

Policing (Police Vetting) Amendment Bill

Government Bill

As reported from the Justice Committee

Commentary

Recommendation

The Justice Committee has examined the Policing (Police Vetting) Amendment Bill and recommends that it be passed. We recommend all amendments unanimously.

Introduction

This bill would amend the Policing Act 2008 to create a statutory framework for the vetting service provided by the Police. The Police Vetting Service (PVS) helps agencies to assess a person's suitability for a role or purpose. A Police vet reports on any history of criminal convictions and any relevant and substantiated non-conviction information held by the Police at the time. The legislative framework would enable the vetting service to continue operating in substantially the same manner as at present.

The bill also proposes to extend the vetting service by enabling the Police to enter into arrangements to provide updated Police vets to an authorised agency if requested by the agency and consented to by the subject of the vet. The Police must be satisfied that it is necessary to do so, having regard to the purpose for which the vetting request was originally made by the agency. The bill would also enable an individual who is a member of a specified class to make a vetting request in relation to themselves, specifying the agencies they wish the vet to be disclosed to.

Legislative scrutiny

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.

Proposed amendments

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

Commencement date

The bill as introduced would come into force on the day after it receives Royal assent. We recommend amending it to come into force 2 months after Royal assent. We consider that this longer period is more appropriate because it would allow sufficient time to manage changes to the vetting service, including communicating with agencies affected by the changes.

Updating Police vets in respect of children's workers

Under proposed section 54K, the PVS would be required to provide specified authorised agencies with an updated vet, where the vetting subject is a children's worker who has been charged with or convicted of a serious specified offence since the initial vet. The definition of "specified authorised agency" in proposed section 54A is an authorised agency that is a specified organisation, as defined in section 24 of the Children's Act 2014. Under that Act, a "specified organisation" is an entity that employs or engages a children's worker to perform a regulated service.

We note that the definition of "specified authorised agency" is quite narrow. It would not cover screening services, professional organisations, or licensing or registration bodies that routinely obtain Police vets in respect of children's workers. Police vets are relied on for checking these workers to ensure the safety of children and young people.

We think the PVS should be required to provide these bodies with updated vets. This would ensure that any vet that they obtain is current. We therefore recommend amending section 54A to define a "specified authorised agency" as:

- a specified organisation; or
- a screening service; or
- an authority, organisation, or other agency that obtains Police vets in respect of children's workers that are relied on by specified organisations for the purposes of safety checking in accordance with the requirements of the Children's Act.

We also recommend inserting a definition of "screening service" into section 54A that is the same as in section 23(1) of the Children's Act.

Consultation on authorised individuals

Under proposed section 54D(1)(b), an authorised individual would be able to make a vetting request about themselves for disclosure to authorised agencies. This could avoid the need for multiple organisations to make separate requests for a Police vet of the individual. Proposed section 54F sets out how an individual can become an authorised individual. We think that there should be an additional safeguard when the Commissioner of Police considers whether a class of individuals should be specified

as authorised. We recommend amending section 54F(2) to specify that the Commissioner of Police, when considering whether a particular class of individuals should be specified, may consult with any interested persons or groups that they think is appropriate.

Releasing information about active investigations

Proposed section 54J is intended to provide transparency to vetting subjects about the types of information that the Police may hold about a person. This assists with informed consent about what may be considered for release in a Police vet. We were advised that at present the Police may release information about pre-charge active investigations, and this is noted on the current consent form. We note that this type of information is not included in proposed section 54J. We think it should be, and recommend inserting section 54J(7)(ja) to include any investigations currently being conducted in respect of the vetting subject.

Method for recovery of costs for Police vets

Clause 6 would amend section 79E, which provides for the making of regulations relating to methods of cost recovery. Proposed section 79E(2)(e) states that a fee or charge may differ if an urgent service is required. We think that “urgent service” is unclear and recommend amending this provision so the fee or charge may differ depending on the time frame for the performance of the service.

Appendix

Committee process

The Policing (Police Vetting) Amendment Bill was referred to the committee on 5 November 2024. We called for submissions on the bill with a closing date of 19 December 2024. We received and considered submissions from 33 interested groups and individuals. We heard oral evidence from 6 submitters.

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.

