

Public Finance (Prohibition on Providing Public Funds to Gangs) Amendment Bill

Member's Bill

Explanatory note

General policy statement

This Bill would prohibit the Crown and its agencies from providing funds directly and indirectly to organisations that are run, administered or associated to gangs. The need for this Bill arises out of a concern that public funds could directly or indirectly end up in the hands of gangs by way of entities that are run by, or associated with, gangs being able to legitimately access funds through the Proceeds of Crime Fund. The law does not prohibit currently an organisation that is run, administered or associated with a gang from receiving funds from the Crown. The decision to grant funds to an organisation that has the involvement of a gang or gangs is unconscionable, the absence of a prohibition in the law on this matter has meant funding can be given to gangs to run programmes through organisations.

The Bill will require the Crown to take all reasonable precautions and will require the Crown to undertake due diligence to ensure public funds do not end up in the hands of gangs. By making it an offence to make funds available to gangs, without a reasonable excuse, the Bill will achieve the policy intent of ensuring the flow of public funds does not end up in the hands of gangs.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides for this Bill to come into force on the day after Royal assent.

Clause 3 identifies the Public Finance Act 1989 (the **principal Act**) as the Act being amended by the Bill.

Clause 4 inserts a *new section 73A* into the principal Act to prohibit the payment of public money to a gang.

Clause 5 amends section 76 of the principal Act to provide for an additional offence of paying, directly or indirectly, without reasonable excuse, any money, either to, or for the benefit of, an entity, knowing that the entity is a gang. That offence is subject to the penalty provision in section 77 of the principal Act so that a person who committed the offence would be liable on conviction, in the case of an individual, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding \$5,000; or in the case of a person or organisation other than an individual, to a fine not exceeding \$15,000.

Simeon Brown

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The Parliament of New Zealand enacts as follows:

- 1 Title**

This Act is the Public Finance (Prohibition on Providing Public Funds to Gangs) Amendment Act **2021**.
- 2 Commencement** 5

This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act**

This Act amends the Public Finance Act 1989.
- 4 New section 73A inserted (Payments to gangs prohibited)** 10

After section 73, insert:

73A Payments to gangs prohibited

- (1) Except as expressly authorised by any Act, the Crown must not pay money (directly or indirectly) to a gang.
- (2) The Crown must take all reasonable precautions, and exercise due diligence, to avoid acting contrary to **subsection (1)**.
- (3) In this section, **gang** has the meaning given in section 4 of the Prohibition of Gang Insignia in Government Premises Act 2013.

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5 Section 76 amended (Offences)

After section 76(2)(b), insert:

- (ba) who pays or makes available, or causes to be paid or made available, directly or indirectly, without reasonable excuse, any money, either to, or for the benefit of, an entity, knowing that the entity is a gang; or

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