment) and a fine of up to 240 penalty units (\$27,220.80)
Possessing, without lawful excuse, a prescribed graffiti implement while on or adjacent to public transport property or infrastructure, or where the person is trespassing	A fine of up to 25 penalty units (\$2,835.50) or an on-the-spot infringement penalty of up to five penalty units (\$567.10)
Possessing a graffiti implement with the intention of marking unlawful graffiti	A fine of up to 25 penalty units (\$2,835.50)
Retailer-specific offences	Penalties [#]
Selling a spray paint can to a minor for any purpose other than their employment	A fine of up to 20 penalty units (\$2,268.40) or an on-the-spot infringement penalty of up to two penalty units (\$226.84)
An employer or principal not taking reasonable precautions to prevent an employee or agent from selling a spray paint can to a minor for any purpose other than their employment	A fine of up to 20 penalty units (\$2,268.40)
Advertising a prescribed graffiti implement for sale if the advertisement is likely, and is intended, to incite or promote unlawful graffiti	A fine of up to 50 penalty units (\$5,671.00)

[#] These penalties are 2008–09 figures and apply from 1 July 2008.

Marking graffiti & offensive graffiti

The aim of the Act is to help reduce the incidence of illegal graffiti in Victorian communities. It is also aimed at assisting police to apprehend and prosecute graffiti offenders.

Being in possession of a spray paint can

Under the Act, it is an offence to be in possession of a prescribed graffiti implement (identified in the Act as a spray paint can) without a lawful excuse while on or near property belonging to a public transport company or while trespassing on private property.

A person must show that they have a lawful excuse for carrying the spray paint can, eg. that the spray paint is required for any purpose connected with their job, business or trade.

Advertising spray paint cans to incite or promote illegal graffiti

Spray paint cans cannot be advertised for sale in a way that encourages or promotes the use of the cans for illegal graffiti. If spray paint cans are advertised for legitimate purposes (eg. craft work, auto body repairs), this is not an offence under the Act.

Restrictions on selling spray paint cans

The sales restriction to minors is intended to reduce the incidence of graffiti offending by making it more difficult for young people to access spray paint cans which are a commonly used graffiti implement.

This means that retailers and their employees who sell spray paint cans to minors without appropriate proof can be fined.

Victoria Police crime statistics show that almost 80% of alleged graffiti offenders in 2006–07 were under 19 years of age and almost 30% were less than 14 years of age.

Graffiti management strategy's key aims & initiatives

The Victorian Government's graffiti management strategy includes a range of responses to the problem of graffiti. The strategy aims to:

- **PREVENT** graffiti from recurring;
- **REMOVE** and clean-up existing graffiti; and
- **ENFORCE** graffiti laws and use technology to deter, detect and prosecute graffiti offenders.

PREVENT graffiti from occurring

Establish a graffiti website (justice.vic.gov.au/graffiti) to provide information on graffiti prevention and removal and the new graffiti laws. The website is targeted at residents, retailers, councils and other interested individuals and groups.

Support the Victoria Police Graffiti Management Framework's implementation.

Develop information kits and targeted information resources to support the introduction of the new graffiti laws as well as those stakeholders that must meet particular obligations under the Act. The *Retailer's Kit* provides resources for retailers and their employees. An April 2008 graffiti information forum for councils informed them of the new laws and their obligations under the Act.

Consult with key stakeholders (including councils, retailers, young people and services and organisations that work with them) to identify and address information and resource needs.

REMOVE & clean-up existing graffiti

Deliver a graffiti clean-up grants program which encourages partnerships between local councils and communities for local-level graffiti removal projects. In 2007–08, the program will fund more than 15 graffiti removal vehicles and portable removal systems for use by councils and community groups and deliver more than 3,200 graffiti removal kits to residents, community groups and traders.

Expand the Community Correctional Services Graffiti Removal Program which puts low-risk offenders to work to clean-up graffiti in local communities. From November 2005 to May 2008, the program cleaned up over 300,000 square metres of graffiti – an area equal to almost 15 MCG playing fields.

Build 6 new purpose-built graffiti removal trailers for the Community Correctional Services Graffiti Removal Program. With the addition of these trailers, there are 14 Graffiti Removal Program trailers operating across Victoria.

ENFORCE graffiti laws & use technology to deter & detect offenders

Introduce the *Graffiti Prevention Act 2007* to target graffiti as a crime in its own right, help police to detect offenders, and provide a procedure for councils to remove graffiti from private property.

Support the development of enforcement technology to help Victoria Police to detect and deter graffiti offenders. A statewide graffiti tags database will help to capture evidence of offences under the Act and help to build intelligence on repeat offenders.

Partner with Crime Stoppers Victoria to support the reporting of graffiti and assist police to detect offenders.

Further information about the Act and the government's graffiti management strategy is available online
justice.vic.gov.au/graffiti
or via email graffiti@justice.vic.gov.au.