

Ministerial Statement



Hon Michael Atkinson

Attorney-General
Minister for Justice
Minister for Multicultural Affairs
Minister for Veteran's Affairs

Thursday, 14 May 2009

SERIOUS AND ORGANISED CRIME (CONTROL) ACT, 2008

Mr Speaker, I seek leave to make a Ministerial Statement and table a document about an application under the *Serious and Organised Crime (Control) Act 2008*.

In December 2008 I received an application from the South Australian Police Commissioner to declare the Finks Motorcycle club under the *Serious and Organised Crime (Control) Act 2008*.

As required by the Act, I published a notice and invited the public to make submissions about the application for a declaration of the Finks Motorcycle Club. I have also acted carefully to comply with the principles of procedural fairness required by common law.

I have considered statutory declarations that outline the evidence and other information that police relied upon in making the application.

Forty-eight persons are named in the application by the Police Commissioner.

Mr Speaker, to make a declaration I must be satisfied that a case has been made out for an organisation to be declared under the Act. I may make such a declaration if I am satisfied that members of the organisation associate for the purpose of organising, planning, facilitating supporting or engaging in serious criminal activity and that the organisation represents a risk to public safety and order in this state. I must consider the evidence presented to me on the balance of probabilities.

I have carefully considered the evidence put before me and have taken advice from the Solicitor-General. Although the rules of evidence do not apply to my considerations, I have used them as a yardstick to measure what weight may be given to the information provided to me.

Mr Speaker, today I announce that I have declared the Finks Motorcycle Club under the Act. I am satisfied that the requirements of the Act have been met and the Finks are an organisation whose members associate for the purpose of organising, planning, facilitating, supporting and engaging in serious criminal activity. The Finks Motorcycle Club is a risk to public safety and order in the State of South Australia.

I have accepted that the police have presented sufficient reliable evidence and other information that the members of the Finks Motorcycle Club are involved in serious and organised crime, that these members immersed in with criminal activity including 173 convictions of drug offences, 263 property offences, many shootings, more than 160 violent offences, rape and sexual assault, 137 convictions for firearms and weapons offences, more than 40 counts of blackmail and many counts theft, including highly sensitive material.

Although specific examples are criminal intelligence I can say that police have told me that proceeds obtained from blackmail activity are often referred to as "donations", which are believed to be one

of the principal sources of revenue for the organisation. It is believed that the proceeds are usually apportioned between the members committing the blackmail and the organisation itself. The organisation will receive a percentage of the profits as the offenders use the name "Finks M.C." in committing the blackmail. Often interest will be charged on a daily or weekly basis, or where there is little likelihood of payment being made offenders demand property including motor vehicles or business interests.

I will not go into specific detail here, as some offences are so disturbing that I feel it is best not mention them here out of respect for the victims, but I have provided detail in the tabled documents. Information that I have considered that is excluded from the tabled document has been excluded because it is either evidence or information classified as criminal intelligence or it has been removed on the grounds of public interest immunity.

Material classified as criminal intelligence is the description of material that relates to actual or suspected criminal activity (whether in this State or elsewhere), and:

- i. is subject of a criminal investigation or intended investigation that could reasonably be expected to be prejudiced if the information were disclosed; or
- ii. it could reasonably be expected that to disclose it would enable the existence or identity of a confidential source of information relevant to law enforcement to be discovered; or
- iii. it could reasonably be expected that to disclose it would endanger a person's life or physical safety.**

I have laid on the table today a summary of my reasons for making this decision. Although I have no obligation to provide reasons, I believe it is appropriate to show that my decision has been made properly, that careful consideration of the detailed evidence and other information provided has occurred and my decision has been made without bias.

The declaration does not stand alone. The *Serious and Organised Crime (Control) Act 2008* gives police authority to make applications in the Magistrate's Court, where appropriate, for control orders and to issue public-safety orders.

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

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 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.

The Act also creates an offence of criminal associations an update to the old consortium laws that is that a person who associates on not less than six occasions during a period of 12 months, with a person who is a member of a declared organisation or the subject of a control order, would be guilty of an offence and a subject to a maximum penalty of five years in prison.

It is now a matter for the Commissioner for Police if and when he applies for these orders.

A retired judicial officer will be appointed before the end of this year to review the use of powers under the Act. His or her report will be tabled in Parliament.