Policing Amendment Bill

Government Bill

As reported from the Justice Committee

Commentary

Recommendation

The Justice Committee has examined the Policing Amendment Bill and recommends by majority that it be passed. We recommend all amendments unanimously.

About the bill as introduced

The Policing Amendment Bill, which would amend the Policing Act 2008, has two main purposes. Part 1 of the bill relates to collecting and recording information. It would change the Police's ability to record images and sounds in public and private places, and to collect personal information for lawful purposes, including intelligence. Part 2 would expand the Police's temporary road closure powers to include a broader range of areas and give the Police necessary powers to deter and enforce non-compliance.

Collecting and recording information

The Police's ability to collect and use information is essential for carrying out their broad range of functions and activities. The Police have always operated on the understanding that they, like anyone else, can lawfully record images and sounds in public places. A recent court judgment and findings from a joint inquiry by regulators have made clear that this was not the case.[1] The *Tamiefuna v R* [2025] NZSC 40 judgment found that the activities of the Police in gathering intelligence by taking photographs was a search and was in breach of section 21 of the New Zealand Bill of

[1] Specifically, the findings are from the 2022 *Joint Inquiry by the Independent Police Conduct Authority and the Privacy Commissioner into Police conduct when photographing members of the public*.

Rights Act 1990. That case made clear that there were limits on the authority of the Police to lawfully gather intelligence (in the form of images). The bill goes further than the law was understood to be before the judgment, particularly when read in conjunction with the relevant joint inquiry findings.

These decisions have created uncertainty about the Police's authority to record images and sounds in public places, and while lawfully in private places, and to use this information for a range of purposes. This includes for general intelligence purposes.[2] The bill seeks to provide further certainty and reaffirm that the Police have clear lawful authority to collect information for the purposes of performing broad policing functions and duties. It would amend the Act to make the following clear:

- The Police may collect or record information that may be used for any lawful purpose to the extent that it supports a policing function or activity. This includes safety and integrity (for example, supporting the use of body-worn cameras) and intelligence purposes.
- Information must only be collected for an intelligence purpose if a Police employee considers that it will, or may, support the Police in carrying out any of their functions or activities.
- The Police may record any image or sound in a public place and anything they can see or hear while lawfully in any private place, vehicle, or other thing. The collection would need to be for the Police's lawful purposes, functions, and associated activities.
- Continuous recording or ongoing capture may only be undertaken solely for an intelligence purpose if it is reasonable to take the recording solely for that purpose. The duration of the recording must be no longer than is reasonable in the circumstances.

The bill also provides that the proposed amendments would not limit or affect information collection at common law or under other legislation.

Temporary road closures

Part 2 of the bill would expand the Police's temporary road closure powers. It would do so by including a broader range of geographical areas and new grounds relating to antisocial road use, as well as creating new offences.

The proposed amendments would align with those being progressed through the Antisocial Road Use Legislation Amendment Bill. The bill passed its third reading on 30 June 2026. Under Standing Order 264, that bill's amendments were limited to supporting its single broad policy, which is to deter antisocial driving behaviour that negatively affects road and community safety.

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[2] Examples of general intelligence include identifying individuals in suspicious circumstances, which could become useful evidence in a prosecution for an offence.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor, technical, or purely consequential amendments.

Interaction between Part 1 of the bill and the Privacy Act

The Information Privacy Principles (IPPs) are a set of principles under the Privacy Act 2020 that govern how agencies can collect, store, use, and share personal information. IPP 1 governs the collection of personal information by prescribing when information may be collected. It provides that personal information must not be collected unless it is for a lawful purpose connected with an agency's function or activity and the collection is necessary for that purpose.

The Privacy Commissioner raised significant concerns about Part 1 of the bill as introduced. One is that the bill would partially displace the application of key principles in the Privacy Act, which would affect his ability to provide oversight of Police information gathering.[3] Other submitters also expressed concern that the Privacy Act would not continue to apply.

We received advice from the Police that the bill, once enacted, will be subject to other statutory frameworks. They include the Privacy Act, the Search and Surveillance Act 2012, and the Public Records Act 2005. The bill would not limit the jurisdiction of the Privacy Commissioner, and the IPPs would continue to apply. Section 24 of the Privacy Act recognises that other legislation may regulate personal information, overriding the application of certain IPPs. In the absence of an explicit disapplication provision, the Privacy Act would only be overridden where the applicable provision was so clearly incompatible with the Privacy Act that the two statutes could not be read together. The Privacy Commissioner's jurisdiction would only be in question if the bill could not be read consistently with IPP 1, which officials told us they do not think is the case.

