

The Defence of Lawful Justification

Intentional Torts and *Law Enforcement (Powers and Responsibilities) Act 2002 (NSW) (LEPRA)*

False Imprisonment

False imprisonment is the most common intentional tort pleaded in relation to the exercise of police powers. To establish false imprisonment, it must be satisfied that the plaintiff was imprisoned by defendant's voluntary and unlawful conduct, regardless of their intent.



LEPRA Powers



LEPRA grants the police the power to arrest under section 99 and the power to search and seize items under section 21 and 36, all without a warrant. Sections 201-204B also apply to what is required in the exercising of those powers for them to be valid.

Reasonable Grounds

Lawful justification applies if the tort occurred during the valid exercise of a power, requiring the police to have reasonable grounds to exercise that power. Reasonable grounds is based on sufficient, objective facts known at the time.



Arrest Requirements



A police officer may arrest a person if:

1. they reasonably suspect an offence has been committed; **and**
2. The arrest is reasonably necessary to prevent harm, preserve evidence, ensure court appearance, or stop reoffending or fleeing.

NSW v Robinson

For an arrest to be lawful, the arrested person must be taken before a judicial officer as soon as reasonably practicable to address the offence and commence legal proceedings.

