

CLAUSE NOTES

Police Offences Amendment (Consorting) Bill 2018

Background:

The Bill amends the *Police Offences Act 1935* by replacing the current consorting offence with new offence provisions, official warning notices and subsequent appeal mechanisms.

PART I – PRELIMINARY

Clause 1: Short title

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

Clause 2: Commencement

Specifies that the Act commences on the day on which the Act receives Royal Assent.

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Clause 4: Section 6 repealed

Repeals section 6 of the Principal Act.

Clause 5: Part II, Division III inserted

Inserts a new **Division III – Consorting** into the Principal Act consisting of sections 20A to 20E.

Section 20A provides interpretation for a number of phrases including:

- Convicted offender
- Dependant
- Family member
- Health care worker
- Official warning
- Serious Offence

It also clarifies that consorting includes consorting by electronic means or other forms of communication.

Section 20B provides that the object of the Division is to prevent serious criminal activity by deterring convicted offenders from establishing, maintaining and expanding criminal networks.

Section 20C provides that:

- A convicted offender must not habitually consort with another convicted offender, within five years of having been given an official warning notice in relation to the other convicted offender.
- The penalty for Consorting is a fine not exceeding 150 penalty units or imprisonment for a term not exceeding three years, or both.

- A convicted offender does not habitually consort with another convicted offender unless they consort on at least two occasions within the 5 year period to which the warning notice applies.
- It is a defence to a charge of consorting if the defendant satisfies a court that their consorting was reasonable and:
 - with a family member;
 - for conducting genuine lawful business or employment;
 - for receiving education, training or a health service for the person or their dependent;
 - for obtaining legal advice; or
 - for complying with a court, parole or probation order.

Section 20D provides that:

- A commissioned police officer, if satisfied that it is desirable to do so in furtherance of the objects of the Division, may authorise a convicted offender to be given, in writing, an official consorting warning notice.
- A warning notice warns that another specific convicted offender is a convicted offender, and that it is an offence to consort with that person for a 5 year period.
- A person personally given an official warning notice, may within 28 days of receiving the notice, request a review of the decision from a more senior commissioned police officer than the one who issued the notice.
- The senior commissioned police officer may uphold or revoke the official warning notice.

Section 20E provides that:

- A person who has unsuccessfully appealed an official warning notice to a senior commissioned police officer, may within 28 days of receiving the outcome, apply to a Magistrate for a further review of that decision.
- Such reviews to a Magistrate are dealt with pursuant to the *Magistrates Court (Administrative Appeals Division) Act 2001*.
- Division 1 of Part 4, section 21, and subdivisions 2 and 3 of Division 2 of Part 4 of the *Magistrates Court (Administrative Appeals Division) Act 2001* do not apply to reviews of official warning notices as those aspects of the review processes are detailed instead in the Principal Act.
- The Magistrate dealing with a review of an official warning notice is not to disclose the existence or content of any criminal intelligence report or other criminal information, and to prevent such disclosure, is to receive evidence of any argument in relation to that particular information, in the absence of the public, the applicant and the applicant's representative.

Clause 6: Section 55 amended (Arrest)

Adds that a police officer may, without warrant, arrest any person whom the police officer has reasonable grounds for believing has committed the offence of consorting.

PART 3 – JUDICIAL REVIEW AT 2000 AMENDED

Clause 7: Principal Act

Identifies the principal Act that is being amended in this part, as the *Judicial Review Act 2000*.

Clause 8: Schedule I amended (Decisions to which Act does not apply)

Amends Schedule I of the principal Act by inserting in the schedule, reviews of official warning notices.

PART 4 – CONCLUDING PROVISION

Clause 9: Repeal of Act

Repeals this amendment Act 365 days after it commences.