

# **Prohibition of Gang Insignia in Government Premises Bill**

Member's Bill

## **Explanatory note**

### **General policy statement**

This Bill introduces restrictions surrounding gang insignia being displayed on the premises of Departments of the Public Service, Statutory Entities, and Local Authorities in New Zealand.

Gangs serve no legitimate purpose in New Zealand society and the public has a right to be protected from their intimidation and the significant harm that they do. Concern over public safety and gang involvement with organised crime in New Zealand has increased among law abiding citizens. Gangs are commonly identified by their insignia, which associates the wearer with an organisation that has criminal intent. This insignia is often worn as a badge of pride and demonstrates a high probability that the wearer has committed crimes as a means to earn the right to wear gang colours or insignia.

Departments of the Public Service, Crown Entities, and Local Authorities provide a valued service to members of the public. In so doing they employ a professional workforce of staff and advisors who deserve to feel safe in the work place. Members of the public also have a right to seek assistance from Ministry and Local Authority officials and State agencies in a safe and secure environment free from outside influences and intimidation. The display of gang insignia at publicly accessible government premises by members of gangs has

the capacity to intimidate staff members and to cause ongoing concern and distress to the general public.

This Bill aims to provide an environment free from gang intimidation in all premises of Departments of the Public Service and Statutory Entities and Local Authorities in New Zealand.

### **Clause by clause analysis**

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. The Bill comes into force on the day after the date on which it receives the Royal assent.

*Clause 3* sets out the purpose of the Act.

*Clause 4* is an interpretation clause.

*Clause 5* provides for a regulation-making power allowing the Minister of Police to identify any organisation, association or group of persons as a gang for the purposes of the Act.

*Clause 6* creates a new offence of wearing or displaying gang insignia in a government premise.

*Clause 7* provides police with powers of arrest and seizure of gang insignia being worn or displayed in government premises.

*Clause 8* provides police with powers to stop a vehicle to exercise powers of arrest.

*Clause 9* provides for the laying of information for offence under this Act.

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*Todd McClay*

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Prohibition of Gang Insignia in Government Premises Act **2012**.
- 2 Commencement** 5  
This Act comes into force on the day after the date on which it receives the Royal assent.

### **3 Purpose**

The purpose of this Act is to prohibit the display of gang insignia on premises of Departments of the Public Service and Crown Entities, and Local Authorities in New Zealand.

### **4 Interpretation**

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In this Act, unless the context otherwise requires,—

**crime** has the same meaning as in the Crimes Act 1961

**gang** means—

- (a) Aotearoa Natives, Black Power, Devils Henchmen, Filthy Few, Head Hunters, Hells Angels, Highway 10  
61, Killerbeez, Magogs, Mongrel Mob, Mangu Kaha, Mothers, Nomads, Rebels, Road Knights, Satans Slaves, Tribesmen; or
- (b) any other specified organisation, association, or group of persons identified in a regulation made under **section 5** 15

**gang** insignia—

- (a) means a sign, symbol, or representation commonly displayed to denote membership of, an affiliation with, or support for a gang, not being a tattoo; and 20
- (b) includes any item of clothing to which a sign, symbol, or representation referred to in **paragraph (a)** is attached

**Government premise**—

- (a) means a temporary or permanent movable or immovable structure (including structures intended for occupation by people, animals, machinery, or chattels); and 25
- (b) is owned or under the authority of Departments of the Public Service as defined in Schedule 1 of the State Sector Act 1988; or
- (c) is owned or under the authority of Crown Entities as defined in Schedule 1 of the Crown Entities Act 2004; or 30
- (d) is owned or under the authority of Local Authorities as defined in Schedule 2 of the Local Government Act 2012; and 35
- (e) includes the grounds of State schools and early childhood education facilities as referred to in **paragraph (b)**; and

- (f) the grounds of public hospitals and health facilities under the authority of District Health Boards as referred to in **paragraph (b)**; and
- (g) the grounds of public swimming pools and aquatic centres under the authority of Local Authorities as referred to in **paragraph (d)**; and 5
- (h) excludes residential dwellings under the authority of the Housing New Zealand Corporation as referred to in **paragraph (c)**.

**5 Regulations** 10

- (1) The Governor-General may, on the recommendation of the Minister of Police, by Order in Council, make regulations for the purpose of identifying an organisation, association, or group of persons as a gang for the purposes of this Act.
- (2) A regulation must not be made identifying a gang under **subsection (1)** unless the organisation, association, or group proposed to be identified has the following characteristics:
  - (a) a common name or common identifying signs, symbols, or representations; and
  - (b) its members, associates, or supporters individually or collectively promote, encourage, or engage in criminal activity. 20

**6 Prohibition of display of gang insignia**

- (1) No person may display gang insignia at any time in a Government premise. 25
- (2) Every person who, without reasonable excuse, contravenes **subsection (1)** commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.
- (3) Without limitation, and to avoid doubt, a Judge may apply section 128 of the Evidence Act 2006 in deciding whether a sign, symbol, or representation is gang insignia for the purposes of this Act. 30

**7 Powers of arrest and seizure in relation to persons displaying gang insignia**

- (1) A constable may, without warrant,— 35

- (a) arrest a person whom the constable has good cause to suspect has committed an offence against **section 6(2)**;
- (b) seize and remove gang insignia (by the use of force if necessary) that has been or is being displayed in a Government premise. 5
- (2) Gang insignia seized under **subsection (1)(b)** are forfeited to the Crown if the person from whom the gang insignia is taken pleads guilty to, or is convicted of, an offence against **section 6(2)**.
- (3) If gang insignia are forfeited to the Crown under **subsection (2)**, the gang insignia may be destroyed or otherwise disposed of as the court, either at the time of the conviction for the offence under **section 6(1)** or on a subsequent application, directs. 10
- 8 Power to stop vehicle to exercise powers of arrest or seizure** 15
- (1) A constable may stop a vehicle without a warrant to exercise either or both of the powers in **section 7(1)** in relation to a person if the constable has reasonable grounds to believe that the person is in or on the vehicle. 20
- (2) A constable who stops a vehicle under **subsection (1)** must—
- (a) be wearing a uniform or distinctive cap, hat, or helmet with a badge of authority affixed to that cap, hat, or helmet; or
- (b) be following immediately behind the vehicle in a motor vehicle displaying flashing blue lights, or flashing blue and red lights, and sounding a siren. 25
- (3) A constable exercising the stopping power conferred by **subsection (1)** must, immediately after the vehicle has stopped,— 30
- (a) identify himself or herself to the driver of the vehicle; and
- (b) tell the driver that the stopping power is being exercised under this section for the purpose of exercising powers under **subsection (1)**; and 35
- (c) if not in uniform and if so required, produce evidence that he or she is a constable.

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- (4) Without limiting **section 7(1)**, a constable exercising the stopping power conferred by **subsection (1)** may do any 1 or more of the following:
- (a) search the vehicle to locate a person referred to in **subsection (1)**: 5
  - (b) search the vehicle to locate gang insignia that the constable may seize under **section 7(1)(b)**:
  - (c) require any person in or on the vehicle to state his or her name, address, and date of birth, or any of those particulars that the constable may specify: 10
  - (d) require the vehicle to remain stopped for as long as is reasonably necessary to exercise the powers—
    - (i) in **paragraphs (a), (b), and (c)**; and
    - (ii) in **section 7(1)**, in relation to a person referred to in **subsection (1)** of this section. 15

**9 Laying of information for offence under this Act**

An information for an offence under this Act may be laid only by a constable.

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