



**SUBMISSION FOR THE QUEENSLAND PARLIAMENT  
LEGAL AFFAIRS and COMMUNITY SAFETY COMMITTEE INQUIRY**

**into**

***SERIOUS AND ORGANISED CRIME LEGISLATION AMENDMENT  
BILL 2016***

**6 October, 2016**

## **Introduction**

The Queensland Hotels Association (QHA) is the peak representative body for the hotel, hospitality and accommodation industry in our state. We seek to represent our industry as they conduct successful, enduring and responsible businesses that contribute to both their communities and the broader State economy.

Our member hotels and accommodation businesses span the length and breadth of the State, in virtually every town and locale providing jobs, entertainment and hospitality to Queenslanders and visitors alike. Members include over 800 companies such as traditional pubs, international accommodation providers and family-owned enterprises.

The QHA welcomes the opportunity to assist Government in developing evidence based policy which leads to quality legislation reflecting the needs and aspirations of Queenslanders.

## **ISSUES RAISED IN THE SERIOUS AND ORGANISED CRIME LEGISLATION AMENDMENT BILL 2016**

The QHA would like to make the following specific comments relating to some key matters provided for in the Serious and Organised Crime Legislation Amendment Bill 2016 (the Bill), which are of relevance to the wider licensed hospitality industry. These comments are with respect to the changes in licensing requirements, specifically under the *Liquor Act 1992* for liquor licence applications, and will have relevance for those other industries with an occupational licensing regime contained in the Bill, such as the licensing of crowd controllers under the *Security Providers Act 1993*.

### **A weakening of the existing probity standards**

The Bill repeals the requirement that all applications are:

1. Referred to the Commissioner of Police for assessment;
2. Prohibits the use of police criminal intelligence in determining licensing decisions; and
3. Removes the requirement that an application must be refused if the applicant is alleged to be a participant in a criminal organisation.

This represents a weakening of the existing suitability, 'fit and proper person' and probity process. The QHA cannot support this section of the Bill that in essence provides 'blind' applications with very limited vetting of applicants. The QHA recommends the retention of the requirement that all applications must be referred to the Police Commissioner, that police criminal intelligence is able to be continued to be used in determining applications, and that membership of a criminal organisation precludes an application being approved.

### **Special products require the highest levels of probity to maintain the integrity of the industry**

A liquor licence for a commercial hotel entitles the successful applicant to trade in the sale of alcohol products, including retail liquor sales with up to 3 detached bottle shops, allows the provision of a range of gambling products such as keno and wagering, and it also underpins the

opportunity to own electronic gaming machines, currently up to 45 poker machines per hotel in Queensland.

It is acknowledged by the existence of obligations under the Federal *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* legislation that these are special products with inherent degrees of risk and which have the potential for harm. Therefore, it is reasonable to expect the highest levels of probity and scrutiny for those individuals responsible for the operation and service of such products.

An extremely robust licensing and application process is essential to maintain the integrity of the industry, the integrity of those special products we offer, and this is in line with the expectations of industry, the community and consumers. By reducing licensing standards, the Queensland Government increases the risk to Queenslanders through financing criminal organisations. This is at odds with the QHA and this Bill's objectives.

### **Enabling members of a Declared Criminal Organisation to hold a licence**

The Bill repeals the automatic disqualification of a member of a criminal organisation from holding a liquor licence. Prima facie this would enable a member of a criminal organisation to be granted a licence.

It is noted that the Bill's explanatory notes recognise the fear, intimidation and the implicit threat of violence that criminal organisations project through their members' wearing their 'colours'. This facilitates criminal activity because of the public's reluctance to report crime committed by such members.

The Bill has therefore deemed it necessary to expand the prohibition of wearing colours to include in any public place. Further, the existing list of 26 declared criminal organisations has been retained in the liquor regulations and it is an offence to wear the colours of these criminal organisations anywhere in public. Ridiculously, the provisions in the Bill would enable a member of a criminal organisations to now be deemed a suitable person to hold a liquor licence.

The new Serious and Organised Crime offences proposed in the Bill relevant for licensing probity and which would disqualify an applicant are:

- *recruiting a person to become a participant in a criminal organisation*: this is perplexing that it is not an issue to be an existing member of a criminal organisation, but it is to recruit;
- the offence of *habitually consorting with recognised offenders*: this three limb process is potentially retrospective, vague, subjective, and would not preclude an applicant in the first instance;
- *certain offences with a serious organised crime circumstance of aggravation*: this would have no bearing where an applicant had not been convicted;
- *contravention of orders*: likewise, this would have no bearing where an applicant had not been convicted so is in effect useless as a criterion.

These probity tests do not pass the common sense or 'pub test'. For example, should the Bill pass, in Queensland we would have a circumstance where it would be an offence for a member

of a prohibited criminal organisation (wearing their colours) to go to the post box to post their liquor licence application – but then that application could actually be approved.

## **CONCLUSION**

The changes to the licensing regime proposed in the Bill represent a weakening of the existing probity process. The Bill repeals the requirement that all applications are referred to the Commissioner of Police for assessment; the Bill prohibits the use of police criminal intelligence in determining licensing decisions; and the Bill removes the requirement that an application must be refused if the applicant is alleged to be a participant in a criminal organisation.

It is difficult to reconcile the fact that the Bill identifies the criminality of criminal organisations and expands the offence of wearing colours to include anywhere in public, yet simultaneously weakens the existing licensing process to enable members of a declared criminal organisation to be deemed a suitable persons to hold a licence.

As stated, the QHA contends that liquor and gambling products are special products with inherent degrees of risk, and therefore, it is reasonable to expect the highest levels of probity and scrutiny for those individuals responsible for their operation.

The Queensland Government must not devalue the strength of the current licensing system and protect the broader community it serves. The QHA cannot support the measures in this Bill which clearly reduce the safety of Queenslanders, by championing those elements of society most likely to contravene the main objective of the Bill, which is to tackle serious and organised crime in all its forms.