

**Legislative Statement  
for the  
Gangs Legislation Amendment Bill**

**First Reading**

**Presented to the House of Representatives  
In accordance with Standing Order 272**

## Legislative Statement for the Gangs Legislation Amendment Bill

### Introduction

- 1 The Gangs Legislation Amendment Bill (**the Bill**) improves public confidence in law and order through new offences and police powers targeting gangs.
- 2 The Bill gives effect to the Government's 100-day plan to restore law and order and ensure that New Zealanders are safer in their communities. The focus of the Bill is to reduce the harmful behaviours engaged in by gangs and disincentivise gang membership.
- 3 The Bill:
  - 3.1 prohibits the display of gang insignia in public places with a new criminal offence;
  - 3.2 creates a new dispersal power to stop gang members gathering in public, which requires specified people to leave an area and not associate in public for seven days;
  - 3.3 creates a new non-consorting order to stop specified gang offenders from consorting, which requires specified people not to associate or communicate for three years;
  - 3.4 amends the Sentencing Act 2002 to make gang membership an aggravating factor at sentencing.
- 4 The Bill repeals the Prohibition of Gang Insignia in Government Premises Act 2013, and the Wanganui District Council (Prohibition of Gang Insignia) Act 2009. It creates the Gangs Act and amends the Sentencing Act 2002.

### Key legislative amendments

#### *Prohibit display of gang insignia in public places*

- 5 The Bill creates an offence of displaying gang insignia in a public place without reasonable excuse.
- 6 Gang insignia means a sign, symbol, or representation commonly displayed to denote membership of, and affiliation with, or support for a gang, and includes any item to which such sign, symbol or representation is attached to, such as clothing or a vehicle. The definition excludes tattoos.
- 7 The offence excludes display on social media or in private premises. There are also exceptions for a variety of legitimate displays such as news reporting, a genuine artistic purpose or law enforcement, where the display was, in the circumstances, reasonable for that purpose.
- 8 The Bill sets a maximum penalty of 6 months imprisonment or a fine not exceeding \$5,000.

*Stop gang members gathering in public*

- 9 The Bill authorises the Police to issue dispersal notices where there are three or more gang members gathering in public and there are reasonable grounds to believe that the issuing of a notice is necessary to avoid disrupting activities of other members of the community.
- 10 A dispersal notice lasts for seven days from the gathering and prohibits named people from associating in public during that time.
- 11 The dispersal notice can be issued at the time of the gathering or at a later time depending on what is operationally appropriate.
- 12 If it is issued at the time of the gathering it requires the named people to immediately leave the place.
- 13 The dispersal notice does not prevent associating in a public place for immediate family members, or those who are associating for work, education or healthcare purposes, or those who are in custody or other arrangements managed by Corrections.
- 14 The subject of the notice can apply to the Police for a variation of the order to attend a specified tangi, funeral or other lawful activity. They can also apply to Police for a review of the notice if they believe it was not validly issued.
- 15 It is an offence to knowingly, and without reasonable excuse, breach a dispersal notice. The penalty is a maximum of 6 months imprisonment or a fine not exceeding \$5,000.

*Stop gang members from associating*

- 16 The Bill authorises the District Court to issue non-consorting orders on application of the Commissioner of Police. These can be issued where the person is a specified gang offender. The order identifies other specified gang offenders with whom the person may not consort; and can be issued where the order will assist to disrupt or restrict the capacity of the person to engage in serious offending. The court may not make the order if the person shows that the detrimental effects of the order outweigh the benefits to society.
- 17 Specified gang members are gang members who are made subject to a firearms prohibition order or who are convicted of a serious offence in New Zealand, or another jurisdiction.
- 18 A consorting order applies for three years.
- 19 The non-consorting notice does not prevent consorting with immediate family members, or those who are consorting for work, education or healthcare purposes, or those who are in custody or other arrangements managed by Corrections.
- 20 The subject of the order can apply to the District Court for a variation of the order to attend a specified tangi, funeral or other lawful activity. They can also apply for a discharge of the order if they are no longer a gang member and no longer considered at risk of committing a serious offence.
- 21 It is an offence to knowingly, and without reasonable excuse, breach a non-consorting order. The penalty is a maximum of 5 years imprisonment or a fine not exceeding \$15,000.

*Make gang membership an aggravating factor at sentencing*

- 22 The Bill amends the aggravating factors for sentencing in the Sentencing Act 2002. Currently, for the aggravating factor for gang membership to apply:
- 22.1 It must be applicable to the case; and
  - 22.2 The sentencing judge must take into account the nature and extent of the link between gang membership and the offending.
- 23 The Bill removes the second of these requirements so that the court is not unduly limited in considering the offender's involvement in an organised criminal group, or organised criminal association at the time of the offending.

*What is a gang?*

- 24 Gangs are listed in a schedule to the Act, which can be amended by Order in Council. This will ensure that the list is able to be kept up to date if new gangs are formed to ensure the Act does not become out of date. This approach to the definition of gang is carried over from the Prohibition of Gang Insignia in Government Premises Act 2013.
- 25 The Order in Council is made on the recommendation of the Minister of Police who must be satisfied on reasonable grounds that the organisation, association or group:
- 25.1 has a common name or common identifying signs, symbols, or representations; and
  - 25.2 has members, associates, or supporters who individually or collectively promote, encourage or engage in criminal activity.