

Explanatory Notes

FOR

Amendments To Be Moved During Consideration In Detail By The Honourable Yvette D'Ath MP

Title of the Bill

Serious and Organised Crime Legislation Amendment Bill 2016 (the Bill)

Objectives of the Amendments

The objectives of the amendments are to address minor and technical issues that have been identified since introduction of the Bill to the Legislative Assembly.

The proposed amendments relate to the following parts of the Bill:

- Part 2 – Amendment of *Bail Act 1980*;
- Part 5 – Amendment of *Crime and Corruption Act 2001*;
- Part 14 – Amendment of *Liquor Act 1992*;
- Part 16 – Amendment of *Motor Dealers and Chattel Auctioneers Act 2014*;
- Part 17 – Amendment of *Peace and Good Behaviour Act 1982*;
- Part 18 – Amendment of *Peace and Good Behaviour Regulation 2010*;
- Part 25 – Amendment of *Racing Integrity Act 2016*;
- Part 26 – Amendment of *Second-hand Dealers and Pawnbrokers Act 2003*;
- Part 27 – Amendment of *Security Providers Act 1993*;
- Part 30 – Amendment of *Tattoo Parlours Act 2013*;
- Part 31 – Amendment of *Tow Truck Act 1973*; and
- Part 33 – Amendment of *Weapons Act 1990*.

Achievement of the Objectives

Amendments relating to the *Bail Act 1980*

The amendments will omit clause 6 of the Bill and make a consequential change to clause 4. The omission of clause 6 is to ensure the retention of existing section 15A (Conduct of proceeding by Magistrates Court outside district or division) of the *Bail Act 1980*. The proposed amendment reflects feedback received about the utility of existing section 15A in terms of facilitating the efficient administration of the Magistrates Court jurisdiction and, in particular that it offers a desirable level of flexibility (in certain circumstances) to hear bail matters before a Magistrate sitting at a location outside of the original jurisdiction of the charge.

Amendments relating to the *Crime and Corruption Act 2001*

The Bill amends section 205 (Legal assistance for crime investigations) of the *Crime and Corruption Act 2001* to allow any person appearing before a Crime and Corruption Commission hearing to seek financial assistance towards legal representation (previously, it was restricted only to crime investigations; hearings under the immediate response function were excluded). However, the Bill does not include the necessary corresponding amendment to the heading of section 205, which still reads ‘Legal assistance for crime investigations’.

The amendment amends the heading of section 205 so that it accurately reflects the provision’s application to all hearings and not only crime investigations.

Amendments relating to the *Peace and Good Behaviour Act 1982*

The Bill provides that a ‘senior police officer’ (that is, a police officer of the rank of sergeant or above) can *apply* to the Magistrates Court for public safety orders, restricted premises orders and fortification removal orders (the public safety protection orders). The Bill also provides that a senior police officer can *apply* to the Magistrates Court for an application to vary or revoke any one of the public safety protection orders.

However, in almost all circumstances, the Bill provides that documents relating to the public safety protection orders can be *served* by ‘a police officer’ (that is, with no specification as to the rank of the police officer).

The Bill currently requires applications and orders for the variation and revocation of public safety orders and fortification removal orders to be *served* by a ‘senior police officer’ rather than ‘a police officer’. This requirement will impact operationally upon the Queensland Police Service (QPS) and is inconsistent with the provisions for service regarding other applications and orders provided for under the public safety protection order scheme introduced by the Bill. The amendments are necessary to ensure consistency across the Bill and to overcome this unintended consequence of the current drafting.

Amendments relating to the *Peace and Good Behaviour Regulation 2010*

Information provided by the QPS confirms that there are no outstanding investigations or prosecutions linked to: Unit 5/27-31 Pound Street, Kingaroy (the Kingaroy address), and that the property owners and activities at the location are no longer linked with declared criminal organisations.

The QPS has recommended to the Government that the Kingaroy address be removed from the Criminal Code (Criminal Organisations) Regulation 2013 (the 2013 Regulation). Accordingly, an amendment to the 2013 Regulation will be submitted to the Governor in Council to give effect to this.