Committee membership

Hon James Meager (Chairperson)

Hon Ginny Andersen

Jamie Arbuckle

Carl Bates (from 29 January 2025)

Cameron Brewer (until 29 January 2025)

Tākuta Ferris

Paulo Garcia (until 29 January 2025)

Dr Tracey McLellan

Rima Nakhle

Tamatha Paul (until 29 January 2025)

Tom Rutherford (from 29 January 2025)

Todd Stephenson

Hon Dr Duncan Webb

Dr Lawrence Xu-Nan (from 29 January 2025)

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 (Police Vetting) Amendment Bill

Government Bill

Contents

		Page
1	Title	2
2	Commencement	2
3	Principal Act	2

Part 1

Amendments to principal Act

4	New section 5A inserted (Transitional, savings, and related provisions)	2
	5A Transitional, savings, and related provisions	2
5	New Part 3A inserted	2

Part 3A **Police vetting**

54A	Interpretation	2
54B	What Police vetting is	4
54C	Purposes of Police vetting	4
54D	Who may make vetting requests	4
54E	Authorised agencies	4
54F	Authorised individuals	5
54G	Vetting request may not be made in respect of child	5
54H	Vetting requests	5
54I	Responding to vetting request	6
54J	Information to be included in Police vet	6
54K	PVS to provide specified authorised agency updated Police vets in respect of children's worker	8
54L	PVS may provide authorised agency updated Police vets if requested by authorised agency	8

	54M	PVS may provide authorised agencies updated Police vets if requested by authorised individual	9
	54N	Indemnity for Commissioner and Police employees	9
6		Section 79E amended (Methods of cost recovery)	9
7		New Schedule 1AA inserted	10

Part 2

Consequential amendments

8		Consequential amendments to other enactments	10
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Schedule 1

New Schedule 1AA inserted

Schedule 2

Consequential amendments to other enactments

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Policing (Police Vetting) Amendment Act **2024**.

2 Commencement

This Act comes into force ~~on the day~~ 2 months after Royal assent.

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3 Principal Act

This Act amends the Policing Act 2008.

Part 1

Amendments to principal Act

4		New section 5A inserted (Transitional, savings, and related provisions)	10
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After section 5, insert:

5A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

5 New Part 3A inserted

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Before Part 4, insert:

Part 3A

Police vetting

54A Interpretation

In this Part, unless the context otherwise requires,—

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agency means any individual, corporation sole, or body

authorised agency means an agency, or a representative of an agency, authorised under **section 54E** to make vetting requests

authorised individual means an individual authorised under **section 54F** to make a vetting request

children's worker has the same meaning as in section 23(1) of the Children's Act 2014

criminal record, in relation to a vetting subject, means any—

- (a) charges laid against the vetting subject that have resulted in a conviction; and
- (b) convictions entered against the vetting subject; and
- (c) sentences imposed on the vetting subject; and
- (d) orders imposed on the vetting subject as a result of a conviction

law enforcement means the detection, investigation, prosecution, or punishment of offences

Police vet means a report provided by the PVS to an agency under **section 54J** ~~section 54I~~ in respect of a vetting subject

Police Vetting Service or **PVS** means a business unit within Police by that name or any other name that processes vetting requests

screening service has the same meaning as in section 23(1) of the Children's Act 2014

specified authorised agency means an authorised agency that is ~~a specified organisation—~~

- (a) a specified organisation; or
- (b) a screening service; or
- (c) an authority, organisation, or other agency that obtains Police vets in respect of children's workers that are relied on by specified organisations for the purposes of safety checking in accordance with the requirements of the Children's Act 2014

specified offence has the same meaning as in section 23(1) of the Children's Act 2014

specified organisation has the same meaning as in section 24 of the Children's Act 2014

vetting request means a request made to the PVS for a Police vet in respect of a vetting subject

vetting subject means an individual in respect of whom a vetting request is made.

54B What Police vetting is

Police vetting is a service provided by the PVS whereby the PVS makes available to an authorised agency, in response to a vetting request that is made for a particular purpose, a Police vet.

