

BRIEFING FOR THE MINISTER OF POLICE			
Priority	<input type="checkbox"/> Urgent <input type="checkbox"/> Time-Sensitive <input checked="" type="checkbox"/> Routine		
Title	Ministerial consultation: Prohibition of Gang Insignia in Government Premises Amendment Regulations 2023		
Date	29 March 2023	Ref	BR/23/5GA

Executive summary

1. This paper seeks your agreement to recommend to the Governor-General that five additional groups be identified as gangs for the purposes of the Prohibition of Gang Insignia in Government Premises Act 2013 (the Act).
2. The Act applies to the insignia of any gang named in the Act or listed in the Prohibition of Gang Insignia in Government Premises Regulations 2018 (the principal Regulations). The Act prohibits anyone from displaying gang insignia on premises of departments of the Public Service, the Police, Crown entities, local authorities, and schools.
3. The principal Regulations can be amended by the Governor-General, on the recommendation of the Minister of Police, to identify further groups as a gang. The Minister must be satisfied that the groups have certain characteristics before making the recommendation.
4. The previous Minister of Police was satisfied that the five additional groups met the criteria for inclusion and directed Police to instruct the Parliamentary Counsel Office to draft the Prohibition of Gang Insignia in Government Premises Amendment Regulations 2023 (the Amendment Regulations).
5. If you are also satisfied that the additional groups meet the criteria, the draft Cabinet Legislation Committee (LEG) paper, entitled *Prohibition of Gang Insignia in Government Premises Amendment Regulations 2023*, and the draft Amendment Regulations are attached to enable Ministerial consultation.

Recommendations

Police recommends that the Minister of Police:

- a) **confirm** that you are satisfied that the following groups have the required characteristics to be identified as a gang for the purposes of the Act:
 - i. Crips
 - ii. Finks MC

Yes/No

Yes/No

- | | | |
|------|--|--------|
| iii. | Full Blooded Islanders (FBI) | Yes/No |
| iv. | Kuki Squad | Yes/No |
| v. | West Side Nation/Uru Taha | Yes/No |
| b) | agree to recommend that the Governor-General make regulations to identify the five additional groups as gangs | Yes/No |
| c) | agree to undertake Ministerial consultation on the attached LEG paper and associated Amendment Regulations | Yes/No |
| d) | advise officials of the outcome of Ministerial consultation and any changes required | Yes/No |
| e) | agree to lodge the LEG paper and associated Amendment Regulations for consideration by LEG on 4 May 2023. | Yes/No |

Minister's comments and signature

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Hon Ginny Andersen

Minister of Police

Ministerial consultation: Prohibition of Gang Insignia in Government Premises Amendment Regulations 2023

Purpose

1. This paper seeks your agreement to recommend to the Governor-General that five additional groups be identified as gangs for the purposes of the Prohibition of Gang Insignia in Government Premises Act 2013 (the Act).
2. We also seek your agreement to carry out Ministerial consultation, from 3 to 24 April 2023, on the attached Cabinet Legislation Committee (LEG) paper, *Prohibition of Gang Insignia in Government Premises Amendment Regulations 2023*, and associated Prohibition of Gang Insignia in Government Premises Amendment Regulations 2023 (the Amendment Regulations).

The purpose of the Act is to prohibit the display of gang insignia

3. The Act prohibits the display of gang insignia on premises of departments of the Public Service, the Police, Crown entities, local authorities, and schools (this includes places like libraries, sports centres, hospitals and, public swimming pools). This reduces the ability for gang members to intimidate staff and members of the public on government premises.
4. The Act applies to any gang named under section 4 of the Act or identified in the Prohibition of Gang Insignia in Government Premises Regulations 2018 (the principal Regulations) which were made under section 5 of the Act. The principal Regulations added the Comanchero Motorcycle Club as a gang in 2018 and were then amended in 2020 to add the Mongols Motorcycle Club as a gang. The full list of gangs the Act currently applies to is set out in Appendix one.
5. Police has powers of arrest and seizure under the Act in relation to persons displaying gang insignia in government premises. Police also has the power to stop vehicles to exercise these powers of arrest and seizure.

Regulations are made on the recommendation of the Minister of Police

6. While the Act is administered by the Ministry of Justice, it is the Minister of Police that is empowered to recommend to the Governor-General that regulations be made to identify an organisation, association, or group of persons as a gang for the purposes of the Act.
7. Under section 5 of the Act, as Minister of Police, you must be 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
 - b) its members, associates or supporters individually or collectively promote, encourage, or engage in criminal activity.