The Bill provides that all of the premises currently prescribed under the 2013 Regulation will automatically be prescribed to be 'restricted premises'. The Bill amends the Peace and Good Behaviour Regulation 2010 to provide a list of prescribed places that aligns with the 2013 Regulation and that list currently includes the Kingaroy address.

The amendment will remove the Kingaroy address from the Peace and Good Behaviour Regulation 2010 so that it will not automatically be prescribed to be a 'restricted premises' under the Bill.

Amendments in relation to the *Liquor Act 1992, Motor Dealers and Chattel Auctioneers Act 2014, Racing Integrity Act 2016, Second-hand Dealers and Pawnbrokers Act 2003, Security Providers Act 1993, Tattoo Parlour Act 2013 and Tow Truck Act 1973*

The Bill contains amendments to a number of occupational licensing Acts to allow agencies to enter into information-sharing arrangements with other agencies. The information exchange provisions are intended to assist agencies perform their functions, by facilitating appropriate arrangements for the exchange of information.

In its submission to the Legal Affairs and Community Safety Committee, the Crime and Corruption Commission expressed concern that the exchange of information provisions, as drafted, may override confidentiality and other restrictions imposed by the *Crime and Corruption Act 2001* regarding information held by the Crime and Corruption Commission.

In response to the concerns of the Crime and Corruption Commission, the amendments clarify that, for the purposes of the exchange of information provisions, 'information' does not include information given to, or accessible by, the Police Commissioner or another agency under the *Crime and Corruption Act 2001*.

The affected clauses of the Bill are:

- Clause 182 (*Liquor Act 1992*);
- Clause 251 (*Motor Dealers and Chattel Auctioneers Act 2014*);
- Clause 348 (*Racing Integrity Act 2016*);
- Clause 373 (*Second-hand Dealers and Pawnbrokers Act 2003*);
- Clause 391 (*Security Providers Act 1993*);

- Clause 440 (*Tattoo Parlours Act 2013*); and
- Clause 464 (*Tow Truck Act 1973*).

The exchange of information provisions, as amended, are intended to allow the Police Commissioner and agencies to share relevant information with each other, under an information-sharing arrangement, for the purposes of monitoring compliance under the occupational licensing Acts, while ensuring that confidentiality requirements and other restrictions on the disclosure of information, shared or accessible under the *Crime and Corruption Act 2001*, continue to apply.

Rectification of numbering error in an amendment to the *Liquor Act 1992*

Clause 205(2) of the Bill amends the *Liquor Act 1992* to replace subsection 142ZO(5)(a). In doing this, a numbering error inadvertently occurred with the insertion of subsections 142ZO(5)(a)(ii)(i) and (ii). Accordingly, Clause 205(2) of the Bill is amended to renumber subsections 142ZO(5)(a)(ii)(i) and (ii) to be 142ZO(5)(a)(ii)(A) and (B).

Amendment relating to the *Weapons Act 1990*

Consistent with the other amendments in the Bill with respect to licensing legislation, the Bill amends the *Weapons Act 1990* to remove references to, and definitions of, the terms ‘identified participant’ and ‘criminal organisation’. The removal of these terms from the licensing legislation reflects recommendation 56 of the Taskforce on Organised Crime Legislation that:

- people should not be refused a licence or have a licence cancelled solely on the basis that they are alleged to be a participant in a criminal organisation; and
- licences should only be refused on the basis that there is evidence specific to the individual which demonstrates that the individual (and not those with whom they associate) is not a suitable person to hold the licence.

The necessary consequential amendments were not made to certain definitions under Schedule 2 (Dictionary) of the *Weapons Act*, to remove the reference to ‘identified participant’ and ‘criminal organisation’. The amendment makes those necessary consequential changes.

Alternative Ways of Achieving Policy Objectives

There are no alternative ways to achieve the policy objectives.

Estimated Cost for Government Implementation

No costs have been identified regarding the amendments.

Implementation costs associated with implementing the amendments to the Bill relating to the exchange of information under occupational licensing Acts are expected to be met from existing resources of administering agencies.

Consistency with Fundamental Legislative Principles

The Bill is consistent with fundamental legislative principles.

Consultation

The Crime and Corruption Commission was consulted in the development of amendments to the Bill relating to the exchange of information under occupational licensing Acts. No outstanding issues have been identified.

