

Going Armed in Public: s 69

Legislation

69 Going armed so as to cause fear

- (1) Any person who goes armed in public without lawful occasion in such a manner as to cause fear to any person is guilty of a misdemeanour, and is liable to imprisonment for 2 years.
- (2) The offender may be, and it is hereby declared that the offender always was liable to be, arrested without warrant.

Commentary

Meaning of 'going'

Going armed does not require actual movement by the defendant. See *R v Hildebrandt* [1964] Qd R 43, where it was held that where the accused sat in an aircraft and brandished a firearm, he was going armed in public. 'Going' refers to the manner of going and not to the progression with reference to the position of other people.

Meaning of 'armed'

The word 'armed' means possessing an object which is available and capable of causing fear. It is the manner in which the object is used that is relevant: *Miller v Hrvojevic* [1972] VR 305; *Ashcroft* (1989) 38 A Crim R 327.

Meaning of 'in public'

It is not necessary for the offence to be committed in a public place, but only that the offender go armed in public: per Muir J in *R v Bennett* [1998] QCA 393, CA No. 211 of 1998, 24 November 1998. A useful concept from the Macquarie Dictionary is 'open to public view'.

Meaning of 'to cause fear'

It is not necessary that any person should give evidence that he/she was actually put in fear: *Sharp; Johnson* [1957] 1 QB 552.

Meaning of 'without lawful occasion'

The expression 'without lawful occasion' is not confined to self-defence and has a wider application depending on the circumstances of the case: per Muir J *Bennett* (ibid). It means there was no good and lawful reason for what the defendant did.

Suggested Direction

The prosecution must prove that the defendant:

1. Went armed;

Going armed does not require actual movement by the defendant

2. In public;

3. In such a manner as to cause fear to (a person or persons).

4. Without lawful occasion.