The proposed groups meet the criteria for identification as a gang

8. Police has identified five additional groups that meet the criteria:

- a) Crips
- b) Finks MC
- c) Full Blooded Islanders (FBI)
- d) Kuki Squad
- e) West Side Nation/Uru Taha.

9. s6(c) [REDACTED]

10. A summary of the supporting evidence to assist with your decision in recommending to the Governor-General that the five groups to be identified as gangs, is outlined in the table in Appendix two.

11. s6(c) [REDACTED]

This definition of a gang is used in other legislation

- 12. In addition to prohibiting the identified groups from displaying insignia in government premises, the proposed amendments will also impact Police's ability to implement important prevention tools aimed at reducing the harm caused by gangs and making communities safer.
- 13. Under the Criminal Activity Intervention Legislation Bill (the CAIL Bill), the warrants to search for and seize weapons when there is gang conflict can only be obtained for gangs listed in the Act. It is therefore important to ensure that this list of gangs is up-to-date and as comprehensive as possible to support and secure the effectiveness of the CAIL Bill.
- 14. Maintaining an updated list also ensures the provisions within the Arms Act 1983 (the Arms Act) can be applied to these groups, as the Arms Act definition of a gang has the meaning given in section 4 of the Act.
- 15. The definition of a gang is significant under the Arms Act when assessing if someone is a fit and proper person to possess a firearm or airgun. If the person

1 s6(c) [REDACTED]

[REDACTED]

is linked to a gang, Police may determine that they are not a fit and proper person to be in possession of a firearm or airgun.

Agency consultation has been undertaken and no concerns raised

16. On 12 February 2023, the previous Minister of Police authorised the drafting of the Amendment Regulations, without reference to Cabinet given it is a routine matter and does not require new policy decisions. This approach was similarly taken when the principal Regulations were amended in 2020.
17. The LEG paper and draft Amendment Regulations have been consulted with government agencies, including the Ministry of Justice, and there are no outstanding issues.
18. The Treasury's Regulatory Impact Analysis team has determined that the Amendment Regulations are exempt from the requirement to provide a Regulatory Impact Statement. This exemption was granted on the grounds that it has no, or only minor, impacts on businesses, individuals, and not-for-profit entities.

Next steps

19. If you are satisfied that the five additional groups have the required characteristics to be identified as a gang for the purposes of the Act, the next step will be undertaking Ministerial consultation on the LEG paper and Amendment Regulations. The LEG paper provides the required recommendation for the Governor-General.
20. Given the upcoming April recess and schedule of Cabinet Committee meetings, we suggest the following timeline for confirming and bringing the Amendment Regulations into force.

Date (2023)	Action
Monday 3 April to Monday 24 April	Ministerial consultation on LEG paper and Amendment Regulations
Thursday 27 April	Lodge LEG paper and Amendment Regulations
Thursday 4 May	LEG consideration
Monday 8 May	Cabinet confirmation, Executive Council approval, Governor-General makes Regulations
Thursday 11 May	Regulations gazetted
Friday 9 June	Regulations come into force (in compliance with the 28-day rule)

Lauano Sue Schwalger
Assistant Commissioner: Investigations

First contact	Gillian Ferguson, Director, Policy	s9(2)(a)
Second contact	Jenny Cross, Manager, Criminal Justice Policy	s9(2)(a)

Appendix one: List of current gangs in the Act and Principal Regulations

Any organisation, association, or group of persons that is known by a name that is the same as, or substantially similar to, any of the following:

- Aotearoa Natives
- Bandidos MC
- Black Power
- Devils Henchmen MC
- Epitaph Riders
- Filthy Few MC
- Forty-Five MC
- Greasy Dogs MC
- Head Hunters MC
- Hells Angels MC
- Highway 61 MC
- Hu-Hu MC
- Killerbeez
- King Cobras
- Lone Legion MC
- Lost Breed MC
- Magogs MC
- Mongrel Mob
- Mangu Kaha
- Mothers MC
- Nomads
- Outcasts MC
- Outlaws MC
- Rebels MC
- Red Devils MC
- Road Knights MC
- Satans Slaves MC
- Sinn Fein MC (not being a branch, or an associated organisation, of the political party known by a similar name)
- Southern Vikings MC
- Storm Troopers
- Taupiri MC
- Tribal Huk
- Tribesmen MC
- Tyrants MC
- Comanchero MC
- Mongols MC.

s6(c)