However, given submitters' concerns, we think it would be beneficial to make clear that the Police would continue to be subject to the Privacy Act, including the IPPs. We therefore recommend inserting section 45E(1) to state that the collection of personal information authorised by proposed new sections 45A to 45D would be subject to IPPs 1 to 4 as set out in the Privacy Act (the IPPs relating to collection of personal information).

Interaction with the Search and Surveillance Act

Clause 4 of the bill would insert proposed new section 45B into the Policing Act. It enables the Police to collect visual images and sounds in public places provided the images or sounds could be seen or heard from that place. Section 46 of the Search and Surveillance Act sets out the activities for which a surveillance device warrant is required. Some submitters were concerned that Police employees who were recording

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[3] We discuss the Privacy Commissioner's other main concerns later in our commentary.

information that relies on new section 45B could circumvent the restrictions in section 46(1)(e) of the Search and Surveillance Act. Those restrictions deal with the observation of private activity in the land surrounding private premises.

We note that surveillance device warrants may be granted only where the Police are investigating serious suspected offending. The warrants are not available to make recordings for other purposes, such as the safety or integrity of Police officers. Further, we understand that the bill is not intended to authorise conduct that would otherwise require a surveillance device warrant. To avoid doubt, we recommend amending clause 4, proposed new section 45B. Our proposed amendment would ensure that Police employees could not make a recording in circumstances where a surveillance device warrant was needed under section 46 of the Search and Surveillance Act.

Delayed commencement for Part 1

Clause 2(1) of the bill states that Part 1 would come into force one month after Royal assent. We recommend amending this clause to delay the commencement until 6 months after Royal assent. We consider that the delay would allow time for the Police to engage with key stakeholders, such as the Privacy Commissioner, when developing operational policies and training. It would also give the Police more time to test, update, and refine operational guidance, make IT changes, and provide training.

Information collection in Police stations

Clause 4, which would insert proposed new section 45C, specifies what information a Police employee could collect on a private property. They could record anything that they can see or hear without a surveillance device. We note that a Police station or place being used for Police purposes would likely be classified as private property for the purposes of the legislation. We consider that this could overly restrict what Police employees could do within their own premises. We recommend inserting section 45C(1A) to make it clear that the restrictions on information collection on a private property would not apply at Police stations or places being used for Police purposes.

Statutory review of the legislation

We consider that the bill should be amended to require an independent statutory review of the operation of sections 45A to 45E of the Policing Act. We propose that the Minister of Police be required to commission the review as soon as practicable after the third anniversary of the commencement of those sections. The review should consider the necessity or desirability of any amendments to sections 45A to 45E or other related amendments to the Act. The Police, Privacy Commissioner, and Independent Police Conduct Authority (IPCA) should be consulted as part of the review. A report should be prepared on the review, which the Minister should present to the House of Representatives. We recommend inserting clause 4A, new section 100A, to this effect. We would expect the reviewer to consult the Ministry of Justice, which is the department responsible for administering the Privacy Act and the Independent Police Conduct Authority Act 1988.

Other matters that we wish to raise

The Privacy Commissioner's concerns about the bill

As noted earlier in our commentary, the Privacy Commissioner had significant concerns with Part 1 of the bill and recommended that it not be passed. The Commissioner did not agree with Police's assessment of the policy problem said to be addressed by Part 1 and was not persuaded that current legal settings prevent Police from effectively performing their functions. His preference was for a more careful and considered policy and consultation process to develop a statutory framework for Police intelligence gathering. The Commissioner's main concerns were that the bill:

- would give the Police a very broad authorisation to collect information, including for an undefined "intelligence purpose", which could lead to excessive collection and retention of personal information
- would partially displace the application of key principles in the Privacy Act, affecting his ability to provide oversight of Police information gathering
- does not include any meaningful safeguards.

If Part 1 of the bill proceeds, he recommended that it be amended to provide for safeguards. He noted that, while the Privacy Act provides crucial safeguards for privacy across the whole economy, it was never designed to provide an appropriate, purpose-specific framework for the regulation of Police intelligence gathering. The privacy principles are not well equipped, on their own, to respond to the challenges created by the bulk collection of personal information for law enforcement purposes that is facilitated by digital technologies.

To assist our consideration of the bill, we invited the Privacy Commissioner to provide comment on our confidential advice and to be present for some of our private consideration of the bill.

Adding safeguards to the bill

We have recommended that the bill be amended to make it clear that the collection of personal information authorised by proposed new sections 45A to 45D would be subject to certain IPPs. Given the breadth of this authority, the Privacy Commissioner suggested that the bill also be amended to include statutory safeguards for Police intelligence gathering. Ideally, he said, they should be in primary legislation. He noted that the flexible principles-based Privacy Act enables handling of personal information that aligns with lawful purposes. Specific limits on retaining intelligence information and its secondary use would rely on operational policies and guidelines. He considered that policies and guidelines, while necessary, should be developed under legislative direction, to support oversight and overall trust and confidence.