NOTES ON PROVISIONS

Amendment 1 makes a consequential amendment to clause 4 of the Bill to reflect Amendment 3 which will omit clause 6 from the Bill.

Amendment 2 makes a consequential amendment to clause 4 of the Bill to reflect Amendment 3 which will omit clause 6 from the Bill.

Amendment 3 omits clause 6 of the Bill so as to retain section 15A of the *Bail Act 1980* (Conduct of proceeding by Magistrates Court outside district or division).

Amendment 4 makes a clarifying amendment to clause 50 of the Bill by amending the heading of section 205 (Legal assistance for crime investigations) of the *Crime and Corruption Act 2001*.

Amendment 5 limits the operation of the exchange of information provision, inserted by clause 182 of the Bill into the *Liquor Act 1992*, by not allowing the sharing of information under the provision to include information given to, or accessed by, the police commissioner or commissioner, under the *Crime and Corruption Act 2001*.

Amendment 6 amends clause 205(2) of the Bill to renumber subsections 142ZO(5)(a)(ii)(i) and (ii) to be 142ZO(5)(a)(ii)(A) and (B).

Amendment 7 limits the operation of the exchange of information provision, inserted by clause 251 of the Bill into the *Motor Dealers and Chattel Auctioneers Act 2014*, by not allowing the sharing of information under the provision to include information given to, or accessed by, the chief executive or relevant agency, under the *Crime and Corruption Act 2001*.

Amendment 8 amends clause 267 of the Bill to change the reference to ‘The senior police officer’ to ‘A police officer’ in proposed new section 30 (Revocation or variation) subsection (4) of the *Peace and Good Behaviour Act 1982*.

Amendment 9 amends clause 267 of the Bill to change the reference to ‘The senior police officer’ to ‘A police officer’ in proposed new section 30 (Revocation or variation) subsection (5) of the *Peace and Good Behaviour Act 1982*.

Amendment 10 amends clause 267 of the Bill to change the reference to ‘The senior police officer’ to ‘A police officer’ in proposed new section 63 (Revocation or variation) subsection (4) of the *Peace and Good Behaviour Act 1982*.

Amendment 11 amends clause 267 of the Bill to change the reference to ‘The senior police officer’ to ‘A police officer’ in proposed new section 63 (Revocation or variation) subsection (5) of the *Peace and Good Behaviour Act 1982*.

Amendment 12 amends clause 269 of Bill which relates to the Peace and Good Behaviour Regulation 2010, to omit Unit 5/27-31 Pound Street, Kingaroy from the list of places that are proposed to be prescribed places.

Amendment 13 limits the operation of the exchange of information provision, inserted by clause 348 of the Bill into the *Racing Integrity Act 2016*, by not allowing the sharing of information under the provision to include information given to, or accessed by, the commission or relevant agency, under the *Crime and Corruption Act 2001*.

Amendment 14 limits the operation of the exchange of information provision, inserted by clause 373 of the Bill into the *Second-hand Dealers and Pawnbrokers Act 2003*, by not allowing the sharing of information under the provision to include information given to, or accessed by, the chief executive or relevant agency, under the *Crime and Corruption Act 2001*.

Amendment 15 limits the operation of the exchange of information provision, inserted by clause 391 of the Bill into the *Security Providers Act 1993*, by not allowing the sharing of information under the provision to include information given to, or accessed by, the chief executive or relevant agency, under the *Crime and Corruption Act 2001*.

Amendment 16 limits the operation of the exchange of information provision, inserted by clause 440 of the Bill into the *Tattoo Parlours Act 2013*, by not allowing the sharing of information under the provision to include information given to, or accessed by, the chief executive or relevant agency, under the *Crime and Corruption Act 2001*.

Amendment 17 limits the operation of the exchange of information provision, inserted by clause 464 of the Bill into the *Tow Truck Act 1973*, by not allowing the sharing of information under the provision to include information given to, or accessed by, the chief executive or relevant agency, under the *Crime and Corruption Act 2001*.

Amendment 18 amends clause 488 of the Bill to remove references to the terms ‘criminal organisation’ and ‘identified participant’ from the Schedule 2 (Dictionary) of the *Weapons Act 1990*.