54C Purposes of Police vetting

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The purposes of Police vetting are to assist an agency to—

- (a) assess the suitability of a person to be employed or engaged (including as a volunteer) in a particular role in relation to any of the following:
 - (i) the care and safety of children, young persons, or other vulnerable persons: 10
 - (ii) the education of children and young persons:
 - (iii) law enforcement:
 - (iv) national security; or
- (b) assess the suitability of a vetting subject to be granted, or permitted to sponsor, a New Zealand visa or be granted New Zealand citizenship. 15

54D Who may make vetting requests

- (1) A vetting request may only be made by—
 - (a) an authorised agency; or
 - (b) an authorised individual.
- (2) A vetting request may not be made by an authorised agency in respect of a vetting subject if the authorised agency and the vetting subject are the same individual. 20
- (3) A vetting request may be made by an authorised individual only if the authorised individual is, in relation to the vetting request, the vetting subject.

54E Authorised agencies

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- (1) An agency is an authorised agency if the agency is—
 - (a) required by an enactment to obtain a Police vet in respect of an individual (who may be described by reference to the individual being a member of a class of individuals) and is registered with the PVS for this purpose; or 30
 - (b) approved by the PVS to make vetting requests.
- (2) For the purposes of **subsection (1)(b)**, the PVS may, on the application of an agency, grant the agency approval to make vetting requests if the PVS is satisfied that, having regard to the nature, functions, and activities of the agency, it is appropriate that the agency be approved to make vetting requests. 35

54F Authorised individuals

- (1) An authorised individual is an ~~authorised~~ individual ~~if the individual who is—~~
- (a) a member of a particular class of individuals that is specified for the purposes of this section ~~by the Police in a notice published~~ on an Internet site maintained by, or on behalf of, the Police; and 5
 - (b) approved by the PVS to make a vetting request.
- (2) ~~The Police must, when considering whether a class of individuals should be specified under **subsection (1)(a)**, have regard to—~~
- (a) ~~the nature, functions, and activities of the class of individuals; and~~
 - (b) ~~the potential efficiency gains of individuals in the class being able to make vetting requests; and~~ 10
 - (c) ~~any other matters the Police considers relevant.~~
- (2) When considering whether a class of individuals should be specified under **subsection (1)(a)**, the Commissioner—
- (a) may consult with any interested persons or groups that the Commissioner thinks appropriate; and 15
 - (b) must have regard to—
 - (i) the nature, functions, and activities of the class; and
 - (ii) the potential efficiency gains of individuals in the class being able to make vetting requests; and 20
 - (iii) any other matters the Commissioner considers relevant.
- (3) For the purposes of **subsection (1)(b)**, the PVS may, on the application of an individual, grant the individual approval to make a vetting request if the PVS is satisfied that it is appropriate to do so having regard to the individual's circumstances. 25

54G Vetting request may not be made in respect of child

A vetting request may not be made in respect of a vetting subject who at the time of the request is under the age of 14 years.

54H Vetting requests

- (1) A vetting request may only be made for a purpose specified in **section 54C**. 30
- (2) A vetting request must be made in the form and manner required by the PVS and must include—
- (a) a statement of the purpose set out in **section 54C** in relation to which the vetting request is made in respect of the vetting subject; and
 - (b) the circumstances of the particular assessment being undertaken, or determination being made, in respect of the vetting subject; and 35

- (c) confirmation that the vetting subject has, or, if the vetting subject is under 16 years of age, a parent or guardian of the vetting subject has, consented to—
 - (i) the vetting request being made; and
 - (ii) the PVS providing a Police vet to the agency in response to that request. 5
- (3) A vetting request made by an authorised individual must specify the authorised agencies that are to be provided with the Police vet.
- 54I Responding to vetting request**
- (1) As soon as is reasonably practicable after receiving a vetting request from an authorised agency, the PVS must respond to the request by— 10
 - (a) making available to the authorised agency a Police vet in respect of the vetting subject; or
 - (b) notifying the authorised agency that a Police vet is not available because making available that Police vet would be likely to prejudice the maintenance of the law. 15
- (2) As soon as is reasonably practicable after receiving a vetting request from an authorised individual, the PVS must respond to the request by—
 - (a) making available to the authorised agencies nominated by the authorised individual a Police vet in respect of the vetting subject (who is the authorised individual); or 20
 - (b) notifying the authorised agencies nominated by the authorised individual that a Police vet is not available because making that Police vet available would be likely to prejudice the maintenance of the law.
- 54J Information to be included in Police vet** 25
- (1) A Police vet in respect of a vetting subject—
 - (a) must include the vetting subject’s criminal record (if the vetting subject has a criminal record) unless the vetting subject’s criminal record is required to be concealed under the clean slate scheme in the Criminal Records (Clean Slate) Act 2004; and 30
 - (b) may include a summary of the information listed in **subsection (7)** in respect of the vetting subject that can be readily retrieved and that the PVS—
 - (i) is satisfied is relevant to disclose having regard to the particular purpose for which the vetting request is made in respect of the vetting subject; and 35
 - (ii) has taken steps that are, in the circumstances, reasonable to ensure the information is accurate and not misleading.
- (2) However,—

