

Liquor (Identified Organisation—Mongrel Mob) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 111

made under the

Liquor Act 1992

General Outline

Short title

Liquor (Identified Organisation—Mongrel Mob) Amendment Regulation 2018

Authorising law

Sections 173EAA and 235 of the *Liquor Act 1992* (Liquor Act)

Policy objectives and the reasons for them

The policy objective of the *Liquor (Identified Organisation—Mongrel Mob) Amendment Regulation 2018* (Amendment Regulation) is to amend the *Liquor Regulation 2002* (Liquor Regulation) to prescribe the entity known as the *Mongrel Mob* as an identified organisation, for the purpose of preventing items bearing the *Mongrel Mob* “colours” and other paraphernalia from being worn or carried in public places.

Colours

On 9 December 2016, the *Serious and Organised Crime Legislation Amendment Act 2016* (SOCLA Act) amended the Liquor Act and other legislation to provide a new framework for tackling organised crime in Queensland. As a consequence of SOCLA Act amendments, section 10C(1) of the *Summary Offences Act 2005* (Summary Offences Act) prohibits a person in a public place from wearing or carrying a prohibited item so that the item can be seen, while section 10C(2) prohibits a person who is in or on a vehicle in a public place from wearing or carrying a prohibited item so the item can be seen from the public place.

Under section 10C(3) of the Summary Offences Act, “prohibited item” takes its meaning from section 173EA of the Liquor Act. The maximum penalties for the offences under subsections 10C(1) and (2) reflect a tiered number of penalty units or months of

imprisonment, dependent on the number of times the offence has occurred, up to 100 penalty units or 12 months imprisonment.

Additionally, section 173EB of the Liquor Act provides that a licensee or permittee of a premises, or an approved manager, employee or agent of the licensee or permittee, must not allow a person wearing or carrying a prohibited item (prohibited person) to enter or remain on a premises to which a liquor licence or permit relates. This attracts a maximum of 100 penalty units. However, it is noted an offence is not committed if the person takes reasonable steps to refuse or exclude the prohibited person, or fails to refuse or exclude the prohibited person because they reasonably believe their safety would be endangered, or it is not safe or practical to do so.

Under section 173ED of the Liquor Act, a prohibited person must leave premises to which a liquor licence or permit relates if required to do so by an authorised person (i.e. a licensee, permittee, employee, agent or police officer). Failure to leave constitutes an offence attracting a maximum penalty of 100 penalty units. If a prohibited person fails to leave the premises, an authorised person may use reasonable force to remove the person. If the prohibited person resists removal by the authorised person, an offence is committed, attracting a maximum penalty of 100 penalty units.

A “prohibited item” is defined in section 173EA of the Liquor Act, and includes an item of clothing or jewellery or an accessory that displays:

- the name of an identified organisation; or
- the club patch, insignia or logo of an identified organisation; or
- any image, symbol, abbreviation, acronym or other form of writing that indicates membership of, or an association with, an identified organisation.

These items are commonly known by the Queensland Police Service (QPS) and outlaw motorcycle gangs (OMCGs) as “colours”.

According to the Explanatory Notes for the SOCLA Act:

...the role of colours is to identify the wearer as a member of an OMCG and as an adherent to OMCG culture. Moreover, colours of OMCGs, and in particular the ‘1%’ patch, identify that OMCG and the member wearing them, as operating outside the law and having a propensity to be involved in criminal activities. The wearing of colours is tightly controlled by OMCGs. They make a deliberate statement of membership and are designed to create a climate of fear and intimidation among members of the general community with an implicit threat of violence in the event of any confrontation with the wearer.

...

The Australian Crime and Intelligence Commission has identified OMCGs as one of the most high profile manifestations of organised crime which have an active presence in all Australian States and Territories. OMCGs have become one of the most identifiable components of Australia’s criminal landscape and identify themselves through the use of colours.

While the *Mongrel Mob* is not strictly an OMCG, QPS considers the gang has adopted the attributes of an OMCG, such as the wearing of “colours” and patches, and undergoing

violent initiation processes. There are also some particular *Mongrel Mob* factions that are OMCGs.

