



# Tasmanian Unions

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## **Organised Criminal Groups Legislation**

Submission to the Tasmanian Government  
Department of Police, Fire and Emergency  
Management

11 May 2018

## Introduction

Unions Tasmania is the peak body for trade unions in Tasmania. It is also the local branch of the Australian Council of Trade Unions (ACTU). With 26 affiliate unions in Tasmania, we represent approximately 50,000 union members across industry, in both the public and private sector, including members who work in the front line of services dealing with the impacts of violent crime in the community.

The Tasmanian trade union movement works everyday towards building a better society for everyone. Job security, wage growth and safety at work are critical issues for Tasmanian working people, their families and communities. We believe that workers and their families are entitled to live in a decent and civil society that values fairness and equality.

We are pleased to submit the following points addressing the matters set out in the Tasmanian Government Department of Police, Fire and Emergency Services' *Organised Criminal Groups Position Paper* (April 2018).

### Consorting

The position paper sets out proposals to introduce new consorting laws, and to prescribe which defenses may be used by somebody engaged in otherwise lawful activities. However it gives little clarity about what these defenses might be.

The position paper refers to examples of legislation in other jurisdictions including for example New South Wales. We note from the NSW Ombudsmen's report<sup>1</sup> that their legislation had been used for wide ranging purposes, extending even so far as the expulsion of homeless people from public spaces.

It is our view that a clear list of defenses should be included with any such legislative change, to protect the civic and human rights of Tasmanians. Specifically this should make clear that unions and their members, exercising their lawful rights should not be subject to such consorting laws.

We note also the proposal to include a review mechanism and a time limit on consorting warning notices. We support proposals which ensure a fair and transparent process.

### Prohibited items and identified organisations

The position paper sets out proposals to give the relevant Minister the power to identify any organisation as they see fit, to make it or its members subject to the legislation, and to remove theirs or their members' right to wear or display identifying clothing, jewelry, symbols or the like.

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<sup>1</sup> *The Consorting Law: Report on the Operation of Part 3A, Division 7 of the Crimes Act 1900* (April 2016)

Symbols of many kinds are used by every type of organisation and culture, in a range of contexts from letterheads, to clothing, signage, and advertisements to language, art and song. Union members also wear clothing and symbols that seek to identify them as part of the broader labour movement, for example, flying the Eureka Flag on construction sites and wearing the same t-shirts as each other.

The position paper seems to present these proposals so broadly that such a power could potentially encompass not only the stated target groups, but any type of collective organisation at all, and it could be exercised without any form of non-political oversight.

Based on public comments made by the Tasmanian Government in regard to this legislation, it seems that this legislation is more narrowly focused on criminal motorcycle gangs. Unions Tasmania believes the legislation should be clear in its language and should consider limiting these target groups further. The legislation could also exclude certain groups and trade unions could be specifically identified as an excluded group.

We express concern that, without doing so, union members who are engaged in industrial action or peaceful freedom of expression could become a target of a Minister who, perhaps, does not support the role of unions or disagrees with them taking action on a particular industrial issue.

## Conclusion

Unions Tasmania is primarily concerned with the potential ability of this legislation to capture union members participating in lawful industrial action and/or peaceful protest. Fundamentally, legislation that explicitly divides Tasmanians or removes ordinary civic rights from some but not others, is a notion that any democratic society should treat with great caution.

Unions Tasmania urges the Government to consider the wide ranging and possible unintended consequences of this legislation and take the necessary steps to ensure those consequences are limited.

