

# Departmental Disclosure Statement

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Policing (Cost Recovery) Amendment Bill
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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 New Zealand Police.

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

8 April 2014

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## Part One: General Policy Statement

The Policing (Cost Recovery) Amendment Bill amends the Policing Act 2008 to enable cost recovery for certain Police services.

At present the Policing Act 2008 does not explicitly enable Police to charge users for any of its services. Currently, most services are funded out of Police's baseline funding and no fee or charge is attached to their provision. Exceptions to this are firearm licensing fees set pursuant to the Arms Act 1983 and willing buyer/willing seller agreements Police has with other agencies, such as the Department of Corrections, which do not require legislation.

Across all of the services Police provides, most services (for example, conducting criminal investigations) are provided for the benefit of the general public on a non-excludable basis, are core police services, and can be defined as public goods.

However, there are other services where there is a degree of private benefit to the user(s) of the service. It is considered appropriate to shift funding for some of these services (or components of services) from general taxation to the specific users or beneficiaries of the service.

Amending the Policing Act 2008 to provide Police with the ability to recover the cost of providing certain services will help Police achieve:

- **Efficiency in consumption:** Users of certain Police services that deliver primarily private benefits will pay prices that reflect the costs of delivering those services. This should ensure a more efficient allocation of resources as demand that is not strictly necessary, but which occurs due to a zero nominal price, should be eliminated. Increases in demand for certain services can be better managed because of the additional revenue that will self-fund those services. This avoids placing additional strain on the public purse or shifting resources towards those services at the expense of core policing activities.
- **Efficiency in production:** Users facing a nominal price will demand high quality services from Police. This transparency around costs will drive Police to be innovative and seek production efficiencies.
- **Resources directed to priority areas:** Cost recovery for services that benefit individuals frees up resources for the delivery of front line and preventative services across the whole community.

Cost recovery by government agencies from other government agencies already occurs and leads to a better allocation of taxpayer resources overall. It leads to greater transparency of the use of public money and agencies consider their use of services more carefully once costs are internalised.

Introducing cost recovery also brings New Zealand in line with international practice. New Zealand Police remains one of the few police services in comparable overseas jurisdictions which does not currently have legislation allowing some degree of cost recovery for certain services.

The Bill introduces a new Part into the Policing Act 2008 which sets out

- the types of Police services that may be subject to cost recovery
- the criteria that cost recovery should comply with. These criteria are drawn from the framework for cost recovery set out in the Treasury and Auditor-General's guidelines for setting charges in the public sector, and current New Zealand legislation that provides for cost recovery by other agencies. These criteria are:
  - **Justifiability** – costs should be collected only to meet the reasonable costs (including indirect costs) for the provision or exercise of the relevant service
  - **Equity** – the fee or charge for a particular service, or a particular class of services, should generally, and to the extent practicable, be obtained from the users or beneficiaries of the relevant service at a level commensurate with their use of, or benefit from, the service
  - **Efficiency** – costs should generally be allocated and recovered in order to ensure that maximum benefits are delivered at minimum cost
  - **Transparency** – the manner in which the costs relate to the nature and duration of the service should be clear
- a requirement that consultation with the persons or organisations (or their representatives) that appear likely to be affected should precede any regulations providing for cost recovery
- the methods by which costs may be recovered
- that regulations providing for cost recovery may also provide for exemptions, waivers and refunds of those fees
- a new regulation making power in the Act to enable regulations to be made by Order in Council and on the recommendation of the Minister of Police prescribing fees or charges for specified services provided by New Zealand Police.