Accordingly, as the *Mongrel Mob* colours identify individuals as members of the *Mongrel Mob* gang, it is considered that persons wearing or carrying items bearing those colours in public places may cause members of the public to feel threatened, fearful or intimidated, particularly given instances of OMCG related-violence in Queensland in recent years.

Declaring an identified organisation

Under section 173EAA of the Liquor Act, a regulation may declare an entity as an identified organisation if the Minister is satisfied the wearing or carrying of a proposed prohibited item by a person in a public place may cause members of the public to feel threatened, fearful or intimidated; or may otherwise have an undue adverse effect on the health or safety of members of the public, or the amenity of the community, including by increasing the likelihood of public disorder or acts of violence. Without limiting the matters that can be considered in forming this satisfaction, the Minister must have regard to whether any person has engaged in serious criminal activity, or committed a relevant offence of which the person has been convicted, while the person was a participant in the entity.

Evidence indicates the *Mongrel Mob* was founded in New Zealand in the 1960s, and began to surface in large Australian cities, such as Sydney and Melbourne, in 2013. Since 2015, QPS reports an increasing presence of the *Mongrel Mob* throughout Queensland, and attempts to establish a significant foothold in the State.

At this time, the *Mongrel Mob* is known to be identified by images including a swastika, British bulldog and German Stahlhelm (helmet), predominantly in red, white and black colours. The club motto is “Sieg Heil”, and other terms used to refer to the gang include “Dog”, “SFH”, “S13”, “MO13”, “Mongrel”, “Top Dog”, “MM”, “MMA”, “MMMA”, “Barbarian”, “Notorious” and “13”. Members of the *Mongrel Mob* in Australia and New Zealand have been charged, and in many cases convicted, of crimes including murder, wounding, kidnapping, armed robbery, extortion, drug offences and weapons offences.

Based on advice from QPS, the Attorney-General and Minister for Justice is satisfied under section 173EAA of the Liquor Act.

Achievement of policy objectives

The Amendment Regulation achieves the policy objective by prescribing the entity known as the *Mongrel Mob* as an identified organisation in section 3G of the Liquor Regulation. Accordingly, wearing or carrying items bearing *Mongrel Mob* colours (i.e. prohibited items) in a public place, or in or on a vehicle in a public place, in a way that can be seen, is prohibited under section 10C of the Summary Offences Act. Offences under section 10C of the Summary Offences Act are subject to a tiered maximum penalty of specified penalty units or imprisonment, dependent on the number of times the person has committed the offence.

In addition, licensees, permittees, and staff of liquor licensed premises are required to exclude, refuse and remove persons wearing or carrying prohibited items, under section 173EB of the Liquor Act.

By facilitating prohibition of the wearing or carrying of items bearing *Mongrel Mob* colours in public places, the Amendment Regulation is considered to support the broader policy objectives of creating a safer environment in and around licensed premises, and tackling organised crime in Queensland.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with policy objectives of the authorising law.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with policy objectives of other legislation.

Benefits and costs of implementation

There are no costs associated with implementation of the Amendment Regulation. The Amendment Regulation is intended to tackle organised crime in Queensland by preventing persons from wearing or carrying items bearing *Mongrel Mob* colours in public places. It is also considered the Amendment Regulation will assist law enforcement authorities with proactively protecting the Queensland community from organised crime relating to the *Mongrel Mob*.

Consistency with fundamental legislative principles

Section 10C of the Summary Offences Act prohibits the wearing or carrying of prohibited items (colours) in a public place, or while in or on a vehicle in a public place, in a way that can be seen. These provisions apply to the *Mongrel Mob* as a consequence of this Regulation. The removal of the right of individuals to publicly wear or carry the colours of an identified organisation, and any related fundamental legislative principles, were considered when the SOCLA Act was debated and passed by Parliament, particularly in relation to clauses 210 and 398.

Consultation

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation was not consulted in relation to the regulatory proposal. The Department of Justice and Attorney-General applied a self-assessable exclusion from undertaking further regulatory impact analysis (category “g” – regulatory proposals that are of a machinery nature; and “j” – regulatory proposals that relate to police powers and administration, general criminal laws, the administration of courts and tribunals or corrective services).