



Annex to the Regulatory Impact Statement: Amending trespass law as a critical vehicle for addressing retail crime

Decision sought	<i>Analysis produced for the purpose of final Cabinet decisions</i>
Agency responsible	<i>Ministry of Justice</i>
Proposing Ministers	<i>Minister of Justice</i>
Date finalised	27 November 2025

This is an Annex to the Regulatory Impact Statement (RIS) *Amending trespass law as a critical vehicle for addressing retail crime* (dated 18 June 2025). The RIS analysed the policy decisions sought by the Minister at Cabinet on 30 June 2025 to amend the Trespass Act 1980 (the Act). Cabinet agreed to create a new trespass regime via a Trespass Amendment Bill (the Bill) [CAB-25-MIN-0221 refers]. Cabinet also noted the Minister’s intention to seek an additional policy decision on the knowledge component of the trespass offence from the Cabinet Legislation Committee (LEG). These outstanding policy decisions are now being considered by the Cabinet Social Outcomes Committee (SOU). This Annex provides a regulatory impact assessment for the outstanding additional policy decisions being considered by SOU.

The Minister proposes an additional amendment to the Bill to widen the circumstances under which a person can be considered to have been served a trespass notice. It would mean that a person is ‘deemed’ to have been served a trespass notice if they in any way obstruct the service from taking place, or if their actions result in preventing the attempted service. This ‘deeming approach’ proposal is limited to retailers, food service providers and occupiers of on-licence premises.

The proposed change also provides a default time and place that a trespass notice would apply where the occupier has not, or cannot, provide this information. The default would apply where retailers, when serving a multi-location notice, cannot (due to obstruction) or do not clearly inform the person of the locations from which they are trespassed. In this scenario the notice would ‘default’ to the location in which, or about which, the service was made or attempted. A default would also apply where any occupier in serving any trespass notice, cannot, or does not, specify the time period for which the notice applies. In this scenario, the notice would ‘default’ to a period of three years.

As noted in the 18 June 2025 RIS, there are also non-regulatory proposals to support law change through provision of guidance for retailers on serving trespass notices validly and the importance of sufficient evidence to support enforcement action.

Summary: Problem definition and options

What is the policy problem?

There are two policy issues addressed in the options in this Annex:

Retailers report that the knowledge requirement for a trespass conviction is problematic

The Act states that for a trespass offence to occur, the person must *first* be provided with a warning that they cannot return to the place they are trespassed from, and *then* despite having this warning, have returned to that place. Handing a verbal or written trespass warning (or notice) to a person is known as service. For criminal liability purposes, the courts need to be satisfied that both steps (service and returning to the location) are proven. The Ministerial Advisory Group for the victims of retail crime (MAG) maintains that, to avoid prosecution, people are intentionally frustrating the service process so that Police cannot prove that the alleged trespasser knew a trespass notice was served. This makes it unclear that the trespassed person had the information they needed to commit an offence, and therefore raises doubt that they intentionally returned to the place they were trespassed from.

New discretionary powers recently agreed by Cabinet also pose challenges to the knowledge component of a trespass offence

On 30 June 2025, Cabinet agreed to give greater discretion to occupiers in relation to both the location and period of trespass notices. If for any reason this information is not conveyed to the person trespassed, the person will be unable to comply with the trespass, and there would be evidential challenges if they breach the trespass order and are prosecuted.

What are the policy objectives?

Two of the policy objectives of these additional policy options are the same as the RIS:

- deliver an effective regulatory and non-regulatory framework for trespass law for retailers; and
- measurably support retailers to serve trespass notices in a way that promotes deterrence through a higher likelihood of enforcement action.

Two additional objectives are to provide:

- greater utility for retailers to serve actionable notices when the process is being actively frustrated; and
- safeguards to ensure that fairness and natural justice principles are upheld.

What policy options have been considered, including any alternatives to regulation?

The Minister's preferred option: The Minister's option seeks to amend the Act to widen the circumstances under which a person can be considered to know they have been trespassed from a location. This is in situations where service of the notice was incomplete due to the person leaving, or because the person actively obstructed service from taking place. The option would provide that a person is 'deemed' to know they have been trespassed in these situations. Allowing for a person to be deemed to be served a trespass notice, and therefore have the requisite knowledge of the trespass for criminal liability, would be limited to trespass notices *served by occupiers of retail, on-licence, and food service premises* for both single and multi-location notices. This is in line with the policy intent of the Bill to address retail crime.

The Minister's preferred option also seeks to amend the law to provide a backstop time and place. If any occupier of any premises does not (or cannot) clearly inform the person of the time period, the notice 'defaults' to a period of three years. Similarly, where an occupier is issuing a

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multi-location notice and does not (or cannot) inform the person of the places to which the notice applies, the notice defaults to the place in which, or about which, it was originally given.

The default approach is couched on it being reasonable to expect a person who has been trespassed to find the information they need to avoid committing an offence. Underpinning the deeming approach with a backstop default time and place for a trespass makes it effective, and as a package provides a much higher chance of a successful trespass conviction for single locations.

The Ministry's preferred option: The Ministry's preferred option differs from the Minister's preferred option only in relation to the knowledge component of a trespass offence. The Ministry's preference is to maintain the status quo. The Act is the only law in New Zealand that empowers a private individual to serve a notice to any person of any age, where a breach of that notice results in a criminal offence. A safeguard to this power is provided in the status quo where courts must be satisfied that a person was *first* provided with a warning that they cannot return to the place they were trespassed from, and *then* despite having this warning, returned to that place. This two-step approach reflects a key principle where, for most criminal offences in New Zealand, there is a mental element (the *mens rea*) that the prosecution must prove in addition to the physical element of the offence. This principle ensures a person cannot be found criminally culpable if they did not intentionally, rather than accidentally, commit a *mens rea* offence. In some circumstances the court could find that someone had been 'wilfully blind' to their being trespassed and convict on this basis.

The Ministry supports the Minister's proposal to amend the Act to include backstop defaults for the length of time a person is trespassed for, and the place from which a person is trespassed.

What consultation has been undertaken?

MAG consultation

The MAG sought submissions from retailers and industry bodies to identify their concerns about the Act. These submissions were made available to the Ministry. The submissions provided useful insight into the perceptions of how the law currently operates in relation to the service of notices and the limitations of the Act in a retail environment.

