

TERMS OF REFERENCE

REVIEW OF CERTAIN PROVISIONS ENACTED BY THE *SERIOUS AND ORGANISED CRIME LEGISLATION AMENDMENT ACT 2016*

I, Shannon Fentiman, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, ask Julie Dick SC to conduct a review under section 736 of the Criminal Code and section 98 of the *Peace and Good Behaviour Act 1982* (PGBA).

In undertaking this reference, you will:

1. review the operation of 'consorting provisions' of the Criminal Code and *Police Powers and Responsibilities Act 2000* (PPRA), as defined by section 736(5) of the Criminal Code;
2. consider and decide whether the consorting provisions have been effective in disrupting serious and organised crime;
3. if you decide that the consorting provisions have not been effective in disrupting serious and organised crime, you must recommend any amendments you consider necessary to improve the effectiveness of the provisions;
4. in relation to the consorting provisions, consider whether:
 - a) any demographic (for example, Aboriginal people, Torres Strait Islanders, homeless people, drug dependent people) has been disproportionately or adversely affected; and
 - b) whether there have been any unintended consequences (for example, whether section 77C of the Criminal Code has operated to ensure reasonable consorting is disregarded);
5. review the operation of the PGBA, excluding Part 2 (Peace and Good Behaviour Orders), including the amendments contained in the *Justice and Other Legislation Amendment Act 2020*;
6. consider and decide whether the PGBA, other than Part 2, is meeting the objects of the PGBA;
7. if you decide that any part of the PGBA, other than Part 2, is not meeting the objects of the PGBA, you must recommend any amendments you consider necessary to improve the effectiveness of the provisions in meeting the objects;
8. when reviewing the relevant parts of the PGBA, consider the information contained in the register of enforcement acts kept under section 678 of the PPRA about the exercise of powers under the PGBA;
9. ensure that you do not disclose any information about enforcement acts where such disclosure may not be in the public interest because it may prejudice or otherwise hinder an investigation to which the information may be relevant or may cause embarrassment to, or otherwise adversely affect, a person to whom the information relates or someone else associated with the person including, for example, a family member; and
10. consider whether any demographic (for example Aboriginal people, Torres Strait Islanders, homeless people, drug dependent people) has been disproportionately or adversely affected by the PGBA, other than Part 2.

In addition to undertaking the statutory review, you will:

- (a) consider and decide whether the serious organised crime circumstance of aggravation in Part 9D of the *Penalties and Sentences Act 1992* (PSA) is achieving its objects, including the disruption of criminal organisations by way of disincentivising involvement and encouraging cooperation with law enforcement agencies; and
- (b) advise and make recommendations as to any legislative changes required to improve the effective operation of the circumstance of aggravation.

In conducting this review, you may invite or receive submissions or information from stakeholders and other external sources as relevant.

Without limiting the scope of any recommendations you may wish to make, the recommendations should:

- advise whether any part of the consorting provisions in the Criminal Code or PPRA should be repealed or amended;
- advise whether any part of the PGBA, other than Part 2, should be repealed or amended;
- advise whether Part 9D of the PSA should be amended;
- provide details of the form any proposed amendments should take;
- determine whether the PGBA remains the most appropriate Act for the provisions relevant to the review; and
- advise whether the legislative provisions you review, and any recommendations you make, are compatible with rights protected under the *Human Rights Act 2019*.

You may also advise and make recommendations on any other matters relevant to this reference.

You will provide your report on the outcome of this review to the Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence by 31 January 2023.

Dated the day of 2022

SHANNON FENTIMAN

Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence