

[IN CONFIDENCE]

Office of the Minister for Police
Chair, Cabinet Legislation Committee

Prohibition of Gang Insignia in Government Premises Amendment Regulations 2020

Proposal

1. I seek the Cabinet Legislation Committee's authorisation to submit the attached Prohibition of Gang Insignia in Government Premises Amendment Regulations 2020 (the Regulations) to the Executive Council.

Prohibition of Gang Insignia in Government Premises Act 2013

2. The purpose of the Prohibition of Gang Insignia in Government Premises Act 2013 (the 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.
3. The Act applies to any **gang** named under section 4(a); or to any gangs identified in regulations made under section 5.
4. Section 5(1) provides that 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.
5. 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:
 - (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.
6. Regulations made in 2018 added the "Comanchero Motorcycle Club" to the definition of gang.

The gang known as the Mongols Motorcycle Club has established in New Zealand

7. Police has identified that an American gang known as the Mongols Motorcycle Club (the Mongols) has established a chapter in New Zealand.
8. I am satisfied, based on a Police Intelligence report, that the group of people known as the Mongols Motorcycle Club, meets the criteria under section 5(2) to be identified as a gang under section 4 of the Act.
9. In order for the Mongols to be subject to the Prohibition of Gang Insignia in Government Premises Act 2013, the 2018 regulations must be amended under section 5 of the Act to identify the group of persons known by the name of Mongols Motorcycle Club as a gang for the purposes of the Act.

Policy

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

Timing and 28-day rule

11. The Prohibition of Gang Insignia in Government Premises Amendment Regulations 2020 will come into force on 24 April 2020 and will comply with the 28-day rule.

Compliance

12. The regulations comply with each of the following:
 - 12.1. the principles of the Treaty of Waitangi;
 - 12.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 12.3. the principles and guidelines set out in the Privacy Act 1993;
 - 12.4. relevant international standards and obligations;
 - 12.5. the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

13. There are no grounds for the Regulations Review Committee to draw the regulations to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel

14. The draft regulations have been certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

15. The Regulatory Quality Team at Treasury has determined that a Regulatory Impact Analysis is not required on the basis that the Prohibition of Gang Insignia in Government Premises Amendment Regulations 2020 has no, or only minor impacts, on businesses, individuals and not for profits. Specifically, the implications are limited to a small group of affected people.

Publicity

16. I intend to announce the changes made to the 2018 regulations through a press release on the Beehive website.

Proactive release

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

Consultation

18. The following agencies have been consulted – Ministry of Justice, Treasury, Parliamentary Counsel Office, Department of the Prime Minister and Cabinet, State Services Commission, Department of Corrections, Ministry of Social Development, Department of Internal Affairs, Ministry for Women, Te Puni Kokiri, Ministry of Business, Innovation and Employment, and Ministry for Children, Oranga Tamariki.

Recommendations

19. 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 on premises of departments of the Public Service, the Police, Crown Entities, local authorities and schools;
 2. **note** that the Prohibition of Gang Insignia in Government Premises Amendment Regulations 2020 are being made under section 5 of the Act, which provides for additional groups to be identified as a gang in regulations if they have the following characteristics:
 - i. a common name or common identifying signs, symbols or representations; and
 - ii. its members, associates, or supporters individually or collectively promote, encourage, or engage in criminal activity;
 3. **note** the advice of the Minister of Police that the requirement in Recommendation 2 has been satisfied in relation to the Mongols Motorcycle Club;
 4. **authorise** the submission to the Executive Council of the Prohibition of Gang Insignia in Government Premises Amendment Regulations 2020, which will identify the group of persons known by the name of Mongols Motorcycle Club as a gang for the purposes of the Act;
 5. **note** that the amendments to the Prohibition of Gang Insignia in Government Premises Regulations 2018 are set to come into force on 24 April 2020, which complies with the 28-day rule.

Authorised for lodgement

Hon Stuart Nash

Minister of Police