Consultation with retailers and public

The MAG ran the consultation process in its role as an independent group. There was no ability for the Ministry to test the policy problems directly with submitters, or to seek wider consultation with a greater range of retailers, or the wider public, via a discussion document to understand the details and breadth of any concerns more accurately.

Agency consultation

Time was limited for departmental consultation. The Ministry consulted with Police on all options preferred by the Minister, and with the Ministry for Children - Oranga Tamariki and the Ministry for Social Development in relation to the impact of the proposed deeming approach option for children. The Ministry consulted Treasury, Crown Law Office, Police, Ministry for Social Development, Ministry for Children - Oranga Tamariki, Department of Corrections, Ministry for Regulation, Ministry for Business, Innovation and Employment, Department of Internal Affairs, Centre for Family Violence and Sexual Violence Prevention, Ministry for Disabled People - Whaikaha, Te Puni Kōkiri, and the Office of the Privacy Commissioner.

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Police comment

Workability of the proposals, including ease of enforcement and prosecution, are key considerations for Police. We consider that the default provisions provide clarity about the duration of a trespass notice, as well the location it applies to. We note the different kinds of evidence that could be used to show attempted service, including audio and visual recordings. Robust analysis of the identified issue (frustrated service) would be useful, for example, the extent of attempts that are intentionally frustrated and if this is an issue for all occupiers or is specific to retailers, food service providers, and/or licenced premises. We consider that Judge alone trials could increase as a result of the proposals, for example where defence counsel test changes to the knowledge component and/or what constitutes sufficient service. Police may be required to attend more Judge alone trials and retailers may also be required to give evidence (about how service was frustrated). Preliminary cost estimates undertaken by Police, based on comparable work, are approximately ~\$280k (as a one-off cost). Police states that reprioritisation may impact the delivery of other core Policing functions.

Oranga Tamariki

Oranga Tamariki does not support the application of the Minister's proposals to children and young people. Oranga Tamariki is concerned that the deeming approach is not appropriate for children and young people given their age and developmental stage, which may limit their understanding of a trespass notice and its consequences. Oranga Tamariki recommends that service of notices to children and young people be guided by youth justice principles, with safeguards which prioritise ensuring their understanding and the role of their parent or guardian.

Oranga Tamariki notes evidence shows that children and young people are still undergoing cognitive and neurological development, which affects their ability to comply with and respond to legal restrictions.¹ Many struggle to process or remember complex or abstract conditions. As a result, they may misinterpret or misunderstand legal warnings, conditions or terminology even when they are formally explained.² Oranga Tamariki is concerned that a trespass notice that presumes understanding increases the likelihood of unintentional breaches and risks criminalising child and youth misunderstanding. These risks are heightened for disabled children and young people (e.g. those with autism, ADHD, or trauma histories), who may have difficulty processing verbal instructions, recalling information, or understanding abstract boundaries.³

Te Puni Kōkiri

Te Puni Kōkiri notes that the preferred option will disproportionately impact Māori, who are overrepresented in trespass proceedings, and could increase youth justice involvement and systemic bias. Te Puni Kōkiri recommends early engagement with Iwi and Māori organisations, addition of clear appeal processes, and a Māori impact assessment with monitoring to mitigate risks and uphold Te Tiriti obligations.

¹ Grisso, T., Steinberg Woolard, J., Cauffman, E., Scott, E., Graham, S., & Lexcen, F (2003-2012) The MacArthur Foundation Research Network on adolescent development and Juvenile Justice.

² Worrall, J (2020). Understanding youth bail breaches in Australia. Australian & New Zealand Journal of Criminology, 53(4), 556-574

³ Young, S., Moss, D., Sedgwick, O., Fridman, M & Hodgkins, P (2016). A meta-analysis of ADHD in offenders: Higher prevalence, more severe course and poorer outcomes. Criminal Justice and behaviour, 43(9), p1183-1198.

Ministry for Disabled People - Whaikaha

Whaikaha notes that disabled people face higher rates of crime, violence, and abuse and that the preferred option could become another tool of marginalisation. Contesting a trespass notice is complex and resource-intensive, and Deaf and disabled people face additional barriers due to inadequate communication support, limited legal aid, and court systems ill-equipped for Deaf and disability-inclusive responses.

Is the preferred option in the Cabinet paper the same as the preferred option in the RIS?

No. While the Minister's preferred option in the Cabinet paper is different from the Ministry's preferred option in the RIS, there are elements that are consistent in both. The key difference is the Minister's preferred option to widen the circumstances under which a person can be considered to know they have been served a trespass notice (the deeming approach). The Ministry's preferred option is to retain the status quo for the knowledge component of a trespass offence.

Summary: The Minister's preferred option in the Cabinet paper

Costs (Core information)

Potential monetised costs:

Agencies

Police

- Development of new enforcement procedural guidelines and guidance will be required for this option. Subsequently, frontline officers will need training to ascertain whether an attempt at service had been made by the retailer, and whether the person being served intentionally attempted to frustrate the process.
- Increase in complexity for Police procedure and prosecutions by adding further variability around circumstances of trespass by retailers.
- The estimate preliminary costings to implement the all proposed trespass legislative changes could be approximately \$280,000 as a one-off expense. This estimate is based on the cost of implementing comparable legislative changes.
- Police note that further analysis is required to understand the full implications and associated costs of these proposals for Police.

Oranga Tamariki

- There may be additional costs and impact on Oranga Tamariki resourcing if children and young people come into contact with Police. This could occur if a retailer engaged Police as a result of a child returning to a location from which the retailer considers that child was trespassed from. Oranga Tamariki does not expect a significant increase in workload or associated costs.

Ministry of Justice and the Courts

- Potential increase in court time due to the judiciary needing to consider whether a person can be deemed to have been served, and whether the default approach applies.
- More prosecutions of trespass offences are likely to result in increased court time and associated costs.
- New modelling of the 30 June 2025 Cabinet decisions suggests these changes to trespass law (including the deeming and default approaches) may result in 160-480 additional court cases per year with associated financial impact on the courts estimated to range from \$190,000 to \$560,000 per annum respectively.

