

Graffiti Control Act 2008 No 100

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<https://www.legislation.nsw.gov.au/view/html/inforce/current/act-2008-100#sec.4>

4 Marking premises or property

(1) A person must not, without reasonable excuse (proof of which lies on the person), intentionally mark any premises or other property, unless the person has first obtained the consent of the following—

(a) in relation to premises that are occupied—the occupier or person in charge of the premises,

(b) in relation to premises that are unoccupied or other property—the owner or person in charge of the premises or property.

Maximum penalty—4 penalty units.

(2) A person is guilty of an offence under this subsection if the person commits an offence under subsection (1) in circumstances of aggravation.

Maximum penalty—20 penalty units or imprisonment for 12 months.

(3) For the purposes of this section, a person commits an offence in circumstances of aggravation if the person intentionally marks the premises or other property—

(a) by means of any graffiti implement, or

(b) in such a manner that the mark is not readily removable by wiping or by the use of water or detergent.

(4) A court that convicts a person of an offence under subsection (2) must not sentence the person to imprisonment unless the person has previously been convicted of an offence under this section or section 5 (or under section 10A or 10B of the [Summary Offences Act 1988](#) as in force before their repeal by this Act) on so many occasions that the court is satisfied that the person is a serious and persistent offender and is likely to commit such an offence again.

(5) Subsection (1) does not apply to the marking of any public footpath or public pavement with chalk, including, but not limited to, marking out a hopscotch or handball court with chalk.