

## What are the laws about crystal methamphetamine?



This section outlines the law for **methamphetamine** (including crystal methamphetamine 'ice') related offences in Australia. This information is a general summary of the law for methamphetamine and should not be taken as comprehensive legal advice.

If you have been charged with a drug **offence** you should contact a criminal lawyer for assistance.

The **possession, supply, traffic, importation, exportation** and **manufacture** of methamphetamine and its **precursors** are **prohibited** in all Australian states and territories and against Commonwealth law.

It is also an offence in most parts of Australia to use methamphetamine or to possess any **implement** for using methamphetamine (e.g. a pipe) other than a needle and syringe.

In Queensland and the Northern Territory it is also prohibited to possess a needle and syringe if it is *not disposed of safely or if it is considered a risk to society*.

## Drug Law Basics

Click to expand the sections below to find out more about different types of drug offences and their consequences.

## Key legal terms and information

If charged with an **offence**, you should receive a document which tells you what law police believe you have broken. For example: *Section 73 of the Drugs Poisons and Controlled Substances Act (Vic)*.

Most drug offences in Australia are found in the following laws:

- [Criminal Code Act 1995 \(Cth\)](#)
- [Drugs of Dependence Act 1989 \(ACT\)](#) and [Criminal Code 2002 \(ACT\)](#)
- [Drug Misuse and Trafficking Act 1985 \(NSW\)](#)
- [Misuse of Drugs Act 1990 \(NT\)](#)
- [Drugs Misuse Act 1986 \(Qld\)](#)
- [Controlled Substances Act 1984 \(SA\)](#)
- [Misuse of Drugs Act 2001 \(Tas\)](#)
- [Drugs, Poisons and Controlled Substances Act 1981 \(Vic\)](#)
- [Misuse of Drugs Act 1981 \(WA\)](#)

Each drug offence will have a **maximum** term of imprisonment attached to it along with a **maximum** fine that could be issued (listed as a 'penalty unit' or 'PU').

Fines can be issued along with, or as an alternative, to going to prison.

For example, a person convicted for possessing **methamphetamine** under Section 24 of the *Misuse of Drugs Act 2001 (Tas)* could incur the penalties of a fine up to 50 **penalty units** or imprisonment up to 2 years.

What does a 'penalty unit' mean in Australian dollars? That differs in each state and territory and changes every financial year.

This financial year (2020 to 2021) 1 penalty unit = \$110 (NSW), \$133.45 (Qld), \$160 (ACT), \$165.22 (Vic), \$158 (NT), \$172 (Tas), \$222 (Cth).

South Australia and Western Australia do not provide 'penalty units' for offences, but list maximum fine amounts under law that a court could issue. For example, **possession** or consumption of a controlled drug in South Australia carries a maximum penalty of \$2000. Similarly, **possession** or use of a prohibited drug in Western Australia (a 'simple offence') carries a maximum penalty of \$2000 or to imprisonment for a term not exceeding 2 years or both.

Legal penalties for drug offences relating to methamphetamine are different across Australian jurisdictions.

Penalties also vary by the type of offence (i.e. **possession** vs. **supply**). The maximum penalties may also depend on whether the **prosecution** charges through **minor (summary)** or **major (indictable)** proceedings. See glossary for definitions.

**The two most common drug offences are 'possession' and 'supply or trafficking' offences. So what do these offences mean?**

**Possession** includes physically carrying an illegal drug on you, or having it at your place of residence or in your motor vehicle. Possession also includes jointly possessing a drug with another person.

Possession is usually less serious than other drug offences such as **supply** or trafficking, but can still carry a prison sentence – particularly if someone has been charged multiple times.

**Supply or trafficking** means providing an illegal drug to another person (most people call this '**dealing**').

Traditionally a trafficker is considered someone who exchanges drug(s) for money, property or services. However, if any illegal drug is passed onto others (even friends) this is also considered to be 'trafficking'.

Being charged with 'dealing' methamphetamine is very serious and likely will result in a term of imprisonment.

You can be charged with supply or trafficking offences either because you are 'caught' dealing or you have in your possession enough methamphetamine that you are deemed to be supplying or trafficking the drug.

In most parts of Australia three levels of 'dealing' have been outlined;

- 'trafficable',
- 'commercial' and
- 'large commercial' or 'marketable' thresholds.

These thresholds are based on the quantity of drug involved. A 'trafficable' amount of methamphetamine can be as low as 2 grams.

People can still be charged with trafficking if they have less than these amounts. For example, if they are caught with evidence of intent to traffic, such as large sums of money, drugs distributed into multiple bags or in the act of supplying drugs to another — even friends.