If, however, the safeguards were in regulations rather than primary legislation, the Commissioner set out what he thinks are necessary elements. His proposed regulation-making power would enable the Governor-General, by Order in Council, to make regulations prescribing safeguards and standards related to the Police's ability to collect information under new sections 45A to 45D. The regulations would need to:

- set standards for storage, retention, secondary use, and destruction of personal information obtained by the Police
- set requirements for record-keeping, auditing, public reporting, and publishing relevant Police policies relating to the information collection
- specify safeguards relating to the collection of information from children and young people.

Before recommending regulations, the Minister would need to consult, invite, and consider submissions from certain groups. They are: the Office of the Privacy Commissioner, Mana Mokopuna | Children's Commissioner, the Human Rights Commission, the public, and any other person the Minister considered relevant. A breach of the regulations related to personal information should be treated as a matter in which a complaint could be made to the Privacy Commissioner under the Privacy Act. Parts 5 and 6 of the Act would apply to such breaches.

We discussed whether the bill should be amended to insert the regulation-making powers proposed by the Privacy Commissioner into the Policing Act. We considered that several changes would be needed if his suggested regulation-making powers were to be incorporated in the bill. For example, we consider that a requirement for the Minister to consult the public would be too broad. Instead, the Minister should be required to consult the organisations and individuals that they consider represent the interests of the groups of people who would be substantially affected by the proposed regulations. We note that our reference to "individuals" would ensure that the proposed Inspector-General of Police would be covered.

The Police advised us that they do not recommend inserting a regulation-making power into the legislation, for the following reasons:

- The Police would remain subject to existing legislative obligations and safeguards governing the collection and management of information. This includes collection, use, re-use, and retention requirements under the Privacy Act, and storage and retention requirements under the Official Information Act 1982, the Public Records Act, and the Policing Act.
- There is no compelling reason why regulations are required on top of these existing statutory requirements.
- The IPPs are principles-based and allow for the range of situations in which the Police may collect and manage information. The regulations would reduce the IPPs' flexibility.
- Regulations could create new regulatory layers that would displace existing safeguards, like the IPPs, and could conflict with requirements in the Public Records Act.
- Regulations would add operational, IT, and systems burdens for the Police. The burdens are likely to be complex, expensive, and resource-intensive for the Police to design, consult on, and implement. This could delay the implementation of the information-collection provisions in the bill for at least two years, and new IT investment might be needed.

- Regulations would increase uncertainty and ongoing legal risk both before and after the bill commenced. This is because of the introduction of additional legal tests associated with information management. The additional tests would likely affect prosecutions.

The Police instead propose that safeguards will be provided through binding operational guidance, technical controls, and existing statutory and regulatory frameworks. We discussed whether, in the absence of a regulation-making power, the bill could be amended to require the Police to consult the Privacy Commissioner, the Children's Commissioner, and the Human Rights Commission when developing this guidance. The Police emphasised the importance of strong oversight and public confidence in exercising policing functions and activities. Accordingly, they told us that they will consult the Office of the Privacy Commissioner, the Children's Commissioner, and other agencies, where appropriate, on operational guidance supporting the legislation. The Police will contact the Human Rights Commission but recognise that it did not submit on the bill and may not wish to engage in the process.

We seriously considered inserting a regulation-making power into the bill. Although we have decided against doing so, we have recommended that the Minister of Police commission an independent statutory review of the legislation three years after its commencement. We would expect the Privacy Commissioner to play an instrumental role in this review. Following that review, we trust that the Justice Committee of the 55th Parliament will consider inserting a regulation-making power into the legislation if it considers that the protections in the Privacy Act or other applicable legislation are insufficient.

Implementation of the Police's digital notebook

The Privacy Act enables the Privacy Commissioner to initiate inquiries and investigations, and issue compliance notices. In 2021, the Privacy Commissioner issued a compliance notice requiring the Police to remedy non-compliance with the Privacy Act when photographing members of the public.

The Police noted that they have completed all but one of the original requirements that were set out in the notice. The Office of the Privacy Commissioner noted that the remaining requirement, to delete all unlawfully collected photos and to specify the means and time line for doing so, is significant and remains in force. The Office of the Privacy Commissioner told us that the Police's information systems do not enable them to find all the photos. It said it is working with the Police to confirm an assurance process controlling the access and use of historic photos.

