

Tattoo Parlours Amendment Bill 2017

Second Reading

The Hon. BRONNIE TAYLOR (14:58): On behalf of the Hon. Niall Blair: I move:

That this bill be now read a second time.

The Tattoo Parlours Amendment Bill 2017 includes a range of amendments to the Tattoo Parlours Act 2012 that will improve the efficiency and effectiveness of the tattoo parlour regulatory scheme in New South Wales. The current regulatory framework for tattoo parlours was introduced to curb infiltration of the industry by organised criminal groups. These arrangements require applications for a licence to be made to NSW Fair Trading and a probity check in the form of a security determination to be made by the NSW Police Force. This was intended to clean up the industry and to stop tattoo parlours being used as a front for criminal enterprise. I understand that, since the scheme has commenced, the scheme has helped reduce bikie involvement in the tattoo industry. However, there is still more work to be done. These amendments will ensure that the Tattoo Parlours Act 2012 remains fit for purpose in limiting infiltration of the body art tattooing industry by organised crime.

I now turn to the details of the bill. A key amendment proposed in this bill is the creation of the ability to renew a licence issued under the Act. Proposed section 13A sets out an application process for licence renewal. This will ensure that operator licences and tattooist licences issued under the Tattoo Parlours Act 2012 can be renewed without the need to make a brand-new licence application, as is currently the case. The renewal process will cut the red tape that is associated with the requirement to make a brand-new licence application without compromising the integrity of the scheme. While many of the steps for licence renewal are similar to those required when making the original licence application, the renewal process will be more streamlined.

The new section 14 (2) proposed by this bill sets out that licence renewal applications need only be referred to the police for security determinations if the application includes any changes relating to the close associates of the licensee or the licensed premises at, on or in which the licensee carries on a body art tattooing business. This will ensure that police resources are not required to make new security determinations every time a renewal application is made unless a change has occurred in respect of close associates of the licensee or the premises of the body art tattooing business. The new section 17 continues the existing arrangements in relation to the licence term, which provide that a licence remains in force for a period of three years from the date on which it comes into force unless it is sooner cancelled or surrendered or otherwise ceases to be in force.

The renewal process in section 13A sets out that when an application for a licence renewal is made the licence will continue to be in force until the application is determined. This will mean that if the licence renewal is made before the expiration date of the licence the licence holder can continue to operate until the renewal application is determined. Transitional arrangements are included in schedule 1, part 4 of the Act and set out that any pending applications before the commencement of the bill for a new licence can be treated as a licence renewal. This will ensure that those licence holders who have already made a new licence application are not required to withdraw their application and can have it dealt with as if it were a licence renewal made under the new laws. The creation of a licence renewal process makes sense for tattoo parlours regulation. It will cut red tape

for licence applicants and government agencies who regulate this industry. This will reduce the burden on tattoo parlours who are approaching the end of their three-year licence term by removing the need to make a fresh application.

Another key amendment made by this bill is to clarify that in determining whether an individual should be granted an operator or tattooist licence or be permitted to continue to hold one, the Commissioner of Police may make an adverse security determination on the ground that a close associate of the applicant or licensee is not a fit and proper person. This is achieved by amendments to the definition of "adverse security determination" in section 3 to clarify that such a determination includes a determination that a close associate of the applicant or licensee is not a fit and proper person. The inclusion of section 19 (1) (a1) and section 19 (2) (a1) clarifies that the Commissioner of Police is to investigate the close associates of applicants or licence holders to determine whether they are fit and proper persons. Amendments to section 19A ensure that the commissioner may require further information from a licensee or close associate in respect of such an investigation.

Clarifying that adverse security determinations can be made in respect of close associates ensures that police can make these determinations to prevent tattoo licences being issued to applicants in situations where bikie gangs have effective control over a tattoo parlour. This solidifies a critical measure within the Act which is serving to stamp out the influence of bikies and other organised criminal networks in the tattoo industry. It ensures that police can gather all the information available to them to make these important decisions about close associates that exert control over tattoo parlour operators and licensees.

