

Departmental Disclosure Statement

Trespass (Specified Retail Premises and Other Matters) Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Justice.

The Ministry of Justice certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

4 March 2026

Contents

Contents.....	2
Part One: General Policy Statement.....	3
Part Two: Background Material and Policy Information	5
Part Three: Testing of Legislative Content.....	7
Part Four: Significant Legislative Features	9

Part One: General Policy Statement

The Trespass (Specified Retail Premises and Other Matters) Amendment Bill (the Bill) aims to improve the utility of the Trespass Act 1980 (the Act) within a retail environment by providing retailers, food service providers, and licenced premises a greater range of tools to deter retail crime and keep their property, workers and customers safe.

The Bill makes amendments in response to the recommendations from the Ministerial Advisory Group for the Victims of Retail Crime (the MAG).

The Bill --

- increases the maximum trespass period to three years, with occupier discretion for any period up to this maximum;
- creates a new bespoke power for occupiers of retail, food service and licenced premises (specified retail premises) to trespass people from multiple locations at once without needing to have cause to suspect the person intends to trespass on these locations in the future;
- widens the circumstances under which a person can be considered to know they have been trespassed from a location occupied by a specified retailer, where service of the trespass notice was incomplete due to the actions of the person being trespassed;
- creates backstop provisions for situations where an occupier of any premises does not, or cannot, clearly inform the person of the time period or location to which a trespass applies, imposing a three year trespass period and limiting the location to the place where the notice was served or attempted to be served;
- increases the monetary maximum penalty for refusal to leave when directed to do so, and for breaching a trespass notice, to \$2,000; and
- increases the monetary maximum penalty for refusal to give a name and address when requested by an occupier to \$1,000.

The key purpose of the Act is to provide the right of a legal occupier of land to control who can come into and remain on their property. In the retail environment, the public can expect to enter a privately owned retail place, but must leave when directed to do so by the occupier. The MAG expressed concern that the age of the Act, and its focus on rural environments, has made it impracticable and ineffective in a modern retail setting.

The MAG is concerned that the Act does not provide them with discretion to trespass a person for longer or shorter periods of time to match the seriousness of the behaviour of the person while trespassing. The Bill addresses this by increasing the maximum trespass period, from two years to three years, to address serious behaviour, while giving occupiers the discretion to set a trespass period of any time up the three-year maximum.

The MAG reports that even where someone is successfully trespassed from one location, they simply move to another venue to continue unwanted behaviour. The Act only allows occupiers to pre-emptively trespass a person from a place or places if the occupier has cause to suspect that the individual has the intention of going to that place in the future. This test makes it difficult to successfully prosecute people in a retail environment.

The Bill addresses this issue by providing retailers, food service providers and licenced premises (occupiers of specified retail premises) with a new bespoke power to trespass someone from multiple locations. There would be no need to show the person intended to go to any of those locations in the future. The occupier would need to have authority from the other occupiers to trespass the person from all the places in the multiple location notice. The Bill provides a new offence for trespassing if someone returns to any of the locations.

Public authorities, for example local councils, are bound by the New Zealand Bill of Rights Act 1990 and could not use this new power.

For a trespass offence to occur the person must first be warned that they cannot return to the place they are trespassed from for a set period. The offence may occur when they knowingly return to that place within this time, despite the warning. The MAG reports that proving

someone knew they were successfully warned not to trespass in order to convict them is problematic. They say this is because individuals intentionally frustrate the process of a trespass notice being served process so that it is very difficult to prove that they knew about the trespass.

The Bill addresses this by widening the circumstances under which a person can be considered to know they have been trespassed by the occupiers of specified retail premises, for the purposes of one of the offences that retailers rely on. The Bill provides that an individual will be 'deemed' to have sufficient knowledge for the criminal offence in some circumstances. This is where a verbal or written trespass was attempted by the occupier and the individual intentionally refused to accept it; or where they knew, or ought to have known, that they were being served and then in any way obstructed or prevented the service from being completed. Under these circumstances, if the trespassed person returns to the place, a prosecution for the trespass offence could still proceed.