## What are the consequences of committing a drug offence?

Penalties if convicted of a drug **offence** vary depending on the seriousness of the offence and your personal circumstances. Sentences can include fines, imprisonment, rehabilitation orders and being disqualified from driving.

Some states and territories also have **diversion** problems which may mean you can avoid a conviction and/or a serious penalty by undertaking drug treatment or education programs.

If you receive a criminal conviction it can have a serious impact on your future prospects. For example, it can stop you being able to visit some countries (e.g. the USA), limit the types of jobs you can apply for, or lead to you being refused a job, dismissed or denied a promotion.

## How long could you go to prison?

How long you could be imprisoned for if found guilty of an **offence** differs by the type of offence and your personal circumstances.

If you committed a less serious offence (such as **possession** a small amount of **methamphetamine**) and you are a first-time offender you are more likely to be dealt with by a fine or court **diversion** rather than imprisonment. More serious offences, such as methamphetamine trafficking, can carry a penalties as serious as life imprisonment.

## What if I buy drugs online?

It is an **offence** to import **methamphetamine** across the Australian border either for personal use or to **supply** to others.

If you buy a drug such as methamphetamine online, even if there is no proof that the drug came from overseas, you may be charged. The prime criteria for police and courts is whether you 'reasonably suspected' it to have an international origin.

Importation of only 2g of methamphetamine carries a maximum penalty of 25 years imprisonment and/or 5,000 **penalty units**.

## Is it against the law to take methamphetamine and drive?

It is an **offence** to drive, attempt to drive or supervise a learner driver with any illicit drug in your system. Unlike blood alcohol concentration (BAC) testing, where there is a legal blood alcohol limit, **it is an offence if any amount of illicit drug is detected**.

You can still be charged with driving under the influence, even if you think the effects of methamphetamine have left your system. For more information, refer to [Factsheet: Ice and driving](#)

All states and territories have the power to use random roadside drug testing which includes testing for methamphetamine. In some states if you refuse to provide a saliva sample when you are stopped, you may be fined.

Typical penalties for first time offenders include a 6–12 month disqualification of your driver's license and a fine.

Imprisonment is also an option, particularly for repeat offenders.

You can be charged with a more serious offence if you have methamphetamine in your system and you get into a car accident or are found driving dangerously.

## Interacting with Police

Click to expand the sections below to find out more about what to expect when interacting with police.

### What will police do if I am caught with methamphetamine on me?

If you are caught with even a small amount of **methamphetamine** (including ice) police will **confiscate** the drug as well as any '**paraphernalia**' you have such as an ice pipe.

### What will happen if police suspect I have committed a drug offence?

If police suspect you have committed a drug offence they may ask you to provide your name and address. You must provide those details, but you do not need to answer any further questioning by police.

## What rights do police have to stop and search me for methamphetamine?

If police have a reasonable suspicion that you have committed an **offence** they may search you or your car.

Generally, police are not able to conduct an intimate search of your body or search your house unless they have a warrant or special circumstances apply.

## What will happen if I'm arrested?

If you are under arrest, police will take you into custody. You may also participate in a police interview, you do not need to answer questions in the police interview beyond providing your name and address.

Whilst in custody you have a right to contact a lawyer.

If the police charge you with a drug **offence** you may remain in custody (on 'remand') until your charges are heard in court or you may be given 'bail' – meaning you are free to go but must follow certain conditions!.

For more information about your legal rights, it's important for you to discuss your case with a lawyer. For certain cases, you may be able to get free advice from your local [Community Legal Centre](#).

## Will police be called if I call an ambulance to a drug-related incident?

Many people do not call an ambulance for fear of police involvement. However, the police will usually not attend overdoses or incidents related to illegal drugs, such as ice, unless there are special circumstances. **It is important to call for an ambulance immediately (000) if there is any risk that someone is having an unusual reaction to ice or any other drug.**

[Find out more about how to help someone who is having an unusual reaction to ice.](#)

## Acknowledgements

This factsheet was developed in 2014 following expert review by researchers at the [National Drug and Alcohol Research Centre \(NDARC\)](#) and was last updated in 2020. It was written by Caitlin Hughes, of the Drug Policy Modelling Program (DPMP) at NDARC in consultation with the *Cracks in the Ice* team at the [Matilda Centre for Research in Mental Health and Substance Use](#).

Key source: Hughes, C. (2014). *Drugs and the law: What you need to know*. Sydney: National Drug and Alcohol Research Centre, University of New South Wales.