Corrections

- Similarly, assuming a 25% increase in the number of people proceeded against for a trespass offence (low estimate), there is projected to be (2 to 3 years after enactment) per annum:
 - an increase in the prison population of 5; and
 - a \$0.9m increase in the costs to Corrections.
- Assuming a 100% increase, there is projected to be (2 to 3 years after enactment) per annum:
 - an increase in the prison population of 15; and
 - a \$1.9m increase in the cost to Corrections.
- These figures relate to both the operational costs for each additional prisoner (of \$120,000 per prisoner per annum), and the infrastructure requirements for the prison network, which already has very limited capacity and low resilience. This means that even a policy change with a small projected population increase could trigger the need for additional infrastructure investment.

Retailers

- Retailers may face additional administrative costs associated with the need to have sufficient evidence to show there was an interaction between the retailer and the person being served, such as audio and visual recordings, written records and witness statements.

Potential non-monetised costs:

Population costs

- There will be costs for those deemed to know they have been trespassed, including those mistakenly deemed to have this knowledge (e.g. those who were genuinely unaware service was taking place such as some members of the disabled community, or those with mental health or addiction challenges). This cost would arise if the person returns to the premises and is charged with trespass.
- There are costs associated with a person's only recourse to question the lawfulness of their trespass being when they are prosecuted for a trespass offence.
- There may be costs to children (and their families) as children may not have the cognitive ability to recognise when service is being attempted, or the consequence of leaving before a service can be finished. This cost would arise if the child returns to the premises and is charged with trespass.
- Data and evidence show that children and young people who offend:
 - As many as 80% experience family violence;
 - 81% of children apprehended for serious and persistent offending in 2022/2023 were Māori;
 - 80% of children with more serious offending are neurodiverse and/or have a disability (often detected well after offending behaviour begins).

Victims of crime (including retail crime)

- An increase in reports of trespass following retailer claims of deemed service will need to be balanced with other policing demands, which could potentially create delays in responding to other incidents.
- Similarly, an increase in time required to prosecute trespasses arising from situations where knowledge is deemed, may require trade-offs in prosecutorial decisions, which may impact on prosecuting other offences.

Default approach

- The monetised and non-monetised costs associated with longer trespass notices compared to the status quo (two years) have been traversed in the 18 June 2025 RIS.

Benefits (Core information)

Potential non-monetised benefits

Deeming approach

Retailers:

The Minister's proposals may increase retailer confidence in the efficacy of the Act, particularly in the short-term where the possibility of being deemed to have been trespassed is enough to deter a person from re-entering the store.

Victims of crime (including retail crime):

The Minister's proposals may reduce victim harm (retailers, workers, and public) if trespass notices arising from the deeming approach result in prosecution. This may result in victims having a better sense that justice has been achieved. If the deeming approach results in an increase in prosecutions, trespass may decrease if offenders feel they are more likely to be held to account even where they attempt to frustrate the service of the notice.

Default approach

Police

A default approach provides greater clarity for the purpose of taking enforcement action in situations where an occupier or retailer has not provided either the time or locations to which the notice applies.

Population

The default approach provides greater certainty where a person has been served a trespass notice but has not been provided with the time or locations to which the notice applies (either due to frustration of service, or through an oversight by the occupier). The information needed to act lawfully would be found in legislation, as well as in the agency guidance and communications that will be available upon enactment of the Bill.

Balance of benefits and costs (Core information)

Does the RIS indicate that the benefits of the Minister's preferred option is likely to outweigh the costs?

The benefits of the Minister's option may outweigh the costs in the short-term due to:

- retailer confidence arising from a greater number of trespass tools to deter retail crime; and
- deterrence of potential trespassers arising from the knowledge that frustrating service may still result in a prosecution if that person were to return to that place.

In the medium/long term, these benefits may be eroded because:

- the option does not address operational reasons why trespass notices are not currently being prosecuted, including prioritisation of Police frontline resource;

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- the need for sufficiency of evidence for Police to prosecute on the basis of deemed knowledge will add a layer of operational and prosecutorial complexity for Police; and
- any deterrent effect of the deeming approach will wane if there is no increase in prosecutions.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

The proposals are expected to come into force six months after enactment. The Ministry of Justice, NZ Police, Crown Law Office and the Department of Corrections will be responsible for operationalising the Minister's preferred option. Implementation will be funded out of baseline.

The Ministry's preferred option (status quo to criminal knowledge)

Costs (Core information)

Potential monetised costs:

The costs and benefits of the default approach to time and location are outlined in the section above.

Agencies

Maintaining the status quo for the knowledge component of a trespass offence has no additional costs.

Potential non-monetised costs:

Retailers:

Maintaining the status quo could initially have no impact on current retailer confidence in the efficacy of the Act. This may be temporary, until the release of guidance to better assist retailers to serve valid trespass notices (a non-regulatory solution). In particular, this guidance will provide advice on the practical aspects of trespass, for example, through using a recording device to assist with identification and evidence for prosecution.

Population costs

There are no additional costs identified for the Ministry's preferred option of maintaining the status quo.

Benefits (Core information)

Potential non-monetised benefits

Population

The status quo in relation to the knowledge component of a trespass offence maintains a key component of natural justice: that a person must first know they have been issued a warning or notice, the conditions of which if breached would result in a criminal offence. The status quo avoids the subjectivity which arises from allowing for deemed knowledge (the Minister's option).

Balance of benefits and costs (Core information)

Does the RIS indicate that the benefits of the Ministry's preferred option are likely to outweigh the costs?

The benefits of the Ministry's preferred option outweigh the costs because it provides a safeguard against criminal prosecution where a person does not know they have been trespassed, or does not have the information they need. The Ministry's preferred option ensures the maintenance of a fundamental criminal justice principle that a person needs to have, or be able to easily find, the information they need to understand where they are trespassed for and how long. This safeguard is particularly important when noting the Act is the only legislation in New Zealand that provides a private individual with the power to issue a notice that, if breached, may result in being convicted of a criminal offence with a term of imprisonment.

Limitations and constraints on analysis

The analysis in this regulatory impact statement has been limited by:

Time constraints: The analysis underpinning the advice to the Minister of Justice and this Annex was developed at pace according to Ministerial priorities.

Scope constraints: The issue of the knowledge component of a trespass offence was first raised by the MAG in its May 2025 report to the Minister on trespass reform. In this report, the MAG recommended that the Act be amended so that the knowledge component of a trespass offence would be met where there was video evidence, or a statement from the occupier that the occupier attempted to verbally trespass the person, or was in the process of doing so, and that person failed to remain.

