

Fact sheet – Ban of Nazi symbols and gestures

New criminal offence commences on 21 October 2023

Background

The Victorian Government has introduced new laws to **prevent people from displaying or performing symbols and gestures used by the Nazi Party in public**. These laws commenced on 21 October 2023.

It is already a criminal offence to display the Hakenkreuz (twisted or hooked cross) – the most widely known symbol used by the Nazi Party and the Third Reich in Germany during the early to mid 20th century, associated with the Nazi Party's crimes against humanity.

The new laws expand this existing offence by also banning the public use of additional Nazi symbols and gestures, including the Nazi salute.

Such displays cause harm to members of the Victorian community, and this is unacceptable. The ban sends a clear message that Nazi ideology and the hate it represents is not tolerated in Victoria.

There are several exceptions to the offence. These include where the display is made reasonably and in good faith for genuine academic, religious, artistic, or educational purposes.

The existing exceptions that recognise the cultural and historical significance of the swastika for the Buddhist, Hindu, Jain, and other faith communities will remain. For these communities, the swastika (which may be mistaken for the Nazi Hakenkreuz) is an ancient and sacred symbol of peace and good fortune.

1. What is the offence?

A person commits a criminal offence if they:

- intentionally display or perform a symbol or gesture used by the Nazi Party in a public place or in public view, and
- know, or ought to have reasonably known, that the symbol or gesture is a Nazi symbol or gesture.

2. What is the penalty for committing the offence?

A person who commits an offence could face fines of \$23,000, 12 months in prison, or both.

3. What Nazi symbols and gestures are banned?

The Hakenkreuz and the Nazi salute are the most widely recognised symbol and gesture used by the Nazi Party. They are used to incite hatred towards members of the Victorian community, which is why they have been explicitly banned.

Other symbols and gestures used by the Nazi Party and its associated paramilitary arms are also banned, as are those which closely resemble a Nazi symbol or gesture.

The Nazi Party means the National Socialist German Workers' Party (NSDAP) which was active from 1920 to 1945. The Nazi Party also includes its paramilitary arms such as the SA (Sturmabteilung), the SS (Schutzstaffel), the NSKK (National Socialist Motor Corps) and the NSFK (National Socialist Flyers Corps).

Ultimately, it will be up to the courts to decide exactly which symbols and gestures are within the scope of the ban. However, the new laws are intended to capture flags, insignia and medals that were used by the Nazi Party and its paramilitary arms, including:

- the SS bolts symbol (sig runes)
- the Totenkopf (or Nazi skull) which was also used by the SS
- other symbols of the SA, the NSKK, and the NSFK.

4. Are there any exceptions?

There are several exceptions to the offence, recognising that Nazi symbols and gestures may be displayed or performed for genuine purposes.

A person is not committing an offence if they display or perform a Nazi symbol or gesture reasonably and in good faith:

- for a genuine academic, artistic, educational, or scientific purpose, or

- in making or publishing a fair and accurate report of any event or matter of public interest.

For example, where a person performs the Nazi salute within a theatre performance, or where a teacher shows a film in which the SS symbol can be seen as part of a history class.

People also are not committing an offence if they display:

- a Nazi symbol for genuine cultural or religious purposes. This ensures certain religions can continue to use the sacred swastika.
- either a Nazi symbol or gesture in opposition to Nazism or related ideologies.

For example, a person who displays a flag of Nazi Germany with a marking through it, or a person who displays the pink triangle used by LGBTQ+ communities.

Tattoos of Nazi symbols or gestures are not covered by the ban.

There are also exceptions for law enforcement or administration of justice purposes.

5. Is the public display of the religious and cultural swastika banned?

The offence does not prohibit the display of the swastika (which may be mistaken for the Nazi Hakenkreuz) for cultural and religious purposes.

For example:

- Where a person of Hindu faith displays a swastika in the front window of their shop as a symbol of good luck.
- Where a person of Jain faith draws a swastika on their new vehicle before using it as a symbol of good fortune.
- Where a person of Buddhist faith displays a sculpture of Buddha with a swastika on the chest, as a symbol of good fortune, at a Buddhist temple.

For more information, in line with the Government's commitment to deliver a community education campaign to raise awareness of the origins of the religious and cultural swastika;

recognise its importance to the Buddhist, Hindu and Jain communities; and explain how it differs from the Nazi Hakenkreuz, view the:

[Fact sheet – About the Nazi symbol ban](#)

6. Are Nazi symbols and gestures displayed online banned?

The law only covers Nazi symbols or gestures that are visible in a public place and not online.

If you see a Nazi symbol or gesture displayed online, you should contact Victoria Police via the Police Assistance Line (131 444) for non-urgent matters.

You can also report the display to the eSafety Commissioner to request the take down of serious cyber abuse material.

7. What if I am unsure about displaying or performing a Nazi symbol or gesture?

If you are unsure about whether a public display or performance of Nazi symbols or gestures is permitted, you should seek independent legal advice.

Victoria Legal Aid provides free legal advice on a range of matters. Contact them via their website at www.legalaid.vic.gov.au/contact-us.

You can also get free information about the law from Victoria Legal Aid's Legal Help phone line on 1300 792 387. The phone line is available from Monday to Friday between 8 am and 6 pm.

The Law Institute of Victoria (LIV) Legal Referral Service can help locate a specialist solicitor to provide independent legal advice.

This can be accessed via www.liv.asn.au/referral or on (03) 9607 9550. Initial consultations are free of charge.

8. What powers does Victoria Police have to enforce the offence?

Police can arrest and charge a person who is publicly displaying or performing a Nazi symbol or gesture.

Police can also:



- direct a person to remove a Nazi symbol or gesture from public view if they reasonably believe that person is committing an offence
- direct the owner or occupier of a property to remove a Nazi symbol or gesture from public view
- charge a person who does not follow a direction to remove a Nazi symbol or gesture from public view. The fine is approximately \$1,900 or 10 penalty units.

Police can also apply to the Magistrates' Court for a warrant to search premises and seize property that displays a Nazi symbol or gesture.

9. How do I report the offence?

If you want to report the display or performance of a Nazi symbol or gesture to police, please contact your local police station, or call Crime Stoppers on 1800 333 000.

If the report is in relation to an immediate risk, please call Triple Zero (000).