

Safe Night Out Legislation

The State Government has recently rolled out various legislation changes under the banner of its "Safe Night Out Strategy". The following provides a brief summary of the new laws.

Amendments to the *Bail Act*: Drug and Alcohol Assessment and Referral (DAAR) course

The *Bail Act* now requires a court or police officer (as the case may be) to impose a bail condition requiring the person to complete a DAAR course.

The requirement arises when a person is charged with a "prescribed offence" which is any of the following:

- Grievous bodily harm;
- Wounding;
- Serious assault on a public officer or police officer, or assault/obstruct police under PPRA;
- Common assault or AOBH; or
- Affray.

In addition, the alleged offence must be committed:

1. In public; and
2. Whilst the person was intoxicated.

The requirement to impose such bail condition does not apply where the person has already completed 2 DAAR courses in the previous 5 years, or where the person is under 18 years of age.

Whilst we are yet to experience the new scheme in practice, we understand that the DAAR course will involve a two hour intervention course where the defendant undergoes an assessment process for their drug or alcohol use, followed by a counselling and education session.

Attendance at the course will likely be relied upon by defendants in mitigation of penalty (if they are ultimately sentenced for the offence). Of course, non-compliance with such condition will be actionable as a breach of bail offence.

Sober safe centre

As of October 1 2014, a 12 month trial commenced of "Sober Safe Centres" on Friday and Saturday nights in Brisbane. Police now have the power to detain intoxicated persons that behave in a way that poses a risk of harm to themselves or others, commit a public nuisance offence, or disobey a move-on direction.

Such persons can be transferred to the Sober Safe Centre (i.e. the Brisbane watchhouse) and held for up to 8 hours, but will not be charged with an offence. Persons are however administrated a "cost recovery charge" which increases per visit.

Banning Notices and Orders

Police have a may now ban an individual from a licensed premises, a Safe Night Precinct, or an event held in a public place. We understand there are presently 15 designated Safe

Night Precincts throughout Queensland which, as one might expect, are areas with a high concentration of licensed premises. In terms of events, the examples of a music festival or sporting event has been referred to.

The power to issue a banning notice arises where a person behaves in a disorderly, offensive, threatening or violent manner. The person need not be charged with an offence before being given a banning notice.

Such notice can be given for an initial period for 10 days, or for the duration of an event. A person who subsequently attends a location from which they have been banned can be charged with a new offence under the PPRA.

Mandatory Community Service Orders

Finally, amendments to the *Penalties and Sentences Act 1992* now require a Court to impose Community Service upon persons convicted of a "prescribed offence" (which mirrors the definition of the earlier discussed Bail Act amendment). There is an exception where the Court is satisfied that, because of any physical, intellectual or psychiatric disability of the person, they are not capable of complying with a community service order.

The requirement to complete community service is in addition to any other penalty imposed by the court. If the person is also sentenced to a period of imprisonment, the community service order is suspended for the duration of their imprisonment.