We understand that the Police are exploring ways to better classify information that supports their functions and duties. The introduction of a digital notebook is a recent example. It enables police officers to upload photos and record the lawful purpose and circumstances under which they were taken to support a lawful Police function or related activity. As of March 2026, the use of digital notebook is mandatory for police officers to record policing activities.

The Privacy Commissioner referred to the recommendations from the report of the independent quality assurance review into the use of Police-issued smartphones. This review was commissioned by the Police in 2024 in response to the Privacy Commissioner's compliance notice. One recommendation is to explore the use of mandatory fields in digital notebooks. The report suggested that the mandatory fields could include recording the lawful purpose for taking a photo of a member of the public. We were subsequently informed that digital notebooks now contain mandatory fields. We were also told that when a photo is captured in the digital notebook, the officer must select the reason for capture from the options "investigation" or "noting". Officers are also expected to enter a description. We understand that this information can be searched and viewed in Digital Notebook Office. In each instance, additional metadata is captured (date, time, and location of the phone). Photos that are sensitive should be marked with a "secure" note, which limits access. We were informed by the Police that the functionality of the digital notebook also continues to be improved and extended, with rollouts occurring regularly.

Green Party of Aotearoa New Zealand differing view

The Green Party opposes this bill in the strongest terms. This bill enables over-surveillance of ordinary people by allowing the Police to shirk privacy rights and common law regarding collecting photographs, audio, and biometric data of civilians. This bill unreasonably interferes with privacy rights, the rights of children and ordinary, law-abiding civilians.

The inception of this bill

The Government argues that this bill merely reaffirms Police's ability to collect intelligence with the purpose of preventing, disrupting, and addressing crime. This is not an honest characterisation of where this bill comes from.

In 2020, an investigation by Radio New Zealand found that young Māori in Wairarapa had been stopped by Police officers and had their photographs taken. These were children who were not breaking any law and were walking down the street in broad daylight.

In 2022, the Independent Police Conduct Authority and the Office of the Privacy Commissioner released a Joint Inquiry into Police conduct when photographing members of the public. This report found "officers routinely taking, using and retaining photographs when it is not lawful for them to do so." It also found that thousands of unlawful photographs were taken and kept, even after being instructed by the Privacy Commissioner to delete the photographs.

In 2025, *Tamiefuna v R* [2025] NZSC 40 declared that within public places "it remains important to preserve a sufficient zone of privacy. That in turn is part of preserving the fundamentals of a liberal democracy." This bill seeks to overturn that ruling. The draft commentary in this bill argues that this judgment has created uncertainty and narrowed the law. Police do not, and have never had, a general common

law power to collect information about persons in public places but are now amending the law to make it so.

Human rights, surveillance, and disproportionality

This bill risks over-reach into ordinary New Zealanders' lives. Privacy rights under section 21 of the New Zealand Bill of Rights [Unreasonable search and seizure] and article 17 of the International Covenant on Civil and Political Rights [No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation] are not upheld or protected under this bill.

The benefits of this type of intelligence collection are outweighed by the infringement upon ordinary civilians' rights to privacy—a right that they do not waive when entering public places. Moreover, the powers this bill grants do not appear to be clearly linked to a policing activity or investigation. That means that innocent people could have their photograph taken or be recorded without any clear lawful purpose or investigation. To collect this information for potential or speculative future use is especially concerning. How should or could an officer determine if someone is capable of committing a crime in the future? This opens the door to several biases, as evidenced by the collection of thousands of photographs of Māori children who were photographed by Police for looking "out of place", despite having committed no crime.

It is especially concerning to give such wide-ranging discretionary power to an organisation whose systemic bias and structural racism has been independently verified and subsequently denied by senior Police leadership including the Minister of Police, through various phases of the Understanding Policing Delivery phases and reports. Without addressing structural inequities, such wide-ranging powers are fertile grounds for biases to grow and for the continued unexplained disproportionality of Māori throughout the criminal justice system.

This bill gives far too much discretionary power to Police despite the Joint Inquiry in 2022 finding a "general lack of awareness amongst Police of their obligations under the Privacy Act". The bill's intent is to give Police the power to record images and sounds in public in all circumstances, but there is a lack of safeguards.

On safeguards, the Independent Police Conduct Authority (IPCA) would be one of the oversight bodies that monitors compliance with the law and privacy principles under the Privacy Act until the Inspector-General of Police is established. The IPCA does not investigate 98–99 percent of Police complaints, with funding constraints being a big part of this problem. These comments were echoed by the current Chair of the IPCA, Judge Kenneth Johnston KC, in May this year who said that the IPCA is not truly independent and desperately needs more funding. More discretionary power should not be given to Police while its watchdog remains underfunded, and not truly independent.

