

Reprint
as at 1 October 2019



Prohibition of Gang Insignia in Government Premises Act 2013

Public Act 2013 No 56
Date of assent 12 August 2013
Commencement see section 2

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Justice.

The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Prohibition of Gang Insignia in Government Premises Act 2013.

2 Commencement

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

**Part 1
General provisions****3 Purpose**

The purpose of this Act is to prohibit the display of gang insignia on premises of departments of the Public Service, the Police, Crown entities, local authorities, and schools.

4 Interpretation

In this Act, unless the context otherwise requires,—

Crown entity has the same meaning as in section 7 of the Crown Entities Act 2004

department means any department specified in Schedule 1 of the State Sector Act 1988

district health board means a district health board established by or under section 19 of the New Zealand Public Health and Disability Act 2000

gang means any organisation, association, or group of persons—

- (a) that is known by a name that is the same as, or substantially similar to, any of the following:
- (i) Aotearoa Natives:
 - (ii) Bandidos MC:
 - (iii) Black Power:
 - (iv) Devils Henchmen MC:
 - (v) Epitaph Riders:
 - (vi) Filthy Few MC:
 - (vii) Forty-Five MC:
 - (viii) Greasy Dogs MC:
 - (ix) Head Hunters MC:

- (x) Hells Angels MC:
 - (xi) Highway 61 MC:
 - (xii) Hu-Hu MC:
 - (xiii) Killerbeez:
 - (xiv) King Cobras:
 - (xv) Lone Legion MC:
 - (xvi) Lost Breed MC:
 - (xvii) Magogs MC:
 - (xviii) Mongrel Mob:
 - (xix) Mangu Kaha:
 - (xx) Mothers MC:
 - (xxi) Nomads:
 - (xxii) Outcasts MC:
 - (xxiii) Outlaws MC:
 - (xxiv) Rebels MC:
 - (xxv) Red Devils MC:
 - (xxvi) Road Knights MC:
 - (xxvii) Satans Slaves MC:
 - (xxviii) Sinn Fein MC (not being a branch, or an associated organisation, of the political party known by a similar name):
 - (xxix) Southern Vikings MC:
 - (xxx) Storm Troopers:
 - (xxxi) Taupiri MC:
 - (xxxii) Tribal Huk:
 - (xxxiii) Tribesmen MC:
 - (xxxiv) Tyrants MC; or
- (b) identified in regulations made under section 5
- 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
 - (b) includes any item of clothing to which a sign, symbol, or representation referred to in paragraph (a) is attached
- Government premises—**
- (a) means the whole or part of any structure (including any associated grounds) that is owned by, or is under the control of,—

- (i) the Crown, acting through a department, the Police, or a Crown entity; or
- (ii) a local authority; and
- (b) includes the buildings and grounds of any school; and
- (c) includes the grounds of—
 - (i) any public hospital or health facility that is owned by, or is under the control of, a district health board; and
 - (ii) any public swimming pool or aquatic centre that is owned by, or is under the control of, a local authority; but
- (d) excludes any residential dwelling that is owned by, or is under the control of, Kāinga Ora—Homes and Communities or a local authority

integrated school has the same meaning as in section 145(1) of the Education Act 1989

local authority has the same meaning as in section 5(1) of the Local Government Act 2002

Police has the same meaning as in section 4 of the Policing Act 2008

school means any of the following:

- (a) a State school:
- (b) an integrated school:
- (c) any other school in respect of which the Crown pays, or authorises the payment of, either or both—
 - (i) grants:
 - (ii) teachers' salaries:
- (d) a licensed early childhood education and care centre within the meaning of section 309 of the Education Act 1989:
- (e) a playgroup within the meaning of section 309 of the Education Act 1989 for which a certificate issued under regulations under that Act is held and in respect of which the Crown pays, or authorises the payment of, grants

State school has the same meaning as in section 145(1) of the Education Act 1989

structure includes a temporary structure, a movable structure, a structure for the storage of machinery or chattels, and a structure for the containment of animals.

Section 4 **Government premises** paragraph (d): amended, on 1 October 2019, by section 33 of the Kāinga Ora—Homes and Communities Act 2019 (2019 No 50).

5 Regulations

- (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) The Minister of Police may not make a recommendation under subsection (1) unless he or she is satisfied on reasonable grounds that 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.

Part 2 Offences and enforcement

6 Prohibition of display of gang insignia

- (1) No person may display gang insignia at any time in Government premises.
- (2) Every person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on 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.

Compare: 2009 No 1 (L) s 12

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

- (1) A constable may, without warrant,—
 - (a) arrest a person who 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 Government premises.
- (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(2) or on a subsequent application, directs.

Compare: 2009 No 1 (L) s 13

8 Power to stop vehicle to exercise powers of arrest or seizure

- (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.
- (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.
- (3) A constable exercising the stopping power conferred by subsection (1) must, immediately after the vehicle has stopped,—
 - (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 section 7(1); and
 - (c) if not in uniform and if so required, produce evidence that he or she is a constable.
- (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):
 - (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:
 - (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.
- (5) Every person commits an offence and is liable on conviction to a fine not exceeding \$1,000 who, without reasonable excuse,—
 - (a) fails to stop as soon as practicable when required to do so by a constable exercising the power conferred by this section; or
 - (b) fails to comply with a requirement of a constable under subsection (4)(c) or (d).

Compare: 2009 No 1 (L) s 14

9 Filing charging document for offence

Only a constable may file a charging document for an offence against this Act.

Compare: 2009 No 1 (L) s 15

Reprints notes

1 *General*

This is a reprint of the Prohibition of Gang Insignia in Government Premises Act 2013 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Kāinga Ora—Homes and Communities Act 2019 (2019 No 50): section 33