

Policing (Police Vetting) Amendment Bill

Government Bill

Explanatory note

General policy statement

The New Zealand Police (**Police**) provides a vetting service to a wide range of agencies. There are currently more than 14,000 agencies approved to access the Police vetting service and more than 650,000 vetting requests are received from those agencies each year.

A vetting request is a request made by an agency to Police to provide a Police vet in respect of a named individual. The resulting Police vet contains certain information (if any) held by Police about the individual. The purpose of a Police vet is to assist the agency to assess the individual's suitability for a particular role in order to contribute to public safety and national security.

The potential impact on individuals who are the subject of a Police vet warrants a robust and transparent statutory framework being established to formalise the operation of the Police vetting service.

The policy objectives of this Bill are therefore to—

- provide strong legal direction and a clear and consistent policy framework for Police and users of the Police vetting service; and
- enable services that could improve public safety and generate efficiencies through the provision of Police vets.

The Bill does this by—

- establishing a statutory framework that enables the current Police vetting service to continue operating in substantially the same manner as at present, by—
 - setting out the purposes of Police vetting; and
 - setting out who can request a Police vet; and
 - requiring a request for a Police vet to be made with the consent of the individual who is the subject of the request; and

- setting out the information that may be disclosed in a Police vet; and
- setting out the circumstances in which certain information may be disclosed in a Police vet; and
- requiring Police to update a Police vet in respect of a children’s worker if Police subsequently becomes aware that the children’s worker has been charged with or convicted of a specified offence; and
- extending the current Police vetting service by—
 - enabling Police to provide updates of a Police vet to an agency if requested by the agency and if the individual who is the subject of the Police vet consents and Police is satisfied that the provision of updated Police vets is necessary; and
 - enabling an individual who is a member of a specified class of individuals to make a vetting request in relation to themselves specifying the agencies they wish the Police vet is to be disclosed to (for example, an individual may wish to request that a Police vet about themselves be provided by Police to a number of prospective employers instead of having each of the prospective employers separately request a Police vet in respect of the individual).

Departmental disclosure statement

Police is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2024&no=89>

Regulatory impact assessment

Police produced a regulatory impact assessment in February 2020 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact assessment can be found at—

- <https://www.police.govt.nz/about-us/publication/regulatory-impact-statement-policing-police-vetting-amendment-bill>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. It provides that the Bill comes into force on the day after the Bill receives Royal assent.

Clause 3 provides that the Bill amends the Policing Act 2008 (the **principal Act**).

Part 1

Amendments to principal Act

Clause 4 inserts into the principal Act *new section 5A*, which gives effect to the transitional, savings, and related provisions set out in *new Schedule 1AA* of the principal Act (inserted by *clause 7*).

Clause 5 inserts into the principal Act *new Part 3A*, which is about Police vetting and comprises *new sections 54A to 54N*.

New section 54A defines terms used in *new Part 3A*, including authorised agency, authorised individual, Police vet, Police Vetting Service or PVS, specified offence, vetting request, and vetting subject.

New section 54B explains Police vetting.

New section 54C sets out the purposes of Police vetting.

New section 54D provides that an authorised agency or an authorised individual may make vetting requests.

New section 54E is about authorised agencies.

New section 54F is about authorised individuals.

New section 54G provides that a vetting request may not be made in respect of an individual under the age of 14 years.

New section 54H provides that a vetting request may only be made for a purpose specified in *new section 54C* and sets out how a vetting request must be made and the information that a vetting request must contain.

New section 54I requires the PVS to respond to a vetting request as soon as is reasonably practicable after receiving the request. The PVS must either make available to an authorised agency a Police vet in respect of the vetting subject or notify the agency that a Police vet cannot be made available because making a Police vet available would be likely to prejudice the maintenance of the law.

New section 54J sets out the information that must be included in a Police vet and the information that may be included in a Police vet.

New section 54K requires the PVS to provide to a specified authorised agency an updated Police vet in relation to a children's worker if the PVS subsequently becomes aware that the children's worker has been charged with or convicted of a specified offence.

New section 54L provides that, on the request of an authorised agency, the PVS may arrange to provide the authorised agency updates of the vet in certain circumstances.

New section 54M provides that, on the request of an authorised individual, the PVS may arrange to provide to authorised agencies updates of a Police vet that was earlier provided in respect of the authorised individual.

New section 54N indemnifies the Commissioner of Police and Police employees against all liability arising from providing a Police vet and from all good-faith actions

taken or omitted when performing or exercising their functions, duties, and powers under *new Part 3A*.

Clause 6 amends section 79E of the principal Act to enable regulations for the recovery of costs to—

- differentiate between the classes of persons requesting a police service or to whom the same policing service is delivered; and
- differ if an urgent service is provided.

