

FACT SHEET

Police Offences Amendment (Consorting) Bill 2018

The Tasmanian Government has introduced legislation into Parliament to replace the current offence of consorting contained at section 6(1) of the *Police Offences Act 1935*, with a more contemporary offence that aligns with legislation in other jurisdictions.

Changes to Consorting

Consorting laws exist in every Australian State as well as the Northern Territory. Originally developed as part of anti-vagrancy laws, these laws have been updated in the other jurisdictions to focus on dealing with organised crime, instead of vagrants and petty thieves. The current Tasmanian consorting law has not significantly changed since 1935 and states that a person must not habitually consort with reputed thieves. The Bill repeals that offence and creates a new consorting offence. The objective of the new consorting offence is to prevent serious criminal activity by deterring convicted offenders from establishing, maintaining and expanding criminal networks. The Bill clarifies and modernises the offence of consorting by including a number of legislated definitions, a preliminary warning system, and a judicial review mechanism.

The new offence prohibits a convicted offender from habitually consorting with another convicted offender, within five years of having been given an official warning about consorting with the other convicted offender.

To clarify the offence, a number of definitions are introduced. A convicted offender is a person, aged 18 years or older, who has been convicted of a serious offence. Consequently, the offence will not apply to children. A serious offence is defined as any indictable offence or any breach of:

- the *Firearms Act 1996*;
- the *Misuse Of Drugs Act 2001*;
- the *Sex Industry Offences Act 2005*;
- Part 8 of the *Classification (Publications, Films And Computer Games) Enforcement Act 1995*; (Part 8 deals with child exploitation material) or
- any offence from another jurisdiction that if it occurred in Tasmania, would have been a breach of one of these Acts.

To be viewed as 'habitual', the consorting must occur on at least two occasions within a five year period.

The prohibition on consorting will only apply if the person has first been issued with an official warning notice. Official warning notices must be authorised by a commissioned police officer (the rank of Inspector or higher). A commissioned police officer can only authorise the notice, if he or she is satisfied that issuing the notice will further the objective of preventing serious criminal activity, by deterring the person from establishing, maintaining and expanding criminal networks.

A person who has been personally served with an official warning notice may, within 28 days of being served, request a review of the decision to the Commissioner of Police.

The Commissioner, upon receiving such a request, must direct a more senior commissioned officer, than the one who issued the original warning notice, to conduct a review. That reviewing officer may revoke or uphold the official warning notice.

The Bill also allows a person who is unsuccessful in their review to a senior commissioned police officer, to make an application to the Magistrates Court (Administrative Appeals Division) for a further review of the original decision to issue a warning notice. Such appeals are determined under the *Magistrates Court (Administrative Appeals Division) Act 2001*.

To ensure that confidential criminal intelligence is protected, the Bill also adds a number of provisions preventing that intelligence from being openly disclosed to any person, apart from the presiding Magistrate. The Bill also inserts decisions made to issue warning notices into Schedule 1 of the *Judicial Review Act 2000* – ‘Decisions to which the Act does not apply’.

The Bill adds a number of defences to the consorting offence, if the consorting was reasonable and occurred with certain family members including parents, grandparents, spouses, siblings and dependants. Further defences exist for consorting that was reasonable and that occurred for the purpose of educational, health, legal, business or employment purposes.

Finally, the Bill amends section 55(2D) of the *Police Offences Act 1935*, by including consorting into its list of offences. This will authorise a police officer to arrest any person whom the police officer has reasonable grounds for believing has committed the offence of consorting.