Conclusion

We do not support this bill as it is an unnecessary overreach into the privacy of New Zealand citizens. We are concerned that there are insufficient safeguards in place, and that limits and oversight have not been contemplated adequately in the development of this bill. This bill has been designed to overturn a decision made in the highest court in New Zealand in order to surveil law-abiding citizens and to grant Police wide-ranging, discretionary power without adequate organisational and frontline understanding of Police's obligations under the Privacy Act.

New Zealand Labour Party differing view

Labour acknowledges the important role Police play in keeping New Zealanders safe and accepts that they require clear legal authority to collect information where it is necessary to carry out their functions. We also recognise that the recent Supreme Court decision created uncertainty that Parliament has a responsibility to address.

The select committee has made a number of worthwhile improvements to the bill. We welcome amendments confirming that the Information Privacy Principles continue to apply, ensuring the bill cannot override the surveillance warrant requirements in the Search and Surveillance Act, delaying commencement to allow operational preparation, and requiring an independent statutory review after three years. These changes strengthen the legislation and reflect concerns raised by submitters, including the Privacy Commissioner.

However, despite these improvements, Labour is unable to support the bill.

Our primary concern remains that the issues identified by the Privacy Commissioner have not been adequately resolved. The Privacy Commissioner was clear that the bill grants Police broad powers to collect information for intelligence purposes without sufficiently robust statutory safeguards governing the storage, retention, secondary use, auditing, and destruction of that information. Those concerns have not been fully addressed through the select committee process.

Labour is also not satisfied that Police have demonstrated they have the operational capability to meet the obligations this legislation creates. Throughout the committee's consideration, Police were unable to provide sufficient assurance that they have the IT infrastructure, systems, and resourcing necessary to securely store, retrieve, and permanently delete digital images and recordings in a way that complies with privacy obligations.

Police referred the committee to the development of their Digital Notebook programme. However, we have not received enough detail to be confident that this system will deliver the safeguards and functionality required, particularly those identified by the Privacy Commissioner around retention, deletion, auditing, and accountability. Before Parliament grants wider powers to collect personal information, it should have confidence that Police can manage that information safely, lawfully, and transparently.

Labour supports effective policing, but public confidence depends on strong privacy protections sitting alongside expanded powers. Parliament should not ask New Zealanders to trust that operational policies or future technology will fill the gaps left by legislation. Although the bill leaves this committee in a stronger position than when it was introduced, Labour cannot support it at its final stages.

Appendix

Committee process

The Policing Amendment Bill was referred to this committee on 24 March 2026. The House instructed us to report the bill back no later than 27 July 2026.

We called for submissions on the bill with a closing date of 22 April 2026. We received and considered submissions from 225 interested groups and individuals. We heard oral evidence from 27 submitters at hearings by videoconference and in Wellington.

Advice on the bill was provided by the New Zealand Police. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

The Privacy Commissioner also assisted in our consideration of the bill. Under Standing Orders 246(2) and 216(a), we made our confidential proceedings available to him and invited him to be present during relevant proceedings that were not open to the public.

Committee membership

Hon Andrew Bayly (Chairperson and member until 1 July 2026)

Tom Rutherford (Chairperson from 2 July 2026)

Hon Ginny Andersen (until 25 March 2026)

Jamie Arbuckle

Carl Bates

Camilla Belich (from 25 March 2026)

Tākuta Ferris

Rima Nakhle

Dan Rosewarne (from 25 March 2026)

Todd Stephenson

Vanushi Walters (until 25 March 2026)

Hon Dr Duncan Webb

Dr Lawrence Xu-Nan

Related resources

The documents we received as advice and evidence are available on the Parliament website.

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Mark Mitchell

Policing Amendment Bill

Government Bill

Contents

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Policing Amendment Act **2026**.

2 Commencement

~~(1)~~ ~~**Part 1** comes into force a month after Royal assent.~~

(2) ~~**Sections 5(1), 6, and 11** come~~ This Act comes into force 6 months after Royal assent.

(3) However, **sections ~~Sections~~ 5(2), 7, 8, 9, 10, 12, and 14** come into force on a single date set by Order in Council, which must be after the day ~~on which **sections 5(1), 6, and 11** come into force~~ that is 6 months after Royal assent.

(4) If **sections 5(2), 7, 8, 9, 10, 12, and 14** have not come into force by the second anniversary of Royal assent, they come into force then.

(5) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

3 Principal Act

This Act amends the Policing Act 2008.

