

193. Unlawful Wounding

193.1 Legislation

[Last reviewed: February 2025]

Criminal Code

[Section 323](#) – Wounding

[Section 365C](#) – Proof of being adversely affected by an intoxicating substance

193.2 Commentary

[Last reviewed: February 2025]

A 'wound' means that true skin must be broken and penetrated, not merely the cuticle or outer skin: per McPherson ACJ in *R v Jervis* [\[1993\] 1 Qd R 643](#) at [645].

An 'assault' is not an element of the offence of wounding, provocation is not available: (*Kaporonovski v The Queen* [\(1973\) 133 CLR 209](#)).

It is a circumstance of aggravation if the offence is committed in a public place while the person was adversely affected by an intoxicating substance: s 108B of the *Penalties and Sentences Act 1992*. See s 365C of the *Criminal Code* for circumstances in which a person is taken to be adversely affected by an intoxicating substance.

193.3 Suggested Direction

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The prosecution must prove:

1. **That the defendant wounded the complainant.**

In order to constitute a wound, the true skin must be broken and penetrated, not merely the cuticle or outer skin. [Refer to evidence including medical evidence].

2. **That the wounding was unlawful.**

A wounding is unlawful unless it is authorised or justified or excused by law.

3. **Circumstance of aggravation.**

It is a circumstance of aggravation if the offence is committed in a public place while the person was adversely affected by an intoxicating substance.