The changes in the Bill mean that there may be circumstances where a person does not receive all the information they need to avoid trespassing. The Bill addresses these gaps by providing default provisions in circumstances where an occupier does not, or cannot, specify a time period or locations applicable to the notice. In these circumstances, the notice will default to a three year period, and apply only to the location at which the trespass notice service was attempted.

Penalties for the trespass offences have not been updated since the Act as first passed in the 1980s. The MAG is concerned that as a result, the penalties are now too low to act as real deterrents, and do not reflect the actual harm experienced by retail workers when trespass notices are breached. The Bill addresses this issue by increasing offence penalties (in section 3 and section 4) from \$1,000 to \$2,000. This penalty would also apply to the new offence for trespassing on specified retail premises. This increase aligns these trespass offences with other offences related to interference with private property rights found under the Summary Offences Act, including wilful damage to property or being found on property without reasonable excuse, all of which carry a maximum penalty of 3 months imprisonment or a \$2,000 fine.

The Act provides a maximum \$500 penalty for a person who fails to give their name or address to a constable or private occupier (section 9). Similar to the other offences in the Act, this penalty has not ever been changed. The MAG is concerned the penalty neither acts as a deterrent nor reflects the potential harm to victims if an individual of concern cannot be effectively trespassed. To address this, the Bill increases the penalty for this offence to \$1000.

Reflecting the age of the Act, the Bill makes minor and technical amendments to use modern drafting style and remove references to repealed legislation.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<i>Ministerial Advisory Group for the Victims of Retail Crime – report on reform of the Trespass Act 1980</i> (sent to the Minister of Justice on 7 May 2025) https://www.justice.govt.nz/assets/Documents/Publications/MAG-Report-on-Trespass-Final.pdf	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<i>Regulatory Impact Statement: Amending trespass law as a critical vehicle for addressing retail crime</i> , Ministry of Justice, 18 June 2025. <i>Annex to Regulatory Impact Statement: Amending trespass law as a critical vehicle for addressing retail crime: Additional policy decisions</i> , Ministry of Justice, 27 November 2025. The RISs are accessible at: https://www.justice.govt.nz/assets/Documents/Publications/Regulatory-Impact-Statement-Amending-trespass-law-as-a-critical-vehicle-to-address-retail-crime-lodged-version.pdf , Proactive-release-Amending-trespass-law-as-a-critical-vehicle-for-addressing-retail-crime-Additional-policy-decisions-FINAL.pdf and https://www.regulation.govt.nz/our-work/regulatory-impact-statements/	

2.3.1. If so, did the Ministry for Regulation provide an independent opinion on the quality of any of these regulatory impact statements?	NO
The RISs did not meet the threshold for receiving an independent opinion on the quality of the RIS from the RIA Team based in the Ministry for Regulation.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
Analysis of the expected benefits and costs for the policy is available in the RIS and RIS Annex.	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
As with any new or revised offences, costs and benefits will be impacted by the level of compliance, resourcing, and enforcement. It is difficult to estimate what the frequency of offending will be for the revised offences. More information on compliance and enforcement is available in the RIS and RIS Annex.	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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UNCHR

The Ministry of Justice identified that the policies contained in the Bill affect children. The Ministry consulted with the Ministry of Social Development, which is the agency responsible for administering the United Nations Convention on the Rights of the Child (UNCROC) and its Protocols.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

The Ministry of Justice consulted Te Puni Kōkiri on the policies contained in the Bill at stages in the policy development process. Te Puni Kōkiri noted that a lack of wider consultation with Māori on issues that are likely to impact them undermines the principles of participation and equity. No Māori representative groups have been consulted or engaged on the policy options in this Bill due to time constraints. Targeted consultation has been undertaken by the MAG but not with relevant Māori interest groups which may affect the obligation for the Crown to consult on issues that affect Māori.

