



Wanganui District Council (Prohibition of Gang Insignia) Act 2009

Local Act 2009 No 1
Date of assent 9 May 2009
Commencement see section 2

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

This Act is the Wanganui District Council (Prohibition of Gang Insignia) Act 2009.

2 Commencement

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 in specified places in the district.

4 Interpretation

(1) In this Act, unless the context otherwise requires,—

Council means the Wanganui District Council

district means the district of the Wanganui District Council

gang means—

- (a) Black Power, Hells Angels, Magogs, Mothers, Mongrel Mob, Nomads, or Tribesmen; and
- (b) any other specified organisation, association, or group of persons identified in a bylaw 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 tattoos; and
- (b) includes any item of clothing to which a sign, symbol, or representation referred to in paragraph (a) is attached

public place—

- (a) means a place—
 - (i) that is under the control of the Council; and
 - (ii) that is open to, or being used by, the public, whether or not there is a charge for admission; and
- (b) includes—
 - (i) a road, whether or not the road is under the control of the Council; and

(ii) any part of a public place

specified place means a public place designated as a specified place for the purpose of this Act in a bylaw made under section 5.

- (2) Without limiting the definition of the term **public place** or **specified place** in subsection (1), for the purposes of this Act, a person is in a **specified place** if he or she is in or on a vehicle that is in a **specified place**.

5 Power to make bylaws designating specified places or gangs

- (1) The Council may, from time to time, make bylaws—
- (a) designating any public place as a specified place for the purposes of this Act;
 - (b) identifying an organisation, association, or group of persons as a gang for the purposes of this Act.
- (2) In making a bylaw under subsection (1), the Council must use the special consultative procedure set out in section 83 of the Local Government Act 2002.
- (3) Section 86(2)(a) and (b) of the Local Government Act 2002 apply to the making of a bylaw under subsection (1) as if it were an activity described in section 86(1) of that Act.
- (4) The Council must not make a bylaw identifying a gang under subsection (1)(b) unless it is satisfied 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 a pattern of criminal activity.
- (5) The Council may make a bylaw under this section only if it is satisfied that the bylaw is reasonably necessary in order to prevent or reduce the likelihood of intimidation or harassment of members of the public in a specified place or to avoid or reduce the potential for confrontation by or between gangs.
- (6) A bylaw must not be made under subsection (1)(a) if the effect of the bylaw, either by itself or in conjunction with other by-

laws made under subsection (1)(a), would be that all the public places in the district are specified places.

6 Signposting of specified places

- (1) The Council must, where reasonably practicable, indicate the location of a specified place designated by a bylaw made under section 5 by 1 or more clearly legible notices affixed in 1 or more conspicuous places on, or adjacent to, the place to which the notice relates.
- (2) No prosecution under section 12, and no arrest or seizure under section 13, may be challenged on the ground that a notice was not affixed in accordance with subsection (1).

7 Public notice of bylaws and availability of copies

Section 157 of the Local Government Act 2002 applies to a bylaw made under section 5 as if the bylaw had been made under that Act.

8 Review of bylaws

The Council must review a bylaw made by it under section 5 no later than 5 years after the date on which the bylaw was made.

9 Further reviews of bylaws every 10 years

The Council must review a bylaw made by it under section 5 no later than 10 years after it was last reviewed as required by section 8 or this section.

10 Procedure for and nature of review

- (1) The Council must review a bylaw to which section 8 or 9 applies by making the determinations required by section 5(4) and (5).
- (2) For the purposes of subsection (1), section 5(4) and (5) apply with all necessary modifications.
- (3) If, after the review, the Council considers that the bylaw—
 - (a) should be amended, revoked, or revoked and replaced, it must act in accordance with section 5(2) and (3):

- (b) should continue without amendment, it must use the special consultative procedure in section 83 of the Local Government Act 2002, and section 5(3) does not apply.
- (4) For the purposes of subsection (3)(b), the statement of proposal referred to in section 83(1)(a) of the Local Government Act 2002 must include—
 - (a) a copy of the bylaw to be continued; and
 - (b) the reasons for the proposal.

11 Bylaw not reviewed within specified time frame revoked

A bylaw that is not reviewed as required under section 8 or 9, if not earlier revoked by the Council, is revoked on the date that is 2 years after the last date on which the bylaw should have been reviewed under that section.

12 Prohibition of display of gang insignia

- (1) No person may display gang insignia at any time in a specified place in the district.
- (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.

13 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 12(2):
 - (b) seize and remove gang insignia (by the use of force if necessary) that has been or is being displayed in a specified place.
- (2) Gang insignia seized under subsection (1)(b) is 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 12(2).

- (3) If gang insignia is 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 12(2) or on a subsequent application, directs.

14 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 13(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 13(1); and
 - (c) if not in uniform and if so required, produce evidence that he or she is a constable.
- (4) Without limiting section 13(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 13(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 13(1), in relation to a person referred to in subsection (1) of this section.
- (5) Every person commits an offence and is liable on summary 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 made by a constable under subsection (4)(c) or (d).
- (6) A constable may arrest without warrant any person who the constable has good cause to suspect has committed an offence against subsection (5).

15 Laying of information for offence under this Act

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

Legislative history

22 November 2007	Introduction (Bill 171-1)
16 April 2008	First reading and referral to Law and Order Committee
29 September 2008	Reported from Law and Order Committee (Bill 171-2)
4 March 2009	Second reading
25 March 2009	Committee of the whole House
8 April 2009	Reported from Committee of the whole House (Bill 171-3)
6 May 2009	Third reading
9 May 2009	Royal assent
