

Summary Offences (Demonstrations Near Residential Premises) Amendment Bill

Government Bill

As reported from the Justice Committee

Commentary

Recommendation

The Justice Committee has examined the Summary Offences (Demonstrations Near Residential Premises) Amendment Bill and recommends by majority that it be passed. We recommend all amendments unanimously.

About the bill

The bill aims to balance a person's right to privacy, including the use and enjoyment of their home, with protecting the public's ability to protest, as affirmed by the New Zealand Bill of Rights Act 1990. It would amend the Summary Offences Act 1981 by creating a new offence for engaging in an unreasonably disruptive demonstration near residential premises, targeted at a person regularly occupying the property.

Some observations from our consideration of the bill

We understand that the impetus for this legislation came from some recent protests targeting certain individuals. The number of protests targeting private homes has increased over the last few years. From our perspective, a wide cross section of people are subject to unreasonably disruptive protests. They are not limited to politicians, but include other individuals operating in sensitive or high-profile jobs. The bill's intent is to provide greater clarity around the right to protest but to do this in a way that does not compromise an individual's reasonable expectation of privacy in their home. We consider that an unreasonably disruptive demonstration near a person's home could cause those targeted and their families and neighbours to feel unsafe.

We were advised by the Police that, as the law currently stands, they are not clearly empowered to intervene in cases of demonstrations that are focused on residential

premises unless a separate offence occurs, such as an assault or wilful damage. This lack of clarity was an important issue in our consideration of this bill.

We heard from several submitters who stated that, in their view, the Police have sufficient powers to intervene where safety issues were identified. They also raised concerns about the bill's effect on freedom of expression and peaceful assembly. We noted during our consideration the possibility that liability for the offence might fall on an individual who was conducting themselves appropriately but was part of a group that was not. An individual, however, would only commit the offence if they engaged in a demonstration that they knew or ought to have known was unreasonably disruptive.

Ultimately, how protests are responded to by police is a matter for the discretion of the attending officer at the time of a demonstration. We note that this gives rise to potential inconsistencies of approach.

Proposed amendments

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

Residential premises used for official purposes

New section 5B(3) would establish a non-exhaustive list of relevant circumstances that the court must have regard to when determining whether a disruption was unreasonable in relation to any residential premises.

We discussed whether certain types of residences should be excluded from the bill, such as embassies, Premier House, and other official residences. We were advised that embassies, High Commissions, and consulates in New Zealand would generally not fit the bill's definition of residential premises. This is because only a small number of these premises also act as an official residence. Official residences of New Zealand, including Premier House, Government House, and one other ministerial residence in Wellington are generally mixed use, available for both official purposes and as a regular residence for government officials and families. We were told that their actual use may differ depending on who is entitled to occupy the property at a particular time. Ambassadorial residences, like official residences of New Zealand, may have mixed use, including for official purposes and serving as the residence for ambassadors and their families in New Zealand.

We note that while embassies, ambassadorial residences, and Premier House may fall within the definition of residential premises, the other elements of the offence would need to be met. For example, a demonstration would need to be targeted at a regular occupant of those premises and be causing an unreasonable disruption to the use or enjoyment of residential premises. However, we think an additional safeguard should be included in the bill to ensure that the new offence could not be used to claim protection from legitimate demonstrations outside such premises in connection with official duties carried out there.

We consider that when assessing the reasonableness of the disruption, the use of the property at the time of the disruption should be a relevant consideration. Premises should be expected to accept higher levels of disruption when they are used for official purposes—for example, when Premier House is used for a state visit. Therefore, we recommend amending section 5B(3) by inserting “the nature of the use being made of those premises during the disruption” to the list of relevant circumstances that must be considered when determining whether a disruption was unreasonable.

Definition of “residential premises”

New section 5B(4) provides definitions for the key terms used in the offence: demonstration, disruption, regular occupant, and residential premises. In the bill as introduced, “residential premises” is defined as a “building, or part of a building, that is a house, flat, town house, home unit, or similar dwelling erected, or currently used, mainly as a place of residence”.

