

Thursday, 4 September 2008

LIFE JUST GOT HARDER FOR CRIMINAL BIKIES

The Attorney-General Michael Atkinson has announced that the major plank of the Rann Government's fight against criminal motorcycle gangs has been laid.

The Governor signed the *Serious and Organised Crime (Control) Act 2008* this morning.

"This Act is a clear direction to criminal bikies that they are not welcome in South Australia. They should either leave their gangs or leave the state. We will pursue them until they do," he said.

The Act means:

The Police Commissioner can apply to the Attorney-General to declare an organisation where satisfied that the members of that group associate for criminal purposes and the organisation represents a risk to public safety and order.

A Magistrate can make control orders against members of a declared organisation, former members and others who engage in serious criminal activity. The order can restrict whom the defendant contacts, the premises he visits and the weapons he has.

Senior police officers can issue 72-hour public safety orders banning individuals or members of a group from going to a public place or event on public safety grounds.

A new offence of criminal association will stop people associating with members of declared groups and people on control orders. It will also stop serious criminals associating with each other.

A penalty of up to five years jail applies for breaching an order or committing criminal association.

"We've given SAPOL the unprecedented powers and resources it has asked for to help rid South Australia of organised criminal gangs. It's now open to the Police Commissioner to seek the declaration of a group or groups under the Act," Mr Atkinson said.

"We wish we didn't have to take these extreme measures, but we do. These tough but targeted laws are aimed at purging South Australia of the deadly infestation of criminal gangs and protecting innocent citizens.

"Members of these gangs are responsible for dealing drugs, using deadly weapons, murders and countless assaults, not to mention the blackmail and intimidation these bullies inflict if they feel threatened," Mr Atkinson said.

"The Rann Government won't be an idle witness to the violence and fear these criminals perpetrate on the public. We're making the hard decisions and taking strong action," Mr Atkinson said.

Police intelligence indicates there are about 250 initiated members of eight identified criminal motorcycle gangs, plus another 150 people closely associated with the gangs.

“These are world-first laws. The legislation is comprehensive and carefully constructed. I expect that the Police Commissioner will take great care gathering evidence and assembling a bid to declare an organisation.

“Any application must satisfy me in accordance with the Act that a nominated group should be declared. It’s understandable that this process could take some time,” Mr Atkinson said.

“The Government doesn’t expect criminal motorcycle gangs to take these new laws lightly. We are prepared for legal challenges and we are confident that the laws can withstand that pressure,” he said.

The Rann Government has a targetted strategy to disrupt and disband outlaw motorcycle gangs from many angles. The *Serious and Organised Crime (Control) Act 2008* is backed by other new laws and a serious investment in law enforcement.

“The new offences of riot, affray and violent disorder came into force in June as the first step of the legislative crackdown on criminal bikies. The *Serious and Organised Crime (Control) Act 2008* will shortly be followed by new firearms restrictions and controls on drug-making equipment aimed at gangs.”

Almost **\$22.5 million** is devoted to supporting the laws including major manpower investments in SAPOL, the Crown Solicitor’s Office, the Office of the D.P.P. and the Legal Services Commission.

SAPOL’s I.T. capacity is also being beefed up with a sophisticated \$5.9 million program that allows rapid cross-referencing of criminal associations and details of control and public safety orders.

SAPOL’s Crime Gangs Taskforce was established in November last year. It replaced Operation Avatar and it’s staffing has been boosted from 20 officers to 44.

So far, the Taskforce has confiscated almost 30, 000 street deals of cannabis, nearly 11, 000 street deals of amphetamine, about 8,500 street deals of ecstasy and another 2,800 deals of other drugs. About \$440, 000 of suspected ill-gotten gains has been seized as well as 82 firearms. 91 gang members have been arrested and 153 others have also been charged, in addition to more than 70 successful barring orders.

“The Rann Government is doing all it can to combat criminal bikies but the fight is far from over.

“We will be continually assessing the effectiveness of these measures in the years to come. We’re prepared to take further action if needed to ensure the safety of all South Australians.”

SERIOUS AND ORGANISED CRIME (CONTROL) ACT 2008

Declaring an organisation

The Attorney-General can 'declare' an organisation where satisfied that the members of that group associate for criminal purposes and the organisation represents a risk to public safety and order.

Upon receiving an application from the Police Commissioner, the Attorney-General will place a notice in a state-wide newspaper and the Government Gazette.

In making his decision, the Attorney-General may consider such issues as the criminal records of past and present members, evidence of involvement in serious criminal activity and submissions.

A person's membership or former membership of a declared organisation makes him liable to a control order and bans people associating with him under the new offence of criminal association.

Control Orders

A Magistrate can make control orders against members of declared organisation, former members and others who engage in serious criminal activity. The orders will prohibit the subject from associating with members of declared organisations or other people suspected of being engaged in serious criminal activity, from attended specified premises and possessing dangerous weapons.

Where the Court is satisfied the defendant is a member of a declared organisation, a control order is mandatory. In all other cases, a control order is discretionary.

A person who contravenes one of these orders faces up to five years jail.

Public Safety Orders

Senior police officers can issue 72-hour public safety orders that ban individuals or members of a group from attending a public event or place on public safety grounds.

Public safety orders can be extended beyond 72 hours by order of the Magistrates Court.

A person who breaches a public safety order faces up to five years jail.

Criminal Association

A person can be charged with the new offence of criminal association if he associates with a person he knows is a member of a declared organisation or the subject of a control order six or more times during a 12 month period.

Also, a person who has a serious criminal conviction cannot associate with another person who has a serious criminal conviction.

Some relationships are excluded, such as close relatives, lawful business dealings and fellow students, patients and prisoners. A defence of reasonable excuse exists, but can't be used by a serious criminal, a person on a control order or a member of a declared organisation.

Criminal Intelligence

The Attorney General can consider evidence properly certified as 'criminal intelligence' by the Police Commissioner in determining a declaration application. Courts may also consider 'criminal intelligence' when making orders under the Act.

Criminal intelligence is information relating to actual or suspected criminal activity, the disclosure of which could prejudice criminal investigations, enable the discovery of a confidential source or endanger a person's life or safety.

Courts must take steps to keep criminal intelligence secret.

Certified criminal intelligence is already used in proceedings under S.A. legislation, for example, the Liquor Licensing Act.

Safeguards

A retired judicial officer will review the use of powers under the Act each year. His or her report will be tabled in Parliament. The Act's operation and effectiveness must be reviewed after four years and there is a five-year 'sunset clause'.

Within 14 days of the issue of a control order, a defendant can apply to the Supreme Court to have it varied or revoked.

A defendant can apply to the Magistrates Court to have a public safety order varied or revoked after an order has been in force for seven days. A defendant can also appeal against this decision to the Supreme Court.

Bodies such as the Police Complaints Authority can investigate police actions in relation to this Act.

Funding and Staffing

Almost \$22.5 million is being spent on additional staff and resources at SAPOL, the Crown Solicitor's Office, the Office of the D.P.P. and the Legal Services Commission over the next four years.

This includes the growth of the Crime Gang Taskforce, which now comprises 44 members up from 20 in November last year. An extra 25 legal specialists, forensic accountants, criminal intelligence experts and high-level analysis staff are being recruited to the Taskforce.

\$5.9 million is being spent over five years on a sophisticated SAPOL I.T. program designed for rapid cross-referencing of criminal associations and details of control and public safety orders.

For a full copy of the Act or any other information please contact Jayne Stinson, Media Adviser, 0458 547 512.