The Ministry's advice at this time was to maintain the status quo for the knowledge component, noting that criminal justice principles require that a person should not be assumed to have heard and understood a warning only by reason of leaving the premises, or the evidence of the occupier. The Ministry also advised that where a person could be shown to have intentionally avoided receiving a trespass notice, the court could invoke what is known as 'wilful blindness'. The effect of 'wilful blindness' in law is to treat the defendant as having actual knowledge. The Minister noted to Cabinet that he would provide policy options to address the challenges raised by MAG. He directed the Ministry to work with the MAG to develop options that amended the status quo. The Ministry was therefore constrained in scope to deliver options that changed the status quo, while still upholding criminal justice principles, and operational practicality.

Lack of broader consultation: In the time given, the Ministry did not consult outside of government. In particular, officials were unable to engage with the judiciary, defence lawyers, or population groups including Māori, rural communities, and youth and children on the options. Consultation with those groups would have assisted in identifying and addressing any unintended consequences, and understanding any other implementation limitations. Those groups and the public will only have the opportunity to submit on the proposals during the Select Committee process.

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I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature: _____
Kathy Brightwell



General Manager, Civil and Constitutional

27 November 2025

Quality Assurance Statement	
Reviewing Agency: Ministry of Justice	QA rating: Partially meets
<p>The Ministry of Justice’s Regulatory Impact Assessment Quality Assurance Panel (QA Panel) has reviewed the <i>Annex to the Regulatory Impact Statement: Amending trespass law as a critical vehicle for addressing retail crime</i> prepared by the Ministry of Justice. The QA Panel considers that the RIS partially meets the Quality Assurance criteria.</p> <p>Time and scope constraints have limited the Ministry’s ability to fully interrogate the policy problem as identified by the MAG, and to fully develop and assess the full range of options for potentially addressing it. The time constraints have also prevented the Ministry from fully testing the problem definition and options outside of government, including with defence lawyers and population groups. This would potentially have assisted in assessing the root cause of the problem and the effectiveness of the policy options, identifying and addressing any unintended consequences, and understanding any other implementation considerations. Consultation could also have assisted with identifying any additional evidence about the problem and anticipated impacts of each option.</p> <p>Nevertheless, within the scope and timing parameters within which officials were directed to develop the policy proposals, the Panel considers the analysis contained in the RIS is robust, and sufficient to enable Cabinet to make informed decisions on the proposals. The RIS outlines the benefits, costs and risks of the options appropriately.</p>	

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. The Act provides an occupier the right to direct a person to leave and not return to those premises on any reasonable ground by way of a trespass notice. A trespass notice can be given in either verbal or written form. Being served a notice is *not* an offence. The offence is committed where, having been served a trespass notice, the person intentionally returns to the location within the time specified.
2. In its May 2025 report to the Minister outlining a range of recommendations for amendments to the Act, the MAG sought to amend the Act so that the knowledge component of a trespass offence would be met where there was video evidence, or a statement from the occupier, that they verbally trespassed the person, or were in the process of doing so, and that person failed to remain.
3. The Ministry's advice was to maintain the status quo for the knowledge component. Criminal justice principles require that a person should not be assumed to have heard and understood a warning only by reason of leaving the premises, or the evidence of the occupier. The Ministry also advised that where a person could be shown to have intentionally avoided receiving a trespass notice, the court could consider what is known as 'wilful blindness'. The effect of 'wilful blindness' in law is to treat the defendant as having actual knowledge.
4. The Minister decided that he would consider the challenges raised by MAG further.

30 June 2025 Cabinet decisions are considered status quo for the purposes of this Annex

5. SOU considered policy options for the introduction of the Bill on 25 June 2025. A RIS dated 18 June 2025 analysed these policy options. On 30 June 2025, Cabinet agreed to create a new trespass regime via the Bill [CAB-25-MIN-0221 refers] by amending the Act to:
 - a. allow trespass notices of up to three years at occupier discretion; and
 - b. provide a bespoke power for retailers to trespass a person from more than one place at once (a multi-location trespass).
6. The decision to make both the time and place in a notice discretionary will mean that a person cannot reasonably be expected to know what is in the mind of the retailer if that information is not, or cannot, be provided. This will impact the enforceability of a notice.

The status quo - knowledge component of criminal trespass

7. For most criminal offences, there is a mental element (the *mens rea*) that the prosecution must prove in addition to the physical element of the offence. Intent or knowledge on the part of the person committing the offence is required.
8. The mental element of an offence is important because the court must be satisfied that a person's actions, even if harmful, were not accidental. The knowledge component

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distinguishes between accidental harm and intentional wrongdoing.

9. The Act states that for a trespass offence to occur, the person must first be warned that they cannot return to the place they are trespassed from, and then despite having this warning, have returned to that place. For criminal liability the courts need to be satisfied that each element is proven. This two-step approach is required because a person cannot be found criminally culpable if they did not have the information needed to avoid offending. This is particularly important in the retail environment where a person can reasonably expect to enter a shop without needing permission and remain there unless they are asked to leave and not return.
10. By being served a trespass notice, a person is provided with the information they need to know they are banned from a place. The notice can be served either by the occupier, or a Police officer, and be given either verbally or in written form. A notice provides the person with information about where they are trespassed from. The current law states that the notice is for two years. Practically, an occupier can choose to shorten this period after serving the notice.
11. The notice plays a critical role in prosecuting a trespass offence. Police are more likely to pursue a trespass offence charge if there is clear evidence that:
 - a. service of the notice took place;
 - b. the notice had the information the person needed to understand that their subsequent action would result in a trespass offence; and
 - c. it was communicated to the person in a way that it was reasonable to expect the person understood it.

What is the policy problem or opportunity?

The knowledge requirement for a trespass conviction is reportedly impacting retailers

12. For prosecutions, Police note that the evidentiary challenge does not arise from confirming that a person was on a property. Rather, the challenge arises from confirming that their trespass notice was valid in the first place (and therefore, whether their subsequently being on a property in breach of that notice is actually an offence).
13. The MAG reports that the need to prove a person knew that they were trespassed for a successful prosecution presents challenges for retailers when a person intentionally avoids or obstructs verbal (or written) service. According to submissions, some people intentionally obstruct service, particularly verbal service, because it may result in Police not taking prosecutorial action due to a lack of actionable evidence.
14. The MAG argues that service is only realistic in a situation where a person remains in place while the occupier of a place successfully completes the written or verbal service. The MAG says people intentionally frustrate a service process by:
 - a. leaving the place while a retailer is in the process of trespassing them; or
 - b. intimidating or threatening violence against retail workers who attempt to trespass them in order to stop the notice being served, which results in the

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person not “knowing” the scope of the trespass.

