

Commenced 9 December 2016

Fact Sheet 1: ORGANISED CRIME CONTROL ORDERS

Part 9D (Serious and Organised Crime), Div 3 (Control Orders) of the *Penalties and Sentences Act 1992* (PSA).

WHAT IS A CONTROL ORDER? This is a new sentencing option under the PSA. It can only be made by a Court and only at the time of sentence.

WHAT IS THE PURPOSE OF A CONTROL ORDER?

A control order puts conditions on a person to *protect the public by preventing, restricting or disrupting their involvement in serious criminal activity*.

MANDATORY CONTROL ORDERS

A control order must be made for a person convicted of an offence committed with the Serious Organised Crime circumstance of aggravation (and where they have not cooperated as required under section 161S of the PSA).

DISCRETIONARY CONTROL ORDERS

A control order may be made if convicted of:

- any indictable offence, if the Court is satisfied the person was a *participant in a criminal organisation* at the time of the offence (the offence need not relate to their participation in a criminal organisation); or
- the new habitual consorting offence; or
- contravening a control order.

WHAT TYPES OF CONDITIONS ATTACH TO A CONTROL ORDER?

The Court retains discretion as to the types of conditions that can be included in a control order. Examples might include:

- Stopping the person associating with another or others;
- Stopping the person from going to a place or type of place;
- Prohibiting the person from having certain things; and/or
- Restricting the means by which the person communicates with others.

HOW LONG CAN A CONTROL ORDER BE?

The Court decides the length of the control order which can be up to 5 years from the date the order takes effect (or up to two years if the control order is based on a conviction for the Habitual consorting offence).

CONSEQUENCES OF A CONTROL ORDER

WHAT HAPPENS IF THE ORDER IS BREACHED?

A person commits an indictable offence punishable by up to 3 years imprisonment for a first offence; and up to 5 years imprisonment for a repeat offence for that order.

A new control order can also be made or the existing order extended.

It is a defence for the person to prove that they had a reasonable excuse for contravening the order.

WHAT POWERS DO THE POLICE HAVE?

- Within the first seven days: Police can enter the person's premises/vehicle to search for anything the person is not allowed to have.
- Police can search the person and/or vehicle without a warrant if they reasonably suspect they have, are or are about to, breach the order.
- Police can apply for a warrant to search the person's place to find property they are not allowed to have.
- Police can also give a 'move on' direction in certain situations.



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