

## CLAUSE NOTES

### *Police Offences Amendment (Prohibited Insignia) Bill 2018*

#### Background:

The Bill amends the *Police Offences Act 1935* by inserting a new offence of wearing, displaying or carrying a prohibited item in a public place.

#### PART 1 – PRELIMINARY

##### Clause 1: Short title

Cites the Act as the *Police Offences Amendment (Prohibited Insignia) Act 2018*.

##### Clause 2: Commencement

Specifies that the Act commences on a day or days to be proclaimed.

#### PART 2 – POLICE OFFENCES ACT 1935 AMENDED

##### Clause 3: Principal Act

Identifies the principal Act that is being amended in this part as the *Police Offences Act 1935*.

##### Clause 4: Section 6A and 6B inserted

Inserts new sections 6A and 6B into the principal Act.

Section 6A provides that:

- A person who is in a public place, or in a vehicle in a public place, must not wear or carry a prohibited item that, if another person were in the public place, would be visible to the other person.
- The penalty for the offence is a fine of up to 20 penalty units for a first offence, or a fine of up to 40 penalty units for a subsequent offence.
- It will be a defence if the wearing or carrying of the prohibited item was done for reasonable and genuine artistic, educational, legal or law enforcement purposes.
- A prohibited item is defined as any piece of clothing, jewellery, or accessory that displays the name, club patch, insignia or symbol of an identified organisation.
- Regulations may prescribe an organisation to be an identified organisation on the recommendation of the Minister for Police, Fire and Emergency Management.

- The Minister, having regard to the advice of the Commissioner for Police, may only recommend an organisation to be an identified organisation if satisfied that the wearing or carrying of a proposed prohibited item may cause members of the public to feel threatened, fearful or intimidated, or otherwise have an undue adverse effect on the health or safety of the public, including by increasing the likelihood of public disorder or acts of violence.
- In determining whether or not regulations should prescribe an organisation, the Minister must have regard to whether any person, while a member of the organisation, has engaged in serious criminal activity or been convicted of certain offences.

Section 6B provides that:

- A police officer who has reasonable grounds to believe that a person in a public place, or in a vehicle in a public place, is contravening, or has contravened the offence provisions within section 6A, may detain and search the person or vehicle, and seize any prohibited item found. Upon conviction for an offence against section 6A, any seized prohibited item is forfeited to the Crown.

**Clause 5:      Section 55 amended (Arrest)**

Grants police officers a power of arrest without warrant for the offence of wearing a prohibited item in a public place, or in a vehicle in a public place.

**Clause 6:      Repeal of Act**

Repeals this amendment Act 365 days after it commences.