15. While the Ministry acknowledges the challenge faced by retailers in serving trespass notices and the impact this can have on effective enforcement, violence and threatening or intimidating behaviour can be covered by offences in other legislation. The fundamental purpose of the Act is to provide a legal tool to convict a person who has been lawfully excluded from a property but has chosen to return.
16. It is also important to note that receiving a trespass notice does not in itself represent an offence or infringement. The notice simply means the occupier is no longer willing to admit that person onto their property. Breaching a notice, however, is an offence.

How may the status quo develop if no action is taken?

17. The MAG reports that people are intentionally frustrating the service process. This may be by leaving a place while a retailer is in the process of trespassing them, or intimidating or threatening violence against retail workers who attempt to trespass them. This means that Police cannot prove that they knew a trespass notice was served and therefore they could not have committed an offence by intentionally returning to a place.
18. The service of notices in New Zealand legislation is a challenge that is not unique to trespass. Proving service, including the service of warnings, can be challenging because it can be difficult to prove definitively that the notice was served in a way that imputed the knowledge required for a successful prosecution.
19. In some cases where a person can be shown to have intentionally avoided receiving a trespass notice, the court can invoke what is known as ‘wilful blindness’. This may apply where a person clearly left a premises while an occupier was trying to serve a notice, or purposefully refused to listen. The effect of ‘wilful blindness’ in the criminal law is to treat the defendant as having actual knowledge. The difficulty in relation to the Act is in proving that wilful blindness was in play. However, the Ministry considers that visual recording tools may be used to prove a trespassed person’s identity but also to help to establish that the person knew they were being trespassed, or obstructed an attempted service.
20. Methods of visual and audio recording of an occupier verbally serving a person, and stating key information (length of notice, premises being trespassed from) are available to retailers. The audio recording approach provides another form of evidence for Police to use to prosecute a trespass offence.

What objectives are sought in relation to the policy problem?

21. The policy objectives of these additional policy options are to:
 - a. provide greater utility for retailers to serve actionable notices when the process is being actively frustrated;
 - b. provide safeguards to ensure that fairness and natural justice principles are upheld; and
 - c. measurably support retailers to serve trespass notices in a way that promotes deterrence through a higher likelihood of enforcement action.

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What consultation has been undertaken?

22. The MAG consulted with a range of retail stakeholders when developing its policy proposals. The Ministry has received a summary of this feedback, as well as the written submissions to the MAG. This provided useful insight into the perceptions of how the law currently operates and what contributes to the limitations of the Act in empowering retailers to exclude people from their property, and deter trespass offending.
23. As far as possible given the timeframes, Police feedback has informed the advice in this RIS Annex. The Ministry used the MAG's proposals as the basis for developing a refined set of proposals, aimed at achieving the intended clarity for retailers, but with minimal legislative complexity and a lower risk of unintended consequences. With more time, the Ministry would have directly engaged with stakeholders from the retail, food services, and hospitality sectors, verifying and interrogating further the problem as identified by the MAG, and would have sought more comprehensive feedback from agencies in the formulation of options.
24. Departmental consultation: The following agencies consulted: Crown Law Office, Department of Corrections, Ministry of Social Development, Ministry of Disabled People - Whaikaha, Ministry for Business, Innovation and Employment, New Zealand Police, Office of the Privacy Commissioner, Ministry for Women, Te Puni Kōkiri, Ministry for Pacific Peoples, Treasury, Ministry of Health, Ministry for Regulation, the Centre for Family Violence and Sexual Violence Prevention, Department of Internal Affairs, Ministry for Ethnic Communities, and Oranga Tamariki – Ministry for Children.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

25. The following criteria will be used to compare the options to the status quo:

Criteria	Description
Certainty of the law	<ul style="list-style-type: none"> To what extent is the law clearer for the public and potential offenders? To what extent is the law enforceable by Police? How certain are the consequences of the offending?
Effectiveness	<ul style="list-style-type: none"> Does the option respond to the policy problem? How well does the option protect public safety?
Consistency	<ul style="list-style-type: none"> Is the option consistent with criminal justice principles? Namely, presumption of innocence, the independence of the judiciary, an effective and efficient justice system, and proportionate and accountable law enforcement. Is the option consistent with relevant legislative frameworks? How consistent is the option with our domestic law and the Crimes Act 1961 and Summary Offences Act 1981? Are there any inconsistencies with the New Zealand Bill of Rights Act 1990 (NZBORA) and if there are limitations on any rights and freedoms, are they justified - particularly the presumption of innocence?
Feasibility	<ul style="list-style-type: none"> Is the option cost effective and achievable within current baseline? Are there any operational challenges to implementation?

What scope will options be considered within?

26. The Ministry was directed by the Minister to work with the MAG to develop options that amended the status quo. The Ministry was therefore constrained to only deliver options that changed the status quo, while still seeking to uphold criminal justice principles, and operational practicality.

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27. Comparable jurisdictions have been investigated in the course of identifying options, namely the United Kingdom, Australia, and Canada. No comparable jurisdictions provide a deeming approach to knowledge for the purposes of a criminal offence.

What options are being considered?

Option One – Status quo

28. Option One is the status quo. The current standard for knowledge for the trespass offence would apply in prosecutions.
29. There may be occasions where the occupier does not specify to the person the length and place of the trespass. This would create difficulties as a person would not know where they were trespassed from (for multi-location trespass) and the length of time they need to stay away for. Therefore, there would also be difficulties in proving knowledge and this would create uncertainty for the court applying the law during any subsequent prosecution.

Option Two – Status quo on the knowledge component with the addition of backstop trespass settings for length and place

30. Option Two is the Ministry's preferred option. The current standard for knowledge for the trespass offence would apply. However, this option proposes that the law provide a 'backstop' or default approach where an occupier does not (or cannot) clearly inform the person of the length of time or the place/places from which they are trespassed.
31. In those circumstances, the trespass would 'default' to a period of three years, and to the place in which, or about which, it was originally given. Under this approach it is reasonable to expect a person to find the information they need, giving the law more certainty and enforceability.