- (a) **subsection (1)(a)** is subject to **subsection (3)**; and
 - (b) **subsection (1)(b)** is subject to **subsections (3) to (6)**.
- (3) Any information about the vetting subject's involvement in any proceedings that is subject to a suppression order made by a court or tribunal, or to a statutory prohibition on publication or continued publication, may only be disclosed in a Police vet if the PVS is satisfied that the agency being provided with the Police vet has a genuine interest in receiving that information because the information is substantially relevant to the purpose for which the vetting request is made. 5
- (4) Any information that relates to the vetting subject when under the age of 18 years may only be disclosed in a Police vet if the PVS is satisfied that the agency being provided with the Police vet has a genuine interest in receiving that information because the information is substantially relevant to the purpose for which the vetting request is made. 10
- (5) Any information that is of the kind referred to in **subsection (7)(h)** may only be included in a Police vet in relation to a vetting subject who has been involved in the family violence as a victim or witness if the purpose for which the vetting request is made is to assess the suitability of the vetting subject to— 15
- (a) be employed or engaged (including as a volunteer) in a role working in the vetting subject's home environment; or 20
 - (b) be granted, or permitted to sponsor, a New Zealand visa; or
 - (c) be granted New Zealand citizenship.
- (6) Any information that is referred to in **subsection (7)(m)** relating to a vetting subject's mental health or substance abuse issues may only be included in a Police vet in relation to a vetting subject if the PVS is satisfied that— 25
- (a) there is a link between those issues and any criminal conduct exhibited by the vetting subject; or
 - (b) the issues present a direct risk to another individual.
- (7) The information referred to in **subsection (1)(b)** that may be included in a Police vet in respect of a vetting subject is as follows: 30
- (a) any charges currently pending against the vetting subject; and
 - (b) any charges ever filed against the vetting subject that did not result in conviction; and
 - (c) any charges ever filed against the vetting subject that were discharged by the Youth Court under section 282(1) or 283(a) of the Oranga Tamariki Act 1989; and 35
 - (d) any charges ever filed against the vetting subject that were admitted or proven in the Youth Court; and
 - (e) any infringement offences ever committed by the vetting subject; and
 - (f) any demerit points ever recorded against the vetting subject; and 40

	(g) any warrants to arrest ever issued against the vetting subject; and	
	(h) any family violence (within the meaning of section 9 of the Family Violence Act 2018) in which the vetting subject has been involved; and	
	(i) any convictions entered against the vetting subject in an overseas jurisdiction if records relating to those convictions are held by the Police; and	5
	(j) any offences alleged or admitted to have been committed by the vetting subject when under the age of 18 years not included in any charges filed against the vetting subject; and	
	(ja) <u>any investigations currently being conducted in respect of the vetting subject; and</u>	10
	(k) any investigations conducted by the Police in which the vetting subject was suspected of committing an offence but which did not result in any charges filed against the vetting subject; and	
	(l) any other interactions of any kind that the vetting subject has, at any time, had with the Police; and	15
	(m) any other information held by the Police about the vetting subject for any reason.	
54K	PVS to provide specified authorised agency updated Police vets in respect of children's worker	
(1)	This section applies if the PVS—	20
	(a) has provided to a specified authorised agency a Police vet in respect of an individual who is a children's worker; and	
	(b) subsequently becomes aware that the individual has been—	
	(i) charged with a specified offence; or	
	(ii) convicted of a specified offence; and	25
	(c) is satisfied that the individual is still a children's worker— employed or engaged by the specified authorised agency.	
(2)	If this section applies, the PVS must update the Police vet that it earlier provided to the specified authorised agency.	
54L	PVS may provide authorised agency updated Police vets if requested by authorised agency	30
(1)	If requested by an authorised agency, the PVS may make arrangements with the authorised agency to provide to the authorised agency updates of a Police vet in certain circumstances.	
(2)	No arrangement may be made between the PVS and an authorised agency under subsection (1) unless—	35
	(a) the PVS is satisfied that, having regard to the particular purpose for which the vetting request was originally made by the authorised agency,	