Following the passage of this bill, Policing Regulations would be introduced for specific services, along with the charging regime for those services. At present the only service being proposed for cost recovery is the Police vetting service.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>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?</b>	<b>YES</b>
A public consultation paper on <i>Cost Recovery for Certain Police Services</i> was released by NZ Police on 11 December 2013, inviting submissions up until 5 March 2013. The paper can be accessed on the NZ Police website: <a href="http://www.police.govt.nz">http://www.police.govt.nz</a>	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>

### Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
A Regulatory Impact Statement dated 4 October 2013 was submitted to the Cabinet Social Policy Committee when policy approvals for the Bill were sought. This can be accessed on the NZ Police website: <a href="http://www.police.govt.nz">http://www.police.govt.nz</a>	

<b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>	<b>NO</b>
Regulatory Impact Analysis Team (RIAT) involvement was not required. Treasury was provided with a draft of the RIS along with the draft Cabinet paper seeking policy approvals for the Bill when Police consulted with other government agencies in the CAB 100 round.	

<b>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?</b>	<b>NO</b>

### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	<b>NO</b>

<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>YES</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>YES</b>
Some analysis of the potential costs and benefits of recovering costs for the Police vetting service is contained in the public consultation paper <i>Cost Recovery for Certain Police Services</i> .	

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>YES</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>YES</b>
It is not anticipated that there would be any difficulty recovering fees or charges for applying for a Police vet that were set in regulations.	

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>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?</b>
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The provisions of the Bill will not affect New Zealand's international obligations, and will only be relevant to domestic law.
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### Consistency with the government's Treaty of Waitangi obligations

<b>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?</b>
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NZ Police considers that the Bill is consistent with the principles of the Treaty of Waitangi.
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Principle 4: Duty to Consult:
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| <ul style="list-style-type: none"><li>• The public consultation paper on Cost Recovery for Certain Police Services provided all New Zealanders, including Māori, with the opportunity to submit in writing on the proposals in this Bill.</li><li>• Te Puni Kokiri was consulted on the draft Cabinet paper that sought policy approvals for the Bill and on the draft Bill.</li></ul> |
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### Consistency with the New Zealand Bill of Rights Act 1990

<b>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?</b>
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YES
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The Ministry of Justice advised the Attorney-General in April 2014 that the Bill is compliant with the New Zealand Bill of Rights Act 1990. This is expected to be available on the Ministry of Justice's website upon introduction of the Bill.
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### Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?
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NO
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?
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NO
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### Privacy issues

<b>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?</b>
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NO
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## 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>Public consultation was undertaken on the policy included in the Bill through the release of a public consultation paper <i>Cost Recovery for Certain Police Services</i> over the period of 11 December 2012 to 5 March 2013. 147 submissions were received. During February and March Police also visited 18 organisations which would be affected if fees were set for police vetting.</p> <p>The following Government agencies were consulted on the Cabinet paper seeking approval for the policy contents of the Bill: the Treasury; the State Services Commission; the Ministries of Justice, Social Development, Education, Transport, Health, Pacific Island Affairs and Women's Affairs; the Ministry of Business, Innovation and Employment, the Departments of Corrections and Internal Affairs; the New Zealand Transport Agency; Te Puni Kōkiri; the New Zealand Security Intelligence Service; the Accident Compensation Corporation; and the Office of the Privacy Commissioner. The Department of Prime Minister and Cabinet was kept informed.</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?	NOT APPLICABLE
<p>The policy in the Bill is to enable regulations to be made pursuant to the Policing Act that set fees or charges for certain Police services.</p>	



## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

<b>4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?</b>	<b>NO</b>

### Charges in the nature of a tax

<b>4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?</b>	<b>YES</b>
The Bill provides for the making of regulations pursuant to the Policing Act that prescribe fees or charges for specified services provided by Police. The Bill specifies that these fees must recover no more than the actual and reasonable costs (including both direct and indirect costs) of the services to which the fees or charges relate.	

### Retrospective effect

<b>4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?</b>	<b>NO</b>

### Strict liability or reversal of the usual burden of proof for offences

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

### Civil or criminal immunity

<b>4.5. Does this Bill create or amend a civil or criminal immunity for any person?</b>	<b>NO</b>

### Significant decision-making powers

<b>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?</b>	<b>NO</b>

### Powers to make delegated legislation

<b>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?</b>	<b>NO</b>

<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>NO</b>

### Any other unusual provisions or features

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>NO</b>