Option Three – deeming knowledge in certain circumstances, with the addition of backstop trespass settings for length and place

32. Option Three is the Minister's preferred option. This option would amend the Act to widen the circumstances under which a person can be considered to know they have been trespassed. This option means that the prosecution could establish that the person is 'deemed' to have been served a verbal or written trespass notice, and therefore had the requisite knowledge for the offence. This would be where:
- a. service is attempted and the person intentionally refused to accept it; or
 - b. where service is underway and 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.
33. The policy would apply to both single and multi-location notices, only by occupiers of retail, on-licence, and food service premises. This is in line with the policy intent of the Bill to address retail crime.

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34. This option also provides that, in those circumstances, the trespass would 'default' to a period of three years, and to the place in which, or about which, it was originally given. If a person is deemed to have been served a trespass notice, it follows that they are therefore deemed to 'know' the time and place from which they are trespassed. However, given that both the time and place in a notice will be discretionary, without receiving all the information in the notice, a person again cannot reasonably be expected to know what is in the mind of the retailer.
35. The default time and place for these trespass notices makes the deeming approach to knowledge effectual. As a package, it provides a higher chance of a successful trespass conviction for single locations.

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How do the options compare to the status quo/counterfactual?

	<i>Option One - Status Quo / Counterfactual</i>	Option Two – Status quo with default approach for length of time and place of trespass	Option Three – Deeming knowledge for the offence with default time/place approach
Certainty of law	0	<p align="center">+</p> <p>The default settings will provide greater clarity to trespassed people. Even though they may not receive notice of the details of their trespass, the legislation will provide clear information on both the length of time (three years) and place (place at which service was attempted) of the person’s trespass.</p> <p>Defaulting to the maximum three-year period aligns with how the current law has been interpreted, where the trespass period is for two years, if not specified by the occupier.</p> <p>While people may seek to circumvent a multi-location trespass notice by intentionally frustrating so that they will only be trespassed from a single location, this does not detract from the unreasonableness of expecting a person to know the locations that the retailer may have intended, but was unable to convey. The default approach ensures a more effective single location notice even in situations where service could not be completed.</p>	<p align="center">-</p> <p>The deeming approach will introduce a new layer of subjectivity to the offence. Police and the courts will need to consider whether a person ‘ought to have known’ they were being trespassed. Evidence will be required as to whether a person intentionally frustrated or obstructed being trespassed (or acted in a particular way for an alternative, legitimate reason).</p> <p>Deeming children and young people to have knowledge may be problematic in relation to clarity of law. This cohort will need clear and accessible information on how to engage with this option, including information about what ‘deemed to trespass’ means, and where they can access support.</p> <p>The deeming approach may provide the perception of greater certainty to retailers, however, retailers will still need to ensure that sufficient evidence of the attempted service is collected/recorded for enforcement action to be taken.</p> <p><i>Default trespass time/place</i></p> <p>As outlined under Option Two, the default trespass time/place settings will provide certainty to both retailers and recipients of trespass notices,</p>

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			including where knowledge is deemed, as to the length of time and location that applies to the notice had the process not been frustrated.
Effectiveness	0	<p align="center">+</p> <p>The default approach ensures the effectiveness of the discretion for occupiers relating to the period of the trespass agreed by Cabinet. It provides legal certainty through a pre-defined period of time and fixed location that applies in all cases where the occupier omits to state the time or place of the trespass, or service has been frustrated. Enhancing effectiveness for the discretionary powers will in turn support greater public safety.</p> <p>This option does not provide an additional legislative tool to respond to the policy problem as reported by the MAG. However, under the status quo, the courts can consider whether someone has intentionally avoided receiving a trespass notice and invoke ‘wilful blindness’. The effect of ‘wilful blindness’ in law is to treat the defendant as having actual knowledge, provided there is evidence to show that service was sufficiently attempted but the person deliberately avoided being aware of being trespassed.</p>	<p align="center">+</p> <p>This option responds to the policy problem reported by the MAG by providing a legislative tool to address potential offenders who seek to avoid receiving a trespass notice by intentionally frustrating service.</p> <p>This option protects public safety by removing the perception that retailers should engage with a potentially threatening or violent person to ensure service is successfully completed.</p>

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<p>Consistency</p>	<p align="center">0</p>	<p align="center">0</p> <p>This option retains the current knowledge component of a trespass offence. This option is in line with criminal justice principles that require that a person should not be assumed to have heard and understood a warning regardless of the circumstances, and only on the evidence of the occupier.</p> <p>The courts could still consider whether someone has intentionally avoided receiving a trespass notice, and apply 'wilful blindness'.</p> <p>This option aligns with the NZBORA in that it does not engage the right to the presumption of innocence (section 25(c)), where a person has a right to be presumed innocent until proven guilty in a court of law.</p> <p><i>Default approach</i></p> <p>This option addresses the challenge posed by Cabinet agreeing to provide occupiers and retailers with discretion for the length of time of a trespass notice, and for retailers, power to issue a multi-location trespass. If the time and place is not provided in a verbal or written notice, the default approach means a person could find the information they need about their trespass. The default time and place of the trespass will be easily found in legislation. Agency guidance and communications will also assist.</p>	<p align="center">--</p> <p>This option amends the current knowledge requirement of the law by providing a legislative mechanism where someone could be 'deemed' to know they are trespassed, rather than having actual knowledge.</p> <p>Under this proposal, people/defendants will have to provide Police or courts evidence to show a genuine reason why they were/should not be deemed to know they were trespassed. In a prosecution, the legal burden will remain on the Crown, and it would need to negate this evidence beyond reasonable doubt before a criminal conviction could take place. However, this adds potential expense, complications and stress for those who have genuine reasons for not understanding that service was attempted.</p> <p>There are any number of circumstances in which a person could inadvertently and genuinely not be aware that an occupier attempted to trespass them. This may include mental impairment (e.g. mental health conditions, and brain injuries), disability (blind/vision, deaf/hard of hearing) or environmental factors (the background noise in the premises was so loud as to preclude the person hearing the service being made or attempted).</p> <p>As with all provisions of the Act, the deeming proposal will apply to children, for example, in</p>