Part 1

~~Amendment that commences a month after Royal assent~~ Amendments relating to collection of information

4 New sections 45A to 45E inserted

After section 45, insert:

45A Purposes for which Police may collect information

The Police may collect information for 1 or more of the following purposes:

(a) to support the safety of a Police employee while they are performing their duties as a Police employee:

(b) to support the integrity of policing:

(c) an intelligence purpose connected with a function, or an activity, of the Police:

(d) any other lawful purpose connected with a function, or an activity, of the Police.

45B Recording by Police employee: public places

(1) A Police employee may, for 1 or more of the purposes set out in **section 45A**, record, by any means,—

(a) visual images of any person or thing that is in, or that can be observed from, a public place; and

(b) any sound that is emitted from, or that can be heard in, a public place.

(2) This section does not authorise a Police employee to undertake any 1 or more of the activities set out in section 46(1) of the Search and Surveillance Act 2012.

45C Recording by Police employee: private property

(1) A Police employee who is lawfully on private property may, for 1 or more of the purposes set out in **section 45A**, record, by any means, anything that they—

(a) can see or hear there; and

(b) do not need to use a surveillance device to see or hear.

(1A) This section does not limit or affect the ability of a Police employee who is at a Police station or any other place being used for Police purposes to make a recording, including a recording of a visual image or sound that they need to use a surveillance device to see or hear.

(2) In this section, **surveillance device** has the meaning given in section 3(1) of the Search and Surveillance Act 2012.

45D Restrictions on Police employee collecting information for intelligence purpose

Despite anything in **sections 45A to 45C**, a Police employee—

(a) must not collect information for an intelligence purpose unless they consider that the information will or may support the Police in performing a function, or carrying out an activity, of the Police; and

(b) may make a continuous sound or video recording solely for an intelligence purpose only if—

(i) **paragraph (a)** does not prevent them from making the recording for that purpose; and

(ii) making the recording solely for that purpose is reasonable in the circumstances; and

(iii) the duration of the recording is not longer than is reasonable in the circumstances.

45E Relationship between sections 45A to 45D and other law

(1) The collection of personal information authorised by **sections 45A to 45D** is subject to information privacy principles 1 to 4 set out in section 22 of the Privacy Act 2020.

(2) Nothing in **sections 45A to 45D** limits or affects—

(a) the Police's intelligence-gathering function at common law; or

(b) the ability of the Police or any other agency to collect information under—

(i) other legislation; or

(ii) a power given by the common law.

(3) In this section, **personal information** has the meaning given in section 7(1) of the Privacy Act 2020.

4A New section 100A inserted (Review of operation of sections 45A to 45E)

After section 100, insert:

100A Review of operation of sections 45A to 45E

(1) The Minister must, as soon as practicable after the third anniversary of the commencement of **sections 45A to 45E**, commission an independent review of the operation of those sections.

(2) The review must consider whether—

(a) any amendments to **sections 45A to 45E** are necessary or desirable; and

(b) any other amendments to this Act relating to **sections 45A to 45E** are necessary or desirable.

(3) The reviewer must,—

(a) in conducting the review, consult the following about the review:

(i) the Police:

(ii) the Independent Police Conduct Authority:

(iii) the Privacy Commissioner; and

(b) complete the review as soon as practicable after being commissioned to conduct it; and

(c) as soon as practicable after completing the review, prepare a report on the review; and

(d) as soon as practicable after completing the report, provide it to the Minister.

(4) The Minister must, as soon as practicable after receiving the report, present a copy of it to the House of Representatives.

Part 2

Amendments ~~that commence at least 6 months after Royal assent~~ relating to temporary closing of accessible areas

5 Section 4 amended (Interpretation)

(1) In section 4, insert in their appropriate alphabetical order:

accessible area means an area of land that is accessible to the public, or a section of the public, by motor vehicle,—

(a) whether for free or on payment of a charge; and

(b) whether or not any owner or occupier of the area is lawfully entitled to exclude or eject any person from it

motor vehicle has the meaning given in section 2(1) of the Land Transport Act 1998

vehicle has the meaning given in section 2(1) of the Land Transport Act 1998

(2) In section 4, insert in their appropriate alphabetical order:

electronic address has the meaning given in section 4(1) of the Unsolicited Electronic Messages Act 2007

infringement fee, in relation to an infringement offence, means the infringement fee—

(a) for the infringement offence; and

(b) specified in **section 46A**

infringement offence means an offence against **section 46A**

regulations means regulations made under this Act

6 Section 35 replaced (Temporary closing of roads)

Replace section 35 with:

35 Temporary closing of accessible areas

When subsection (2) applies

(1) **Subsection (2)** applies if a constable believes on reasonable grounds that 1 or more of the following apply in relation to a place (which may, but need not, be an accessible area):

(a) public disorder exists or is imminent at or near the place:

(b) danger to a member of the public exists or may reasonably be expected at or near the place:

