

**Version
as at 21 November 2024**



Prohibition of Gang Insignia in Government Premises Act 2013

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

Prohibition of Gang Insignia in Government Premises Act 2013: repealed, on 21 November 2024, by section 38(1) of the Gangs Act 2024 (2024 No 36).

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Justice.

9 Filing charging document for offence 7

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.

Section 3: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

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 public service agency as defined in section 5 of the Public Service Act 2020

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) Health New Zealand; 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

Health New Zealand has the meaning in section 4 of the Pae Ora (Healthy Futures) Act 2022

integrated school has the same meaning as State integrated school in section 10(1) of the Education and Training Act 2020

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 10(1) of the Education and Training Act 2020:
- (e) a playgroup within the meaning of section 10(1) of the Education and Training Act 2020 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 10(1) of the Education and Training Act 2020

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 **department**: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 4 **district health board**: repealed, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 4 **Government premises** paragraph (c)(i): replaced, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

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).

Section 4 **Health New Zealand**: inserted, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 4 **integrated school**: replaced, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section 4 **school** paragraph (d): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section 4 **school** paragraph (e): amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

Section 4 **State school**: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

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.
- (3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 5(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

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

Notes

1 *General*

This is a consolidation of the Prohibition of Gang Insignia in Government Premises Act 2013 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Gangs Act 2024 (2024 No 36): section 38(1)

Pae Ora (Healthy Futures) Act 2022 (2022 No 30): section 104

Secondary Legislation Act 2021 (2021 No 7): section 3

Public Service Act 2020 (2020 No 40): section 135

Education and Training Act 2020 (2020 No 38): section 668

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