

Nazi symbols and gestures

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611, drop into an office (no appointment necessary) or use the Legal Talk chat function on our website. We are open Monday to Friday, 9am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

The law says you can't display a Nazi symbol or perform a Nazi salute, except in some limited situations.

What's the law say about Nazi symbols or gestures?

It is illegal for a person to publicly display a Nazi **symbol** if the person knows, or should know, that the symbol is a Nazi symbol.

It is also illegal for a person to perform a Nazi **gesture** if:

- the person knows, or should know, that the gesture is a Nazi symbol or gesture
- the gesture is performed by the person in a public place or where the gesture would be visible to the other person
- a Nazi gesture is performed on private property that is visible to the public (such as a public street).

When are Nazi symbols or gestures allowed?

The law is clear that the display of a swastika in connection with Buddhism, Hinduism or Jainism is not related to the Nazi meaning and therefore is not illegal. This means that people displaying a swastika as part of a religious festival or in a business or home will not be doing something illegal when it is connected with Buddhism, Hinduism or Jainism.










There are also circumstances where there is a legitimate public purpose for a Nazi symbol to be displayed. For example:

- for academic, artistic, religious, scientific, cultural, educational, legal or law enforcement purposes – such as a display of a Nazi symbol as part of a museum exhibition that is educating the public on the atrocities of WW2, or a report or news report where people are displaying the Nazi symbol
- for the purpose of opposing, or demonstrating against, fascism, Nazism, neo-Nazism or other similar or related ideologies or beliefs
- for another purpose that is in the public interest. The law recognises that there may be other instances where it is in the public interest to display a Nazi symbol, and in such circumstances, the display is not considered illegal.

Deciding whether a person knows, or should know, that the symbol is a Nazi symbol or gesture includes considering individual circumstances such as the person's age, education and life experiences.

What is a Nazi symbol?

The following symbols are some of the main symbols used by and associated with the Nazis or with Nazi ideology in Australia:

 <p>Nazi hakenkreuz (hooked cross or swastika)</p>	 <p>Double Sig rune (SS lightning bolts) used by the SchutzStaffel (SS), who primarily perpetrated the mass killings of Jews</p>	 <p>Totenkopf (Death's head) used by the Nazi SS from 1934 to 1945</p>
 <p>Sonnenrad (Black Sun/Wheel)</p>	 <p>Broken Sun Cross, or Sun Cross swastika</p>	 <p>Celtic Cross (unstylised)</p>
 <p>Algiz rune - symbol of protection, defence</p>	 <p>Tyr rune - symbol of combat</p>	 <p>Othala/Odal rune - symbol of heritage, estate, possession</p>

What is a Nazi gesture?

A Nazi gesture includes the gesture known as the Nazi salute or a gesture that is likely to be confused with, or mistaken for, such a gesture.



What if I post a Nazi symbol online?

A person will be breaking the law if they display Nazi symbols online where the communication is visible to the public – such as on a website or via a social media platform. However, this does not extend to private communication, such as online private messaging.

What if I have or get a tattoo with a Nazi symbol?

It is not against the law if the symbol is a tattoo or body modification. If a person is charged with breaking the law because they have shown in public a Nazi symbol that is a tattoo or permanent body modification, they will not be guilty of breaking the law if the person can prove that the symbol is a tattoo or permanent body modification.

What if I am charged?

Someone who is found guilty of breaking this law can receive a maximum fine of 20 penalty units (currently \$3,900) or a maximum prison term of 3 months. If a person breaks the same law again within 6 months, the maximum penalties are doubled. That means that a person could get a fine of 40 penalty units (\$7,800) or 6 months in prison. The amount of the fine will go up each year.

Anyone charged with breaking this law will need to go to court and should seek legal advice beforehand. The sentence will be set by the Magistrates Court. Anyone can receive free legal information from Tasmania Legal Aid by calling 1300 366 611.

Does this law just apply in Tasmania?

Other Australian states and territories have similar laws against the display of signs and symbols related to Nazi ideology. People in Tasmania who display the Nazi symbol or gesture will be charged according to the Tasmanian law. People who display the Nazi symbol in another Australian state or territory will be charged according to the laws in that state or territory.

The Australian Government is also introducing new laws against the sale of items which display the Nazi symbol. These new laws will apply across all of Australia.

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.