

# Liquor (Identified Organisation—Satudarah) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 71

made under the

*Liquor Act 1992*

## General Outline

### Short title

*Liquor (Identified Organisation—Satudarah) 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—Satudarah) Amendment Regulation 2018* (Amendment Regulation) is to amend the *Liquor Regulation 2002* (Liquor Regulation) to prescribe the outlaw motorcycle gang (OMCG) known as *Satudarah* as an identified organisation, for the purpose of preventing items bearing *Satudarah* “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. Under section 10C(3) of the Summary Offences Act, “prohibited item” takes its meaning from section 173EA of the Liquor Act. Penalties for this offence include a prescribed number of penalty units or imprisonment.

Additionally, section 173EB of the Liquor Act provides that a licensee or permittee, approved manager, employee or agent of the licensee must not allow a person wearing or carrying a prohibited item (prohibited person) to enter or remain on a liquor licensed

premises. Where a prohibited person fails to leave, section 173ED of the Liquor Act enables an authorised person to use reasonable force to remove a prohibited person from a liquor licensed premises and further provides that a prohibited person commits an offence with a maximum penalty of 100 penalty units if they resist being removed from the relevant licensed premises.

A “prohibited item” is defined in section 173EA of the Liquor Act as 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 OMCGs and the Queensland Police Service (QPS) 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.*

As *Satudarah* colours identify individuals as members of *Satudarah* OMCG, it is considered that persons wearing or carrying items bearing these 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, the Minister must also 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 *Satudarah* was founded in Moordrecht, Netherlands in 1990, and has had a presence in Australia generally, and Brisbane in particular, since 2015. At this time, the OMCG is known to be identified by a logo bearing the image of nine feathers

atop two “Indian” faces of different colours facing outward, the club motto: “Black and Yellow Nation Worldwide”, and the following coded phrases: ‘One Blood’, ‘STTS’, ‘19/19er’, ‘B&Y’. Members of *Satudarah* in various jurisdictions worldwide have been arrested for crimes including assault, possessing and supplying drugs, weapons possession, consorting, home invasion, and extortion.

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 OMCG known as *Satudarah* as an identified organisation in section 3G of the Liquor Regulation. Accordingly, wearing or carrying items bearing *Satudarah* colours (i.e. prohibited items) in a public place constitutes an offence, under section 10C of the Summary Offences Act, subject to a penalty of imprisonment or a prescribed number of penalty units.

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 *Satudarah* 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 create a safer environment in and around licensed premises, and tackle organised crime in Queensland, by preventing persons from wearing or carrying items bearing *Satudarah* 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 *Satudarah*.

## **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. These provisions apply to *Satudarah* as a consequence of this Regulation. The removal of the right of individuals to wear or carry the colours of an identified organisation, and any related fundamental legislative principles, were considered when the provisions of clauses 210 and 398 of the Serious and Organised Crime Legislation Amendment Bill 2016 were passed by Parliament.

## **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).