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			<p>situations where a child runs away before service can be completed. This raises the concern that there will be greater uncertainty for young people on how the trespass laws are intended to apply. There may be greater risk that young people will be charged for a trespass offence when the young person either was not aware or did not understand. This could lead to early involvement with the youth justice system which could undermine efforts to support rehabilitation and wellbeing. Disabled children and young people may be disproportionately affected, especially where understanding and responding to a notice is more difficult due to communication or cognitive barriers.</p> <p>Rights and freedoms under the NZBORA are likely to be engaged. For example, the right to the presumption of innocence (section 25(c)). A person has a right to be presumed innocent until proven guilty in a court of law. A deeming approach by its nature creates a presumption (of knowledge), which may conflict with this right.</p>
Feasibility	0	<p align="center">-</p> <p>There are no additional costs in relation to maintaining the status quo for the knowledge component of a trespass offence.</p>	<p align="center">--</p> <p>This option may represent increased costs in terms of court hearings. Police will continue to have discretion about going ahead with a prosecution (with alternative approaches still available) and any</p>

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	<p>The addition of the default approach in response to the discretion for occupiers and retailers may result in greater enforcement action and an increase in court hearings.</p> <p>New modelling of the 30 June 2025 Cabinet decisions suggests these changes to trespass law (including the deeming and default approaches) may result in 160-480 additional court cases per year with associated financial impact on the courts estimated to range from \$190,000 to \$560,000 per annum respectively.</p> <p>Similarly, assuming a 25% increase in the number of people proceeded against for a trespass offence (low estimate), there is projected to be (2 to 3 years after enactment) per annum:</p> <ul style="list-style-type: none">○ an increase in the prison population of 5; and○ a \$0.9m increase in the costs to Corrections. <p>Assuming a 100% increase, there is projected to be (2 to 3 years after enactment) per annum:</p> <ul style="list-style-type: none">○ an increase in the prison population of 15; and○ a \$1.9m increase in the cost to Corrections. <p>These figures relate to both the operational costs for each additional prisoner (of \$120,000 per prisoner per annum), and the infrastructure requirements for the prison network, which already has very limited capacity</p>	<p>increase in prosecutions be dependent on the nature of the evidence available.</p> <p>Development of new Police enforcement procedural guidelines and guidance, and subsequent training for frontline officers will be required. The training would support officers to first ascertain whether a relevant occupier is a retailer/food service provider/on-licence premises, and then ascertain whether sufficient evidence is available to show an attempt at service had been made by the occupier, and that the person intentionally attempted to frustrate the process.</p> <p>This added procedural complexity may divert Police frontline resource and therefore may require trade-offs in prosecutorial decisions. This may impact on prosecuting other offences.</p>
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		<p>and low resilience. This means that even a policy change with a small projected population increase could trigger the need for additional infrastructure investment.</p> <p>The 30 June Cabinet decisions will also have potential impact on the Te Au Reka court programme. The design work for Phase 2 of Te Au Reka (criminal and civil proceedings in the District Court and High Court) is expected to be complete by July 2026.</p>	
Overall assessment	0	+	-

Key for qualitative analysis

- ++ much better than the status quo
- + better than the status quo
- 0 about the same as the status quo
- worse than the status quo
- much worse than the status quo

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

36. The Ministry of Justice's analysis shows that Option Two (status quo with a default approach for the length and place of a trespass notice) is the preferred option.
37. Properly trespassing a person through service of a trespass notice is a crucial part of proving criminal knowledge. It provides legal proof that a person has received the information needed to establish intentional trespass. However, the service of notices as a means of establishing criminal knowledge is a challenge that is not unique to trespass. Proving document service in all contexts where a warning is issued can be problematic. This is because it can be difficult to prove definitively that the notice was served in a way that established the knowledge required for a successful prosecution.
38. Against this context, in considering the three options, the Ministry sought an outcome that would result in greater utility for retailers. The aim is to enable them to serve actionable notices when the process is being actively frustrated, but still ensure that fairness and natural justice principles are upheld.
39. Option Two would allow the courts to continue to consider 'wilful blindness'. This option aligns with the NZBORA's right to the presumption of innocence.
40. A deeming approach to knowledge (Option Three) presents risk in making a person culpable of an offence even where they genuinely could not have known that service was being attempted. There are any number of circumstances in which an innocent person could be inadvertently and genuinely unaware that service of a trespass notice was attempted by a retailer. The Ministry does not consider criminal culpability, a potential serious and far-reaching consequence, is justified in these situations.

Is the Minister’s preferred option in the Cabinet paper the same as the agency’s preferred option in the RIS?

41. No.

What are the marginal costs and benefits of the preferred package of options in the Cabinet paper?

Note: the table below includes monetised costs associated with the amendments covered in the 18 June 2025 RIS, as well as the preferred approach outlined in this Annex.

Affected groups	Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional monetised costs of the preferred option compared to taking no action			
Retailers, food service providers, occupiers of licensed premises	One-off and ongoing – costs more likely to fall unevenly depending on how often an occupier experiences a frustration of trespass service in their premises. Some may need to rely on the deeming approach and the default time/place more often than others. Some may experience people frustrating service more often to avoid a multi-location trespass. All occupiers will need to ensure that they have processes in place to collect evidence of attempted service, such as audio/video recording capabilities, and/or procedures for recording time and place when service was attempted. In some instances, there will be cost/time implications for occupiers/staff to provide witness statements to Police, and attend court.	Low-medium – unable to quantify monetised impacts, as this will be extremely variable depending on individual occupier.	Low

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	Limited certainty as this is based on anecdotal evidence of the policy challenge from the MAG's consultation with selected stakeholders.		
All occupiers, including public agencies that use trespass (for example, government agencies with operational functions, local authorities)	<p>One-off and ongoing – occupiers will need to develop an understanding of how to apply their discretion about the period of trespass and communicate this clearly, otherwise the maximum three year period will apply.</p> <p>Limited certainty as no consultation has been taken to understand impacts on wider cohort of occupiers that can use trespass, including public agencies.</p>	Low - medium unable to quantify monetised impacts, will be extremely variable depending on individual occupier	Low
Public	<p>Ongoing – some individuals, particularly those from vulnerable populations, as well as children, may face potentially harsh consequences if they are unfairly deemed to have been served.</p> <p>People would need to ensure they understand default settings to ensure they comply with a trespass. The cost-of-living implications of being trespassed, particularly if this creates issues around access to food and other essential services, have not been quantified.</p> <p>If prosecuted, these individuals would have to provide evidence in court as to why they should not be deemed to know they had been trespassed, which incurs cost both in terms of time taken and a potential financial burden.</p>	Low- medium unable to quantify monetised impacts as will be extremely variable depending on individual	Low

