

# On being naked in public

There is no law that says it is illegal to be naked in a public place.

However, common lore suggests you can't wander naked around your street. So how does the law apply?

There are two Sections of the Summary offences Act 1981, that the police are likely to consider in light of a complaint.

At first, some police may consider 'Indecent exposure' but experience confirms that will not get to court in the case of a genuine Naturist and mere nudity. Section 27 is quoted only for the sake of completeness.

**Section 27** Indecent exposure– (1) Every person is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$1,000 who, in or within view of any public place, intentionally and obscenely exposes any part of his or her genitals.

The precedent-setting aspect for Naturists resides in Section 4.

<p><b>Section 4</b> <u>Offensive behaviour</u> or language – (1) Every person is liable to a fine not exceeding \$500 who,– (a) In or within view of any public place, <u>behaves in an offensive</u> or disorderly <u>manner</u>;...</p>
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In determining the question of '*behaving in an offensive manner*' on an inner city beach, Justice Tomkins said, "*I have little doubt that in this day and age and in that place, a place where it was not uncommon for persons to sunbathe in the nude, adults on the beach would not be offended, in the more restricted meaning of that word as used in the section, by the appellant naked.*" (Tomkins J. High Court Auckland AP 76/91) It should also be pointed out that the presence of school children was carefully considered in this decision.

However, in an appeal against conviction for '*behaving in a disorderly manner*' in his street, Justice David Morris said, "*when in Auckland suburbia, live in a suburban style. If elsewhere e.g. a beach, live as they live on that beach, but take care.*" (Morris J. High Court Auckland AP 131/95) The 'care to be taken' should be covered by simply asking permission of any nearby textiles, when you arrive at the beach.

Following the 1991 decision, in February 1992, **the Police's** Ten-One magazine commented in its '*Law Notes*' (page 10), "*We are now at the stage where, if we are going to charge a person with offensive behaviour there must be evidence to prove deliberate intent to offend.*"

If the police receive an apparently legitimate complaint, they are likely to investigate. Welcome them and be courteous. Listen to what they have to say. Do not show aggression. If necessary, calmly draw their attention to the matters set out here; and in that light, ask for their help in reaching an amicable arrangement for all to enjoy the day at the beach.

Remember that each contact with the police can be of potential use! If you encounter someone behaving offensively at 'your beach,' you'll have a named person to ask for, should it be necessary to take an incident further. Your previous contact would stand you in good stead, compared with a 'cold call' on the police.

This is a reminder of the **Beach Etiquette** observed by all 'genuine Naturists.'

- First and foremost be considerate and courteous to all other beach users.
- Respect the personal space of others – especially women and families (naked or not).
- No photography or videoing without prior permission.
- Encourage the formation of a male group to respond to anyone behaving furtively or intimidating women.
- Take out more rubbish than you bring in.
- Observe locally notified regulations for dunes, fishing, fire, flora and fauna; etc.
- Please **act** to stop others breaching the law on offensive behaviour, including calling the police if necessary.

## FREE BEACHES NZ Inc.

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# Acknowledging the reality

Sometimes, you may find the police want to say that there is no place or time that is not legally a 'grey area' when it comes to mere nakedness in public. However, in the following places the police have not acted to warn, let alone charge, those found naked.

**During an average summer, the following counts of naked persons may be currently expected.**

	Place	Usual weekday	Usual weekend	Useable weeks	Years used	Totals
Whangarei	Uretiti Beach	20-30	50-200	35	50	437500
Waiheke Is	Little Palm Beach	20-70	25-150	35	25	233333
Auckland	St Leonards Beach	20-30	50-150	30	30	195000
	Ladies Bay	15-25	20-50	30	40	136000
	Long Bay	0-10	15-50	35	30	63000
	Orpheus Bay	0-5	0-20	25	20	10833
	Mellons Bay	0-5	0-15	25	20	9167
Whangamata	Opoutere Beach	0-5	10-15	25	20	12500
Tauranga	Papamoa Beach	10-40	20-150	35	30	206500
	Omanu & West P	0-2	0-5	30	5	1000
Taupo	Five Mile Bay	0-3	0-10	20	15	3500
New Plymouth	Tapuae Beach	10-20	10-40	25	20	41667
	Back Beach	0-5	0-10	25	25	9375
Wanganui	Ototoka Beach	0-3	0-8	15	20	310
Hawkes Bay	Ocean Beach	3-10	10-40	25	25	34375
	Waimarama Beach	0-10	3-10	20	25	12667
Kapiti Coast	Pekapeka Beach	0-5	5-30	20	25	15833
Wellington	Breaker Bay	10-30	20-100	30	40	176000
Nelson	Rabbit Island	5-15	10-25	20	35	39667
Christchurch	Taylors Mistake	0-2	0-15	20	15	4000
	Waimari Beach	10-20	10-50	20	50	90000
	Waikuku Beach	0-10	0-20	20	15	9000
Dunedin	Murdering Beach	0-5	3-10	15	20	5100
<i>Averages</i>		<u>10.5</u>	<u>31</u>	25	26	<u>76049</u>
Average sums		<b>242</b>	<b>717</b>			Grand Total: <b>1,749,117</b>

The sum of the weekday averages is over 200 each day, and about 1400 over the weekend. Adjusted for weather by dropping one day in three, the indications are that in the summer, averaged over 23 venues; there would be around 1700 naked people on the beach each week. Are there really over 40,000 opportunities for prosecution per year ignored? At a potential average fine of \$100, that's \$4 million a year forgone!

Taking account of the numbers of years that this is known to have occurred, there have been over 1½ million occurrences of unprosecuted public nakedness in or near these 14 towns during the last 50 years.

There are over 300 places, mostly beaches; publicly listed as 'togs optional' which are further away from the main centres: thus without reliably countable numbers; but no less safe on the grounds of nakedness being 'know to occur' there.

There are also events like the Nambassas of the early 80s, where around 50% of the many thousands attending, went naked in the proximity of the police, again with no charges laid for mere nakedness.

**In August 2000, the police Superintendent of Ministerial Services in the Office of the Commissioner (and head of the Police Prosecution Service), Graham Thomas; acknowledged that forensically, the occurrences listed above can be: "said to be 'not illegal'."**