Thousands Fined for Jaywalking: A Cash-Grab or Public Safety Issue?

Imagine you're waiting at the lights to walk across – the little man is red, but there are no cars around at all, and haven't been any for what seems like ages.

Would you be tempted to cross anyway? Or perhaps cross from a few metres away from the intersection just to be completely safe?

You may not even realise that this is against the law – until a police officer approaches, informs you that you've committed an offence, and writes up a $71 fine!

What does the law say?

The definition of pedestrian includes someone walking on or near a public road, and also a person:

- In a motorised wheelchair that has a maximum speed of over 10 km per hour;
- In a non-motorised wheelchair; and
- In a wheeled recreational device or wheeled toy such as a skateboard, roller blades, scooter, unicycle, or the tricycle, pedal car or other similar toy of a child under the age of 12

While the NSW Road Rules Act 2014 primarily relates to vehicles, there is an entire section of offences specifically applying to pedestrians.

These offences include:

- Crossing a road at traffic lights or pedestrian crossings during the red pedestrian light is on;

- Crossing a road within 20 metres of a pedestrian crossing;

- Entering on foot areas past signs marked ‘no pedestrians’;

- Not taking the ‘shortest safe route’ when crossing a road, or staying longer on the road than necessary;

- Walking along the road if there is a footpath or nature strip adjacent to the road, unless it is impractical to do so. This rule does not apply to pedestrians who are travelling in a wheeled recreational device or toy;

- Travelling on a path designated to bicycles, unless you are simply crossing over the path; and

- Standing on or moving onto the road to hitchhike, offer to wash windscreens, or display advertisements.

Police can hand out infringement notices carrying fines of $71 for these offences – but if you choose to take the matter to court and are found guilty, the maximum penalty increases to a whopping $2,200.

Do police actually enforce these rules?

When it comes to public safety, relentlessly pursuing people jaywalkers probably not the first thought that comes to mind.

But police will often make a point that certain laws exist by organising ‘blitzes’, some of which can last weeks or even months.

One such blitz focused on jaywalking in the Sydney CBD, resulting in 4,480 people being given tickets for jaywalking between July 2013 and July 2014,.

This year, police have focused on those who cross the road when the pedestrian light is red – even handing-out tickets

even when no cars are around.

The enforcement of these laws is said to be for public safety reasons – pedestrians being on the road when they shouldn't be is cited as a common cause of accidents.

But the breadth and application of the current law has been criticised as unfair, and as a cash-grab with little if any public safety benefit.

Is the current law fair?

There is an argument that the current law is far too broad because it does not consider whether the pedestrian actually caused any danger.

Under the law, a pedestrian can be fined even if there is absolutely no traffic around and there is no conceivable danger to any road user.

Fining people who are not causing any danger may be seen as unfair, and even as making a mockery of the law.

It is suggested that the law could be amended to require some evidence that the pedestrian was actually causing a danger, eg by crossing where there was traffic on the road, rather than simply allowing police to make offenders out of just about everyone in the community.

Indeed, that evidence could be captured on the cameras that are now fitted to many of the officers that are performing the task of catching jaywalkers.

In fact, the officer was wearing a camera on his helmet while issuing a ticket for jaywalking to a pedestrian when there was no traffic on the road at all.

Can I contest a jaywalking ticket?

It can be frustrating to get an infringement notice for

jaywalking, particularly if there weren't any cars in sight and you didn't even know it was illegal.

You might wish to ask the State Debt Recovery Office for a review. If that fails, you can elect to dispute the ticket in court.

But it should be borne in mind that going to court may not always be a good option, because it can take a lot of time, be stressful, and you could end up with a much higher fine if you lose.

Interestingly, the back of these tickets warns recipients that "less than 4 per cent of penalties result in the recipient not needing to pay the penalty" and that "less than 1 per cent of penalties result in a not guilty verdict in court."

Even if you are successful, or escape penalty by way of a section 10 dismissal or conditional release order (which means no penalty), you could be left wondering if it was all worth it.

Unfortunately, infringement notices allow police to easily take action for very trivial offences, while current arrangements make it impractical and financially risky to contest them.

Of course, police know all of this when they issue people with fines for offences that seemingly carry very little public benefit.