The development of alternative policy options or mitigations on the impacts of the policies on Māori has not been investigated due to time constraints. Aspects of the policy design that may help mitigate impacts on Māori have also not been explored fully. This could impact on the Crown's obligation to take active steps to protect Māori interests, which has been highlighted previously by the Waitangi Tribunal in the Tū Mai te Rangi report (Wai 2540).

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES
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Advice will be provided to the Attorney-General by the Crown Law Office. This advice, or a section 7 report of the Attorney-General, is expected to be available on the Ministry of Justice's website at:

- [Advice on consistency of Bills with the Bill of Rights Act](#)
- [Section 7 reports.](#)

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
<p>Clause 8 in the Bill –</p> <ul style="list-style-type: none"> increases the monetary maximum penalty for refusal to leave when directed to do so, and for breaching a trespass notice, from \$1,000 to \$2,000. increases the monetary maximum penalty for refusal to give a name and address when requested by an occupier from \$500 to \$1,000. 	

3.4.1. Was the Ministry of Justice consulted about these provisions?	NO
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Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO
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3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES
<p>The Privacy Commissioner was consulted in the policy development process, and on draft Cabinet papers. The Commissioner considers that the proposal to provide a bespoke power to trespass people from multiple locations could have privacy risks, because operationalising the policy will require information to be shared about those affected individuals. As the proposal does not require there to be a reasonable cause to suspect that the person is likely to trespass on all premises included in the notice, without safeguards the Commissioner does not consider this proposal to be necessary, proportionate, or justified.</p>	

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>The MAG undertook a targeted consultation process seeking submissions from retailers and industry bodies to identify their concerns about the Act. The submissions included retailers' perspectives on how the law currently operates and the limitations of the Act. The MAG's recommendations for amendments to the Act were based on this consultation.</p> <p>See also the answer to question 3.5.1.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
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Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	YES

Clause 6 - sections 4, 4A and 4B: The defence provisions in sections 4(6), 4A(6) and 4B(7) of the Bill place the legal burden of proof on the defence, rather than the prosecution. The defence provisions duplicate historical parts of the Trespass Act 1980 in the drafting of the Bill, rather than reflecting a deliberate policy decision that would need to justify the reversal of the usual burden of proof. The defence provisions are not related to any of the policy decisions made from the recommendations of the Ministerial Advisory Group for the Victims of Retail Crime (the MAG).

Clause 6 – section 4C: While not strictly a reversal of the usual burden of proof, section 4C of the Bill widens the circumstances under which a person can be considered to know they have been trespassed when the trespass notice is served by an occupier of a specified premises. A person would be ‘deemed’ to know they are trespassed for the purposes of the offence of trespass where:

- a verbal or written trespass is attempted, and the person intentionally refused to accept it; or
- where a verbal or written service is attempted and the person knew, or ought to have known, that they were being served and then in any way obstructed or prevented the service from being completed.

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	YES
<p>The Act supports the right for any legal occupier of a privately owned place to control who can come into and remain on their property, who can be directed to leave, and/or directed to stay off the property in the future for any reasonable cause, through a trespass notice.</p> <p>The Act only allows an occupier to trespass an individual pre-emptively from a property, before they have gone there, if the occupier has reasonable cause to suspect the individual intends to go to the location(s) on the trespass notice. This requirement provides a safeguard.</p> <p>In either scenario there is no appeal process from a decision by the occupier (who is not a public body) to trespass someone.</p> <p>The new bespoke power in the Bill removes the 'reasonable cause to suspect' safeguard for occupiers of specified retail premises. Under this new power, these occupiers would have the ability to significantly restrict a person's freedom of movement over a wide area, without recourse to any review or appeal process. In recognition of the potential impact of this amendment, the Minister of Justice intends to request that the Justice Committee consider whether there should be geographic limits to multi-location trespass notices.</p>	