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	Limited certainty as no consultation has been undertaken to understand impacts on individuals or population groups.		
Corrections	<p>Ongoing – an increase of \$0.9m - \$1.9m per annum based on an increase in the prison population of 5 to 15 people.</p> <p>Modelled off estimates based on increases in the number of people proceeded against for trespass offences (and more than half people proceeded against will be charged). Assumptions are that, based on charges of current trespass offences, most cases are expected to involve repeat offenders who are more likely to receive harsher penalties and to be placed on remand.</p>	Low	Medium
Police	<p>One-off - approximately \$280,000, for one-off operational costs to implement the law changes, including updating staff policies and guidance for occupiers.</p> <p>Ongoing: potential impact resulting from reprioritisation of resource if required to fund these proposals within baseline. Regardless of the trespass law changes, Police will continue to apply current prioritisation of frontline resource to call-outs involving threat to public safety or damage to property.</p> <p>Increased resource may be required for prosecutions arising from the deeming approach, and to enforce and</p>	Low – Police have not provided a monetised figure for ongoing costs arising due to the complexity of assessing alleged trespass offending.	Low

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	<p>prosecute breaches of court trespass orders.</p> <p>Further analysis is required to understand the full implications and associated costs of these proposals for Police.</p>		
<p>Courts</p> <p><i>For fiscal costs, both increased costs and loss of revenue could be relevant</i></p>	<p>Ongoing – estimated \$190,000 to \$560,000 per annum to accommodate an additional 160 to 480 cases respectively.</p> <p>Modelled off estimates based on increases in the number of people proceeded against for trespass offences (and more than half people proceeded against will be charged).</p> <p>Time constraints have meant the changes have not been discussed with the judiciary.</p>	<p>Medium - Courts may need to consider new evidence presented in relation to an attempted service (from both the occupier and the defendant), which may impact on court timeliness.</p>	<p>Low</p>
<p>Total monetised costs</p>	<p>One-off: \$280,000, at least.</p> <p>Ongoing: \$1.09m - \$2.46m.</p> <p>Agencies have provided estimates but also acknowledge that additional analysis is required to understand the full picture.</p> <p>Monetary costs for the public, retailers and occupiers who use trespass are unknown at this stage.</p>	<p>Medium</p>	<p>Low</p>
<p>Non-monetised costs</p>			
<p>Public</p>	<p>Ongoing – some individuals, particularly those from vulnerable populations, as well as children, may face potentially harsh consequences if they are unfairly deemed to have been served.</p>	<p>Low - medium - unable to quantify non-monetised impacts as will be extremely variable depending on individuals.</p>	<p>Low</p>

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	<p>People would need to ensure they understand default settings to ensure they comply with a trespass.</p> <p>If prosecuted, these individuals would have to provide evidence in court as to why they should not be deemed to know they had been trespassed, which incurs cost both in terms of time taken and a potential financial burden.</p> <p>Limited certainty as no consultation has been undertaken to understand impacts on individuals or population groups.</p>		
Additional benefits of the preferred option compared to taking no action			
Retailers, food service providers, occupiers of licensed premises	Greater confidence in actions to trespass individuals. Trespass defaults will help ensure multi-location trespass is more likely to be enforceable. Confidence may be diminished over time as negative impact of the deeming approach (and the resulting complexity) on enforceability becomes clearer.	Low	Low
Public	May be flow on benefit to the public if disruptive or harmful behaviours of trespassers are reduced.	Low	Low
Courts	None identified		
Total monetised benefits	N/A	N/A	N/A
Non-monetised benefits			

What are the marginal costs and benefits of the Ministry’s preferred package of options?

Note: the table below relates to the 18 June 2025 etc however reflecting the default approach only, because the Ministry’s preferred option is to maintain the status quo for the knowledge component of a trespass offence

Affected groups	Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional non-monetised costs of the Ministry’s option compared to taking no action			
Public	<p>Ongoing – public will need to find how the default approach applies where they have been trespassed without a length of time or location(s) specified.</p> <p>Limited certainty as no consultation has been undertaken to understand impacts on individuals or population groups.</p>	Low	Low
All occupiers, including public agencies that use trespass (for example, government agencies with operational functions, local authorities)	<p>One-off and ongoing – occupiers will need to develop an understanding of how to apply their discretion about the period of trespass and clearly communicate this to the person they want to trespass, otherwise the maximum three year period will apply.</p> <p>Limited certainty as no consultation has been taken to understand impacts on wider cohort of occupiers that can use trespass, including public agencies.</p>	Low - unable to quantify monetised impacts, will be extremely variable depending on individual occupier	Low
Total non-monetised costs	N/A	N/A	N/A

Additional non-monetised benefits of the preferred option compared to taking no action (default approach only)			
Retailers, food service providers	One off and ongoing Greater confidence in the enforceability of trespass notices where time and/or locations have not been provided.	Medium	Medium
All occupiers, including public agencies that use trespass (for example, government agencies with operational functions, local authorities)	Trespass defaults will help ensure trespass is more likely to be enforceable. Limited certainty as no consultation has been taken to understand impacts on wider cohort of occupiers that can use trespass, including public agencies.	Low - unable to quantify monetised impacts, will be extremely variable depending on individual occupier	Low
Public	Greater confidence in trespass notices being enforced in the longer term, leading to harm reduction.	Medium (in longer term)	Medium
Police	Default provisions provide greater certainty for prosecution purposes.	Medium	Medium
Total monetised benefits	N/A	N/A	N/A
Non-monetised benefits		Medium	

Section 3: Delivering an option

How will the proposal be implemented?

The proposal will be implemented in the Bill, together with the decisions made by Cabinet on 30 June 2025. The proposals are expected to come into force six months after enactment. There are no new offences being created under this proposal. There may be operational implications for Police as outlined in this document.

How will the proposal be monitored, evaluated, and reviewed?

The Act is periodically reviewed by the responsible policy functions. The Ministry of Justice administers the Act and is responsible for ongoing regulatory stewardship. These responsibilities will be informed by feedback from Police operations, any relevant judicial judgments, academic studies of these changes, and media reporting. Stakeholders, including Police, can raise any identified concerns directly with the Ministry of Justice.

There will be ongoing monitoring of rates of retail crime and other offending. However, it will not be possible to determine whether any changes in offending rates are attributed to the changes proposed here, due to the low incidence of trespass being the only offence that a person is prosecuted for, and the many factors that give rise to offending behaviours.