

Submission of Justice Watch New Zealand on the Summary Offences (Move-on Powers) Amendment Bill

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1. Introduction

Justice Watch New Zealand opposes the Bill for three primary reasons.

First, it is inconsistent with the New Zealand Bill of Rights Act 1990. Secondly, Police already possess powers under existing law to address the conduct identified in the Bill. Thirdly, Justice Watch New Zealand objects to the Bill’s use of the term “biographical details” in connection with temporary detention and compelled identification.

2. The Bill is inconsistent with the New Zealand Bill of Rights Act 1990

The Bill of Rights protects free movement, assembly, association, and presence in public places

The New Zealand Bill of Rights Act 1990 is a constitutional statute forming part of New Zealand’s public law framework, alongside instruments such as the Treaty of Waitangi, the Bill of Rights 1688, and Magna Carta.

Sections 12 to 18 recognise fundamental democratic and civil rights, including rights associated with movement, assembly, association, expression, and remaining in public places. Those rights are directly engaged by a Bill which empowers Police to move people on from public places, detain them for identification purposes, and criminalise non-compliance with those directions.

The Bill extends beyond criminal offending and into the regulation of public presence

The Bill is objectionable because it extends beyond recognised criminal offending and into the regulation of presence in public space. It does so by targeting conduct such as begging, rough sleeping, or indicating an intention to inhabit a public place.

The Bill risks discriminating between classes of people in public space

In that respect, it risks elevating the interests of some members of the public, including business owners, over the ordinary public rights of others to be present in public places. Justice Watch New Zealand submits that this is unnecessary, discriminatory, and inconsistent with the free rights of people in a public society.

3. Existing law already addresses the conduct identified in the Bill

The Summary Offences Act 1981 already criminalises the conduct relied on to justify the Bill

The Bill is also unnecessary because the existing law already provides Police with substantial powers to address genuine disorder and public nuisance.

The Summary Offences Act 1981 already criminalises conduct of the kind identified in the Bill, including disorderly behaviour under section 3, offensive behaviour or language under section 4, disorderly assembly under section 5A, excreting in a public place under section 32, and other street-type offending. The Act already provides powers of arrest and detention under section 39. Where a person is lawfully arrested, existing law also requires that person to provide identifying details to Police.

If unlawful conduct is present Police already have power to intervene

Accordingly, the same factual circumstance relied upon to justify the Bill is already addressed by existing legislation. If a person is behaving in a disorderly, offensive, obstructive, or otherwise unlawful manner, Police already have power to intervene. If that conduct is not present, then no offence is established and there is no proper basis for new coercive powers in the same area.

Existing offences are already defined by long-standing legal authority

That distinction matters. Disorderly behaviour, offensive behaviour, and similar offences are long-established legal categories shaped by common law authority and

are already capable of supporting police intervention where the legal threshold is met, including in response to complaints from business owners.

4. Justice Watch New Zealand objects to the use of the term “biographical details”

The term is imprecise and unnecessarily close to the language of biometric surveillance

Justice Watch New Zealand also objects to the Bill’s use of the term “biographical details” in connection with temporary detention and compelled identification.

The term is unnecessary and inapt. It sits uncomfortably close to the language of “biometric” identification and wider surveillance practices involving facial scanning and other intrusive methods of identification. Whether or not that is the intended meaning, Parliament should avoid terminology that invites expansion from ordinary identification of a person into more invasive forms of State information gathering.

Identification should be limited to ordinary and well-understood means

If Police require a person’s identity in circumstances already authorised by law, that objective can be described in ordinary and well-understood terms, and can ordinarily be met by established forms of identification such as name, address, date of birth, and photo-supported identification documents. Justice Watch New Zealand submits that legislation conferring detention powers should use precise and restrained language, not language capable of broader privacy-invasive implication.

5. Conclusion

Justice Watch New Zealand submits that the Bill should not proceed.

The Bill unjustifiably interferes with free rights in public places

The Bill is inconsistent with the New Zealand Bill of Rights Act 1990 because it authorises coercive State intervention against people in public places on broad grounds that engage rights of movement, assembly, association, expression, and freedom.

The Bill is unnecessary because the existing law is already operative

It is also unnecessary because the existing Summary Offences Act 1981 already provides Police with powers to respond to the conduct identified in the Bill, including powers of arrest and detention where the legal threshold is met.

The Bill adopts imprecise identification language capable of broader privacy implications

Finally, the Bill's use of the term "biographical details" is objectionable because it is imprecise, unnecessary, and capable of association with broader privacy-invasive identification practices, when ordinary identification can be addressed by conventional and well-understood means.

Justice Watch New Zealand therefore submits that the existing law is already substantially operative to the problem identified, and that the creation of new law in the same area is unnecessary, risks discrimination, and unjustifiably interferes with the free rights and privacy of people in public places.