it is necessary that the authorised agency receive updated Police vets in respect of the vetting subject; and

(b) the vetting subject consents to the arrangement.

- (3) **Section 54J** applies with any necessary modifications to any updated Police vet that the PVS proposes to provide to an authorised agency under an arrangement referred to in **subsection (1)**. 5

54M PVS may provide authorised agencies updated Police vets if requested by authorised individual

- (1) If requested by an authorised individual in respect of whom a Police vet is to be, or has been, provided to 1 or more authorised agencies, the PVS may make arrangements to provide to the authorised agencies, or to any other authorised agencies nominated by the authorised individual, updates of the Police vet. 10

- (2) No arrangement may be made under **subsection (1)** unless the PVS is satisfied that, having regard to the particular purpose for which the vetting request was originally made by the authorised individual, it is necessary that the authorised agencies receive updated Police vets in respect of the vetting subject. 15

- (3) **Section 54J** applies with any necessary modifications to any updated Police vet that the PVS proposes to provide to an authorised agency under an arrangement referred to in **subsection (1)**. 20

54N Indemnity for Commissioner and Police employees

- (1) If a Police vet is provided in good faith to an authorised agency in response to a vetting request, no proceedings, civil or criminal, may be taken against the Commissioner or any Police employee in respect of—

(a) providing the Police vet; or 25

(b) any consequences that follow from providing the Police vet.

- (2) Providing a Police vet to an authorised agency in response to a vetting request is not to be taken, for the purposes of the law relating to defamation or breach of confidence, to constitute an authorisation or approval of the publication of the information contained in the Police vet by the agency. 30

- (3) The Commissioner and Police employees are immune from liability in civil or criminal proceedings for good-faith actions or omissions when performing or exercising, or intending to perform or exercise, their functions, duties, and powers under this Part.

6 Section 79E amended (Methods of cost recovery) 35

After section 79E(2)(c), insert:

- (d) differentiates between the classes of persons requesting the performance of the same policing service, or to whom the same policing service is delivered:

- (e) ~~differs if an urgent service is required~~ depending on the time frame for the performance of the service.

7 New Schedule 1AA inserted

Insert the **Schedule 1AA** set out in **Schedule 1** of this Act as the first schedule to appear after the last section of the principal Act.

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Part 2

Consequential amendments

8 Consequential amendments to other enactments

Amend the enactments specified in **Schedule 2** as set out in that schedule.

Schedule 1
New Schedule 1AA inserted

s 7

Schedule 1AA
Transitional, savings, and related provisions

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s 5A

Part 1

Provision relating to Policing (Police Vetting) Amendment Act 2024

- 1 Agencies approved before commencement date to access Police Vetting Service Internet site are authorised agencies** 10
- (1) An agency that immediately before the commencement date was registered with the Police as an agency approved to access the Police Vetting Service Internet site is to be treated on and after the commencement date as an agency referred to in **section 54E(1)(b)** that is authorised by the Police to access the Police Vetting Service Internet site. 15
- (2) In this clause, **commencement date** means the date on which this Part comes into force.

Schedule 2

Consequential amendments to other enactments

s 8

Part 1

Amendments to other Acts

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Education and Training Act 2020 (2020 No 38)

In section 10(1), definition of **unsupervised access**, replace paragraph (b) with:

- (b) an employee of the school or service in respect of whom a satisfactory Police vet has been obtained within the last 3 years:

~~In section 18(2)(a), replace “had” with “received”.~~ 10

In section 25, after “vets”, insert “in respect”.

In section 104, after “vets”, insert “in respect”.