(c) an offence punishable by 10 or more years' imprisonment has been committed or discovered at or near the place:

(d) an antisocial road use offence is being committed, or may reasonably be expected to be committed, at or near the place:

(e) a person is operating, or may reasonably be expected to operate, a motor vehicle at or near the place in a way that—

(i) creates, or is likely to create, noise that, having regard to all the circumstances, is excessive; and

(ii) unreasonably interferes, or is likely to unreasonably interfere, with use and enjoyment of the place by the public or a section of the public; and

(iii) causes, or is likely to cause, damage to, or destruction of, either or both of the following:

(A) the place:

(B) amenities or features in the place:

(f) a group of 2 or more people is causing, or may reasonably be expected to cause, noise that—

(i) is created, or is likely to be created, by any means in or on a vehicle that is at or near the place; and

(ii) having regard to all the circumstances, is excessive.

Power to close accessible area or part of accessible area to traffic

(2) The constable may, for a period that is reasonably necessary in the circumstances, close to traffic—

(a) the place (if the place is an accessible area); or

(b) part of the place (if that part of the place is an accessible area); or

(c) any accessible area, or part of any accessible area,—

(i) leading to or from the place; or

(ii) in the vicinity of the place.

(3) When closing an accessible area or part of an accessible area to traffic under **subsection (2)**, the constable may specify a type or types of traffic to which the accessible area, or that part of the accessible area, is closed.

Definitions

(4) In this section,—

antisocial road use offence means either of the following offences against the Land Transport Act 1998:

(a) an offence against section 36A(1)(a) (operates a motor vehicle in a race, or in an unnecessary exhibition of speed or acceleration, on a road in contravention of section 22A(1)):

(b) an offence against section 36A(1)(c) (without reasonable excuse, operates a motor vehicle on a road in a manner that causes the vehicle to undergo sustained loss of traction in contravention of section 22A(3))

traffic means all traffic (including pedestrian traffic).

35A Direction to leave, or not to enter, closed accessible area

If an accessible area or part of an accessible area is closed to traffic under **section 35(2)**, a constable may direct a person to leave, or not to enter, the accessible area or that part of the accessible area.

35B Stopping vehicles for purpose of giving direction to leave, or not to enter, closed accessible area

If an accessible area or part of an accessible area is closed to traffic under **section 35(2)**, a constable may stop a vehicle for the purpose of giving a direction under **section 35A** to any person in or on the vehicle.

35C Moving and detaining person who fails to comply with direction under section 35A

(1) A constable who has good cause to suspect that a person has, without reasonable excuse, failed to comply with a direction under **section 35A**, may do either or both of the following things:

(a) move the person to any place outside the accessible area or the part of the accessible area to which the direction relates:

(b) detain the person at any place outside the accessible area or the part of the accessible area to which the direction relates for the purpose of preventing them from re-entering that accessible area or that part of the accessible area.

(2) A constable may use reasonable force, if necessary, to move or detain a person under this section.

(3) A constable must not detain a person under this section for longer than is reasonably necessary in the circumstances.

(4) In this section, **place** includes any land, building, premises, or vehicle.

7 New section 35BA inserted (Requiring provision of biographical details for purpose of issuing infringement notice for infringement offence)

After **section 35B** (as inserted by **section 6** of this Act), insert:

35BA Requiring provision of biographical details for purpose of issuing infringement notice for infringement offence

(1) The purpose of this section is to enable the Police to obtain biographical details from a specified person for the purpose of issuing an infringement notice to the specified person under **section 46C** in respect of an infringement offence.

(2) For the purpose of this section, a constable may require a specified person to provide the specified person's biographical details.

(3) In this section and **sections 35C and 54A**, **biographical details**, in relation to a person, means the person's—

(a) name; and

(b) address; and

(c) date of birth; and

(d) electronic address (if any).

(4) In this section, **specified person** means a person who is not a person from whom a constable may take identifying particulars under section 32 or 33.

8 Section 35C amended (Moving and detaining person who fails to comply with direction under section 35A)

Replace **section 35C(1)(b)** (as inserted by **section 6** of this Act) with:

(b) detain the person at any place outside the accessible area or the part of the accessible area to which the direction relates for either or both of the following purposes:

(i) to enable the Police to obtain the person's biographical details under **section 35BA**:

(ii) to prevent the person from re-entering that accessible area or that part of the accessible area.

9 New sections 46A to 46G and cross-heading inserted

After section 46, insert:

Infringement offences

46A Infringement offence to fail to comply with direction to leave, or not to enter, closed accessible area

A person who, without reasonable excuse, fails to comply with a direction under **section 35A** commits an infringement offence and is liable to—

(a) an infringement fee of $1,000; or

(b) a fine imposed by a court not exceeding $3,000.