Clause 7 inserts *new Schedule 1AA* into the principal Act for transitional, savings, and related provisions. *Part 1 of new Schedule 1AA* provides that agencies currently approved by the PVS to access the PVS Internet site are to be treated as authorised agencies under *new Part 3A* and authorised to make vetting requests.

Part 2

Consequential amendments

Clause 8 makes consequential amendments to other enactments as set out in *Schedule 2*.

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	3
	54C Purposes of Police vetting	3
	54D Who may make vetting requests	4
	54E Authorised agencies	4
	54F Authorised individuals	4
	54G Vetting request may not be made in respect of child	5
	54H Vetting requests	5
	54I Responding to vetting request	5
	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	8
	54N	Indemnity for Commissioner and Police employees	9
6		Section 79E amended (Methods of cost recovery)	9
7		New Schedule 1AA inserted	9

Part 2

Consequential amendments

8		Consequential amendments to other enactments	9
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Schedule 1

New Schedule 1AA inserted

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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 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	5
children’s worker has the same meaning as in section 23 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	10
(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	15
Police vet means a report provided by the PVS to an agency under section 54J 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	
specified authorised agency means an authorised agency that is a specified organisation	20
specified offence has the same meaning as in section 23 of the Children’s Act 2014	
specified organisation has the same meaning as in section 24 of the Children’s Act 2014	25
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	30
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	
The purposes of Police vetting are to assist an agency to—	35
(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:	

<ul style="list-style-type: none"> (i) the care and safety of children, young persons, or other vulnerable persons: (ii) the education of children and young persons: (iii) law enforcement: (iv) national security; or 	5
<ul style="list-style-type: none"> (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. 	
54D Who may make vetting requests	
<ul style="list-style-type: none"> (1) A vetting request may only be made by— <ul style="list-style-type: none"> (a) an authorised agency; or (b) an authorised individual. 	10
<ul style="list-style-type: none"> (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. 	
<ul style="list-style-type: none"> (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. 	15
54E Authorised agencies	
<ul style="list-style-type: none"> (1) An agency is an authorised agency if the agency is— <ul style="list-style-type: none"> (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 (b) approved by the PVS to make vetting requests. 	20
<ul style="list-style-type: none"> (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. 	25
54F Authorised individuals	
<ul style="list-style-type: none"> (1) An individual is an authorised individual if the individual is— <ul style="list-style-type: none"> (a) a member of a particular class of individuals that is specified for the purposes of this section by the Police on an Internet site maintained by, or on behalf of, the Police; and (b) approved by the PVS to make a vetting request. 	30
<ul style="list-style-type: none"> (2) The Police must, when considering whether a class of individuals should be specified under subsection (1)(a), have regard to— <ul style="list-style-type: none"> (a) the nature, functions, and activities of the class of individuals; and 	35

- (b) the potential efficiency gains of individuals in the class being able to make vetting requests; and
- (c) any other matters the Police 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. 5
- 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. 10
- 54H Vetting requests**
- (1) A vetting request may only be made for a purpose specified in **section 54C**.
- (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 15
- (b) the circumstances of the particular assessment being undertaken, or determination being made, in respect of the vetting subject; and
- (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— 20
- (i) the vetting request being made; and
- (ii) the PVS providing a Police vet to the agency in response to that request.
- (3) A vetting request made by an authorised individual must specify the authorised agencies that are to be provided with the Police vet. 25
- 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—
- (a) making available to the authorised agency a Police vet in respect of the vetting subject; or 30
- (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.
- (2) As soon as is reasonably practicable after receiving a vetting request from an authorised individual, the PVS must respond to the request by— 35

- (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
- (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.

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54J Information to be included in Police vet

- (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
 - (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
 - (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.
- (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.
- (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—

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- (a) be employed or engaged (including as a volunteer) in a role working in the vetting subject's home environment; or
- (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—
- (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:
- (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
- (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
- (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
- (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
- (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
- (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—
- (a) has provided to a specified authorised agency a Police vet in respect of an individual who is a children’s worker; and 5
 - (b) subsequently becomes aware that the individual has been—
 - (i) charged with a specified offence; or
 - (ii) convicted of a specified offence; and
 - (c) is satisfied that the individual is still a children’s worker employed or engaged by the specified authorised agency. 10
- (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

- (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. 15
- (2) No arrangement may be made between the PVS and an authorised agency under **subsection (1)** unless—
- (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 20
 - (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)**. 25

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. 30
- (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. 35

- (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)**.
- 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— 5
- (a) providing the Police vet; or
- (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. 10
- (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. 15
- 6 Section 79E amended (Methods of cost recovery)**
- 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: 20
- (e) differs if an urgent service is required.
- 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. 25

Part 2 Consequential amendments

- 8 Consequential amendments to other enactments**
- Amend the enactments specified in **Schedule 2** as set out in that schedule. 30

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