In section 540A(3)(a), after “vet”, insert “in respect”.

In Schedule 3, clause 4(1), after “vet”, insert “in respect”.

In Schedule 3, clause 10(2)(b), (6)(a)(ii) and (b)(ii), replace “had” with “received”. 15

In Schedule 3, clause 18(2), after “vet”, insert “in respect”.

In Schedule 4, clauses 1(1) and 2(1), after “vet”, insert “in respect”.

In Schedule 4, clauses 4 and 7, after “for a Police vet”, insert “in respect”.

In Schedule 4, clause 8(1), after “further Police vet”, insert “in respect”.

In Schedule 4, clause 8(2), replace “conducted on” with “undertaken in respect of”. 20

In Schedule 4, clauses 9(1) and 10(1), after “vet”, insert “in respect”.

In Schedule 4, clause 12(1), replace “further Police vet of every person on” with “further Police vet for every person in respect of”.

In Schedule 4, clause 12(2), replace “conducted on” with “undertaken in respect of”.

In Schedule 4, clause 12(3), replace “on whom” with “in respect of whom”. 25

In Schedule 4, clause 13, after “for a Police vet”, insert “in respect”.

In Schedule 19, clause 13(2), after “Police vet”, insert “in respect”.

Social Workers Registration Act 2003 (2003 No 17)

In section 50(2), replace “of the applicant under this section has been done” with “in respect of the applicant under this section has been obtained”. 30

Part 2

Amendments to secondary legislation

Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015 (LI 2015/106)

Replace regulation 6(1) with: 5

- (1) A specified organisation must arrange to obtain from the Police Vetting Service a Police vet in respect of a person who is undergoing a safety check under this Part.

In regulation 6(2), replace "Police vet of" with "Police vet in respect of" in each place. 10

Replace regulation 11(1) with:

- (1) A specified organisation must arrange to obtain from the Police Vetting Service a Police vet in respect of a person who is undergoing a safety check under this Part.

Education (Early Childhood Services) Regulations 2008 (SR 2008/204) 15

Replace regulation 8(a) with:

- (a) whether, for the purposes of the application, a satisfactory Police vet has been obtained in respect of the individual:

Education (Hostels) Regulations 2005 (SR 2005/332)

In regulation 61(2A), replace "request a Police vet of himself or herself" with "obtain a Police vet in respect of themselves". 20

Health and Safety at Work (General Risk and Workplace Management) Regulations 2016 (LI 2016/13)

In regulation 50(1), after "vet", insert "in respect".

Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 (LI 2018/111) 25

In regulation 48(1)(b), replace "carried out" with "obtained".

In regulation 48(2)(b) and (c)(iii), after "vet", insert "being obtained".

In regulation 50(4), replace "undertaken" with "obtained".

Replace regulation 53(1), with: 30

- (1) The chief executive must ensure that a Police vet is obtained from the Police Vetting Service in respect of a person who is undergoing a suitability check under regulation 47.

Policing (Cost Recovery) Regulations 2017 (LI 2017/90)

In regulation 3, revoke the definition of **approved agency**. 35

Policing (Cost Recovery) Regulations 2017 (LI 2017/90)—*continued*

In regulation 3, insert in its appropriate alphabetical order:

authorised agency has the same meaning as in **section 54A** of the Policing Act 2008

In regulation 3, replace the definition of **vetting request** with:

vetting request has the same meaning as in **section 54A** of the Policing Act 2008 5

In Schedule 3, clauses 2(1), (2), and (3), 3(1) and (3), 4(1) and (3), 5(1), (3), and (4), and 6(1) and (2), replace “approved agency” with “authorised agency”.

In Schedule 3, clause 2(3), replace “approved agencies” with “authorised agencies” in each place. 10

Psychoactive Substances Regulations 2014 (LI 2014/243)

In regulation 3A(f), after “vet”, insert “to be obtained in respect”.

Teaching Council Rules 2016 (LI 2016/122)

In regulation 65(1), replace “obtain a Police vet” with “obtain a Police vet in respect”.

In regulation 65(1)(b), replace “had” with “received”. 15

Legislative history

10 October 2024
5 November 2024

Introduction (Bill 89–1)
First reading and referral to Justice Committee