We note that the bill is not intended to require residential premises to be primarily used for residential purposes, so long as that is one use, and the other elements of the offence are met. We consider that the current definition of “residential premises” might not appropriately reflect this intent, as it refers to “used mainly”.

We think that the definition of “residential premises” should align with the proposed amendment to section 5B(3) that requires consideration to be given to the use of the residential premises at the time of the disruption. We recommend amending the definition of “residential premises” to clarify that the residential use does not need to be the exclusive or primary use of the premises.

Views of regular occupants affected by a demonstration

The bill as introduced acknowledges the harm that targeted demonstrations can have on a person’s privacy and the use or enjoyment of their home. This harm includes the fear and intimidation that may be felt by the targeted person’s family or neighbours. We discussed whether the views of regular occupants should be included as part of the assessment of the unreasonableness of the disruption.

We were advised that the impact on residents would be factored into the assessment of the reasonableness of the disruption if it is known by or foreseeable to the demonstrator (the *mens rea* element in section 5B(1)(b)(ii)). The courts interpret unreasonableness as an objective test. This means that the unreasonableness of the disruption would be assessed according to the standard of a reasonable, prudent person, rather than the specific sensibilities of the resident. Therefore, a demonstrator would only be liable for disruptions they know about, or ought to know about.

We also discussed whether the bill should include a provision requiring the police to speak to residents to obtain the view of the regular occupant affected by a demonstration. We were advised that it would be unusual to include operational requirements for the police as an element of the offence.

We would expect police to speak to an affected resident following a complaint. In some circumstances, however, it may not be practicable for the police to speak to resi-

dents to seek their views prior to intervening. We were advised that the first priority of the police would be to engage with the demonstrators, and they would take a statement from the occupants at a later time. If the demonstrators had left by the time police arrived, they would talk to the occupants on arrival.

We are pleased to learn that the Police intend to implement training on intervening in demonstrations outside residential premises, if the bill becomes law. We urge the Police to be consistent in their response to protests across the country.

To the Justice Committee of the 55th Parliament

We urge the Justice Committee of the 55th Parliament to review how this bill has been implemented in practice if it is passed. We encourage the committee to engage with the Police regarding their consistency in responding to unreasonable protests and any implementation issues.

New Zealand Labour Party differing view

Labour does not support this bill. We consider that it will have an unduly chilling effect on free speech rights. The right to protest is an important protection in our democracy. While we understand the need to balance the right to personal privacy, with the right to protest, we do not consider this bill is necessary. Existing offences such as disorderly conduct, disorderly assembly, wilful damage, obstructing a public way, and intimidation are already used effectively.

We are also concerned that the bill is poorly designed. This bill was introduced in response to reports of demonstrations targeting private residences, especially of public persons, such as MPs. It appears, for example, that a person can be criminally liable for being part of a disruptive protest, even if they are not themselves behaving in a disruptive way. Being criminally liable for the behaviour of others by mere association is concerning. We also consider that the bill is vague. For example, language such as “unreasonably disruptive” is unclear and therefore leaves far too much discretion in the hands of police. Curtailments of important human rights should be limited in extent and expressed clearly. Neither is the case here.

Green Party of Aotearoa New Zealand differing view

The Green Party opposes the Summary Offences (Demonstrations Near Residential Premises) Amendment Bill, echoing 99 percent of the submitters, who oppose the bill. While we acknowledge the right of everyone, no matter who they are, to reside in residential spaces safely, there are three key reasons we oppose this legislation.

The bill is unnecessary and redundant

Many submitters stated the bill is unnecessary and redundant. The Summary Offences Act already contains several offences regarding public disorder that limit protest demonstrations including disorderly behaviour (clause 3), offensive behaviour or language (clause 4), disorderly behaviour on private premises (clause 5), and disorderly assembly (clause 5A). Where there are gaps in the current legislation, amendments

should have been made rather than introducing new offences. It seems that the time spent introducing this bill could have been better spent on ensuring that the police have the resources required to update and enforce existing legislation.

The bill is vague and ambiguous

Submitters expressed concerns over the lack of clarity that this bill provides. Section 4, new section 5B(1)(a), for example, does not specify what is considered “near”, thus fuelling ambiguity and police discretion. Considering this new offence carries imprisonment, these concerns need to be addressed.

