

[IN CONFIDENCE]

Office of the Minister of Police  
Chair, Cabinet Legislation Committee

## **Prohibition of Gang Insignia in Government Premises Amendment Regulations 2023**

### **Proposal**

1. I seek the Cabinet Legislation Committee's authorisation to submit the attached Prohibition of Gang Insignia in Government Premises Amendment Regulations 2023 (the Regulations) to the Executive Council.

### **Issue Identification**

2. The Prohibition of Gang Insignia in Government Premises Act 2013 (the Act) needs to be updated to include five additional gangs who have been identified as meeting the criteria for inclusion in the Act. It is important that the Act is kept up to date, by including all relevant gangs, to enable Police and other enforcement officers to fully enforce the requirements of the Act. Its definition also informs interpretation in other legislation.

### **Prohibition of Gang Insignia in Government Premises Act 2013**

3. The purpose of the Act is to prohibit the display of gang insignia in government premises such as departments of the Public Service, the Police, Crown entities, local authorities and schools.
4. The Act applies to any gang named under section 4, or to any gangs identified in regulations made under section 5.
5. Section 5(1) provides that the Governor-General may, on the recommendation of the Minister of Police, make regulations by Order in Council for the purpose of identifying an organisation, association, or group of persons as a gang for the purposes of this Act.
6. Section 5(2) of the Act requires that the Minister of Police, before making a recommendation, must be satisfied on reasonable grounds that the organisation, association, or group proposed to be identified has the following characteristics:
  - 6.1 a common name or common identifying signs, symbols or representations; and
  - 6.2 its members, associates, or supporters individually or collectively promote, encourage, or engage in criminal activity.
7. In addition to the gangs listed in section 4 of the Act, principal regulations were made in 2018 (Prohibition of Gang Insignia in Government Premises Regulations 2018) to identify the "Comanchero Motorcycle Club" as a gang for the purposes of the Act. The principal regulations were subsequently amended in 2020 to include the "Mongols Motorcycle Club."

### **The listed gangs are established in New Zealand**

8. Police has identified that the groups known as Crips, Finks MC, Full Blooded Islanders (FBI), Kuki Squad and West Side Nation/Uru Taha (the named groups) have established chapters in New Zealand.
9. I am satisfied, based on the information provided by Police, that the named groups meet the criteria under section 5(2) to be identified as a gang under section 4 of the Act.
10. The principal regulations require amendment under section 5 of the Act to identify the named groups of persons as gangs for the purposes of the Act.

### **Significances of adding new gangs**

11. The Act's definition of a "gang" is also utilised by the Arms Act 1983 (for the purposes of the fit and proper person licensing test) and the Criminal Activity Intervention Legislation Act 2023. Amending the principal regulations will make the named groups potentially subject to the gang conflict warrant provisions in the Criminal Activity Intervention Legislation Act 2023.

### **Policy**

12. The Regulations do not require new policy decisions. The Regulations are consistent with section 5 of the Act.

### **Timing and 28-day rule**

13. The Prohibition of Gang Insignia in Government Premises Amendment Regulations 2023 will come into force on 16 June 2023 and will comply with the 28-day rule.

### **Compliance**

14. The Regulations comply with each of the following:
  - 14.1 the principles of the Treaty of Waitangi;
  - 14.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - 14.3 the principles and guidelines set out in the Privacy Act 2020;
  - 14.4 relevant international standards and obligations;
  - 14.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

### **Regulations Review Committee**

15. There are no grounds for the Regulations Review Committee to draw the Regulations to the attention of the House of Representatives under Standing Orders.

## **Certification by Parliamentary Counsel**

16. The Regulations have been certified by the Parliamentary Counsel Office (PCO) as being ready for submission to Cabinet.

## **Impact Analysis**

17. The Treasury's Regulatory Impact Analysis team has determined that the proposal to identify additional groups of persons as a gang for the purpose of the Prohibition of Gang Insignia in Government Premises Act 2013 is exempt from the requirement to provide a Regulatory Impact Statement. This exemption is granted on the ground that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.
18. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

## **Publicity**

19. There will be a press release on the Parliament website announcing the changes made by the Regulations.

## **Proactive release**

20. I intend to proactively release this paper with any necessary redactions within 30 working days of the Regulations being gazetted.

## **Consultation**

21. The following agencies have been consulted – Ministry of Justice, Treasury, Department of the Prime Minister and Cabinet, Public Service Commission, Department of Corrections, Ministry of Social Development, Department of Internal Affairs, Te Puni Kokiri, Te Arawhiti, Ministry of Business, Innovation and Employment, Ministry of Education, Customs and Oranga Tamariki Ministry for Children.

## **Recommendations**

22. I recommend that the Cabinet Legislation Committee:
  1. **note** that the Prohibition of Gang Insignia in Government Premises Act 2013 (the Act) prohibits the display of gang insignia in government premises such as departments of the Public Service, the Police, Crown Entities, local authorities and schools;
  2. **note** that the Minister of Police is satisfied that the criteria under section 5(2) of the Act have been satisfied in relation to the groups known as the Crips, Finks MC, Full Blooded Islanders (FBI), Kuki Squad and West Side Nation/Uru Taha;
  3. **note** that the Prohibition of Gang Insignia in Government Premises Amendment Regulations 2023 are being made in accordance with section 5 of the Act;

4. **note** that the Prohibition of Gang Insignia in Government Premises Amendment Regulations 2023 will also have implications for the Arms Act 1983 and the Criminal Activity Intervention Legislation Act 2023;
5. **authorise** the submission to the Executive Council of the Prohibition of Gang Insignia in Government Premises Amendment Regulations 2023;
6. **note** that the Prohibition of Gang Insignia in Government Premises Amendment Regulations 2023 will come into force on 16 June 2023, which complies with the 28-day rule.

Authorised for lodgement

Hon Ginny Andersen

Minister of Police