The bill also includes provisions to ensure that any criminal intelligence reports or other criminal reports used by police in determining licence applications or administering licences are protected against disclosure. Section 20 is amended to ensure that any criminal intelligence reports or other criminal reports used by police are protected. Similarly, section 27 is amended to ensure that criminal intelligence relied on by police when making a security determination remains protected in matters considered by the NSW Civil and Administrative Tribunal [NCAT]. These amendments will mean that when police rely on particular criminal intelligence when making licensing decisions or defending matters before the NCAT, the risk of criminal intelligence holdings being made public is greatly reduced.

Amendments to section 22 of the bill make it a condition of tattooist licences issued under the Act that the holder must give written notice to the regulator of a change in particulars within 14 days of the change. This is already a condition of an operator licence and this bill will extend the requirement to tattooist licence holders. This will mean that the regulator has up-to-date details of all licence holders in New South Wales. In relation to operator licence holders, they will continue to be required to provide written notification of any changes in relation to close associates. The inclusion of section 22 (1A) sets out that declaration of a change in the particulars of a close associate must be accompanied by copies of three forms of personal identification for each individual identified in that notice as a close associate. This will ensure that police are provided with information to start performing any necessary checks when the notification is received instead of having to make additional requests for information and wait for the information to be returned.

The bill also amends section 26 to clarify the grounds on which the regulator can cancel a licence. This includes amendments to section 26 (1) (a) specifying that the secretary must cancel a licence in

cases where additional information required by the Commissioner of Police under section 19A has not been provided within the time specified. This will help in ensuring that police are provided with the information required to investigate whether a person is a fit and proper person. This goes to the heart of the scheme and provides for cancellation of licences where the person refuses to answer questions from the police. Under proposed section 26 (2) (a1) the secretary may cancel a licence where it is not collected within a 60-day period. Currently the Act specifies that the secretary must cancel the licence in such situations. The bill is therefore adding discretion for the secretary to choose not to cancel a licence in these circumstances.

The bill also amends section 30C to clarify that when authorised officers lawfully enter a premises under the Act for a purpose referred to in section 30A they may make such examinations and inquiries as the authorised officer considers necessary. There are already a range of powers in section 30C that police can exercise when they lawfully enter a premises under the Act and this power ensures police continue to have the power to make the required inquiries necessary to regulate the scheme effectively. The bill also amends the wording in sections 35 and 39 to clarify and streamline the requirements concerning penalty notices and the servicing of documents.

Another measure being introduced by this bill is the insertion of section 33A, which provides for the statutory abrogation of the privilege against self-incrimination in regard to the tattoo parlour regulatory scheme. This will mean that persons required to provide information by enforcement officers must provide that information regardless of whether their answer would incriminate them. However, section 33A (3) provides protections that limit the use of any answer provided in criminal proceedings against the person if the person objects to providing an answer on the ground that it might incriminate them. This provision addresses the current situation where a person could refuse to answer questions or produce documents requested by enforcement officers if so doing was likely to incriminate them. This is an easy option for anyone who wants to hide criminal activity from those who are tasked with upholding the regulatory scheme.

The provision included in this bill is similar to provisions that already exist in a raft of other legislation providing for industry regulation and it is appropriate that the legislation that regulates an industry which historically has been infiltrated by organised crime is similarly strengthened. This will close a loophole and ensure that this industry can be regulated as effectively as possible, as always intended. The bill also makes a range of mechanical amendments to ensure that the Tattoo Parlours Act 2012 remains fit for purpose to stamp out criminal infiltration in the tattoo parlour industry in New South Wales. I am pleased that the new measures included in this bill, including licence renewal, will reduce red tape for small business engaged in the industry and that other measures in the bill will ensure that the regulator and police are provided with the powers necessary to regulate effectively. I commend the bill to the House.