46B Proceedings for infringement offences

(1) A person who is alleged to have committed an infringement offence may—

(a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011; or

(b) be issued with an infringement notice under **section 46C**.

(2) Proceedings commenced in the way described in **subsection (1)(a)** do not require the leave of a District Court Judge or Registrar under section 21(1)(a) of the Summary Proceedings Act 1957.

(3) *See* section 21 of the Summary Proceedings Act 1957 for the procedure that applies if an infringement notice is issued.

46C When infringement notice may be issued

A constable may issue an infringement notice to a person if the constable believes on reasonable grounds that the person is committing, or has committed, an infringement offence.

46D Revocation of infringement notice before payment made

(1) The Commissioner may revoke an infringement notice before—

(a) the infringement fee is paid; or

(b) an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.

(2) The Commissioner must take reasonable steps to ensure that the person to whom the notice was issued is made aware of the revocation of the notice.

(3) The revocation of an infringement notice before the infringement fee is paid is not a bar to any further action as described in **section 46B(1)(a) or (b)** against the person to whom the notice was issued in respect of the same matter.

46E What infringement notice must contain

An infringement notice must be in the form prescribed in the regulations and must contain the following particulars:

(a) details of the alleged infringement offence that fairly inform a person of the time, place, and nature of the alleged offence:

(b) the amount of the infringement fee:

(c) the address of the Police:

(d) how the infringement fee may be paid:

(e) the time within which the infringement fee must be paid:

(f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957:

(g) a statement that the person served with the notice has a right to request a hearing:

(h) a statement of what will happen if the person served with the notice neither pays the infringement fee nor requests a hearing:

(i) any other matters prescribed in the regulations.

46F How infringement notice may be served

(1) An infringement notice may be served on the person who the constable believes is committing or has committed the infringement offence by—

(a) delivering it to the person or, if the person refuses to accept it, bringing it to the person's notice; or

(b) leaving it for the person at the person's last known place of residence with another person who appears to be of or over the age of 14 years; or

(c) leaving it for the person at the person's place of business or work with another person; or

(d) sending it to the person by prepaid post addressed to the person's last known—

(i) place of residence; or

(ii) place of business or work; or

(iii) postal address; or

(e) sending it to—

(i) an electronic address that the person has given to a constable; or

(ii) if the person has not given an electronic address to a constable, the person's last known electronic address.

(2) Unless the contrary is shown,—

(a) an infringement notice (or a copy of it) sent by prepaid post to a person under **subsection (1)** is to be treated as having been served on that person on the fifth working day after the date on which it was posted; and

(b) an infringement notice sent to a valid electronic address is to be treated as having been served at the time the electronic communication first enters an information system that is outside the control of the Police.

46G Reminder notices

(1) A reminder notice must be in the form prescribed in the regulations and must include the same particulars, or substantially the same particulars, as the infringement notice.

(2) Despite section 24(1)(e) of the Summary Proceedings Act 1957, a reminder notice may be served on a person for the purposes of section 21(2) of that Act by sending it to the person by prepaid post addressed to the person's last known postal address, or by serving it in accordance with **section 46F(1)(e)** of this Act,—

(a) in addition to the other modes of service set out in section 24(1) of the Summary Proceedings Act 1957; and

(b) without otherwise limiting or affecting the operation of section 24 of the Summary Proceedings Act 1957.

10 Cross-heading above section 47 replaced

Replace the cross-heading above section 47 with:

Other offences

11 New section 54 inserted (Failing to stop when required by constable exercising power under section 35B)

After section 53, insert:

54 Failing to stop when required by constable exercising power under section 35B

(1) A person commits an offence if they—

(a) fail to stop as soon as practicable when required to do so by a constable exercising the power under **section 35B**; and

(b) know, or ought reasonably to know, that the person exercising the power is a constable.

(2) A person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $2,000.

12 New section 54A inserted (Failing to provide biographical details to constable exercising power under section 35BA(2))

After **section 54** (as inserted by **section 11** of this Act), insert:

54A Failing to provide biographical details to constable exercising power under section 35BA(2)

(1) A person commits an offence if they fail, without reasonable excuse, to provide their biographical details when required to do so by a constable exercising the power under **section 35BA(2)**.

(2) A person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $2,000.

Consequential amendment to Summary Proceedings Act 1957

13 Principal Act

Section 14 amends the Summary Proceedings Act 1957.

14 Section 2 amended (Interpretation)

In section 2(1), definition of **infringement notice**, after paragraph (jm), insert:

(jn) **section 46C** of the Policing Act 2008; or

Legislative history

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