The bill impedes on human rights

The bill may capture legitimate protest that should not be criminalised. The Ministry of Justice itself warned in the Regulatory Impact Statement that such an approach “[m]ay capture some conduct that is not traditionally subject to criminal sanction”. Notably the bill does not exclude places that are often important sites of protest, such as embassies and Premier House. Further, businesses, such as alcohol stores or commercial farms, may be both residential premises and sites where people seek to protest. This not only has the likelihood of limiting sections 14, 16, 17, and 18 of the New Zealand Bill of Rights Act, it also follows the troubling footsteps of limitations to legitimate protests as seen in the United Kingdom and the United States, which have no part in Aotearoa New Zealand.

Last, the punishment of up to three months imprisonment for demonstrating outside a home is simply disproportionate to the offence. As mentioned, genuine disruption or threatening behaviour is already covered under other legislation.

Appendix

Committee process

The Summary Offences (Demonstrations Near Residential Premises) Amendment Bill was referred to this committee on 21 August 2025. The House instructed us to report the bill back no later than 21 February 2026.

We called for submissions on the bill with a closing date of 6 October 2025. We received and considered submissions from 3,614 interested groups and individuals. We heard oral evidence from 67 submitters

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.

Advice on the bill was provided by the Ministry of Justice, sometimes augmented by advice from 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 Andrew Bayly (Chairperson)

Hon Ginny Andersen

Jamie Arbuckle

Carl Bates

Tākuta Ferris

Rima Nakhle

Tom Rutherford

Todd Stephenson

Vanushi Walters

Hon Dr Duncan Webb

Dr Lawrence Xu-Nan

Related resources

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

**Summary Offences (Demonstrations Near Residential
Premises) Amendment Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Paul Goldsmith

Summary Offences (Demonstrations Near Residential Premises) Amendment Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Summary Offences (Demonstrations Near Residential Premises) Amendment Act **2025**.
- 2 Commencement** 5
This Act comes into force on the day after Royal assent.
- 3 Principal Act**
This Act amends the Summary Offences Act 1981.
- 4 New section 5B inserted (Engaging in targeted and disruptive demonstration near residential premises)** 10
After section 5A, insert:

5B	Engaging in targeted and disruptive demonstration near residential premises	
(1)	A person (P) commits an offence if P engages, or continues to engage, in a demonstration—	
	(a) near any residential premises; and	5
	(b) that—	
	(i) is directed at any regular occupant of those premises; and	
	(ii) P knows, or ought to know, is causing an unreasonable disruption in relation to those premises or any other residential premises.	
(2)	A person who commits an offence against this section is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,000.	10
(3)	In determining, for the purposes of a prosecution under this section, whether a disruption in relation to any residential premises <u>is was</u> unreasonable, the court must have regard to all relevant circumstances, including—	
	(a) the time of day at which the disruption started:	15
	(b) the time of day at which the disruption ended:	
	(c) the duration of the disruption:	
	(d) the actions of the demonstrators during the disruption:	
	(e) the level of noise generated by the demonstrators during the disruption:	
	(f) the distance between the demonstrators and those premises during the disruption;	20
	(g) <u>the nature of the use being made of those premises during the disruption.</u>	
(4)	In this section,—	
	demonstration means a public expression of support or opposition by a person or group of persons to further a cause or campaign	25
	disruption , in relation to any residential premises,—	
	(a) means a disruption to the use or enjoyment of those premises by any regular occupant of those premises; and	
	(b) includes a disruption to the ability of any regular occupant of those premises to enter or leave those premises	30
	regular occupant , in relation to any residential premises, means any person who regularly occupies those premises as a place of residence	
	residential premises means a building, or part of a building, that is a house, flat, town house <u>townhouse</u> , home unit, or similar dwelling erected, or currently used, mainly as a place of residence, and any land, improvements, or	35
	appurtenances belonging to the dwelling or usually enjoyed with it.	

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Premises) Amendment Bill**

Legislative history

18 August 2025
21 August 2025

Introduction (Bill 195–1)
First reading and referral to Justice Committee