

# Serious Fraud Office Amendment Bill



Submission of the New Zealand Law Society Te  
Kāhui Ture o Aotearoa

5 June 2026

## 1 Introduction

- 1.1 The New Zealand Law Society Te Kāhui Ture o Aotearoa (**the Law Society**) welcomes the opportunity to comment on the Serious Fraud Office Amendment Bill (**the Bill**).
- 1.2 The Bill proposes to amend the Serious Fraud Office Act 1990 (**the Act**) by updating the Serious Fraud Office (**SFO**) search warrant regime to better align with the provisions in the Search and Surveillance Act 2012 (**the SSA**) and aligning the evidence admissibility test with the Evidence Act 2006 (**the EA**).
- 1.3 The Law Society acknowledges the Bill's intention to update the search warrant and admissibility regimes under the Act, in part in response to the Court of Appeal decision in *R v Pikia*.<sup>1</sup> This decision made it clear that aspects of the SFO regime were outdated in the modern technological environment, and that the SFO's overbroad approach to the notice and search warrant regime involved a significant overreach.<sup>2</sup>
- 1.4 The Law Society supports the Bill's intention to modernise the Act and better enable the SFO to undertake investigations and prosecute serious fraud with appropriate safeguarding of powers. The Law Society's submission sets out some minor drafting and workability concerns that should be addressed before the Bill progresses.
- 1.5 This submission has been prepared with the assistance of the Law Society's Criminal Law Committee.<sup>3</sup>
- 1.6 The Law Society does not wish to be heard.

## 2 Clause 6 - Power to obtain search warrant

- 2.1 Clause 6 amends section 10 of the Act to align it more closely to that of the SSA regime for making search warrant applications, to respond to some of the issues raised in *Pikia*.
- 2.2 However, the proposed amendments do not respond to all the criticisms raised by the Court of Appeal.<sup>4</sup> We agree with the Court that the present approach is contrary to the usual and expected approach to obtaining a search warrant, given the necessary preconditions and specificity typically required to justifiably infringe an individual's rights by searching and seizing property and information about them.<sup>5</sup>
- 2.3 Clause 6 sets out the requirements for making an oral search warrant application (new section 10(1D)). This replicates much of section 100(4) of the SSA, however, the Law Society notes that one of the safeguarding elements from section 100(4) has not been carried across.<sup>6</sup> This relates to the issuing officer being satisfied that they do not have additional questions or need to seek further information about the reason for the

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<sup>1</sup> *R v Pikia* [2024] NZCA 408.

<sup>2</sup> *R v Pikia* at [181] – [182].

<sup>3</sup> More information about the Criminal Law Committee can be found on the Law Society's website: <https://www.lawsociety.org.nz/professional-practice/law-reform-and-advocacy/law-reform-committees/criminal-law-committee/>

<sup>4</sup> *R v Pikia* at [180] concluding that the number and breadth of the notices and warrants was unnecessary, unreasonable, and oppressive.

<sup>5</sup> *R v Pikia* at [181] - [182]; New Zealand Bill of Rights Act 1990, section 21.

<sup>6</sup> At section 100(4)(c), Search and Surveillance Act 2012.

warrant. This safeguard aids in ensuring that the issuing officer can feel confident granting the search warrant orally, and we recommend it be included in new section 10(1D). This would ensure that all procedural safeguards employed by the SSA are appropriately applied in the SFO regime, as they are for other agencies when making an oral application.

- 2.4 We further recommend that section 100(5) of the SSA also be replicated here to ensure that the grounds for the warrant are recorded as soon as practicable.
- 2.5 Further, and given new section 10(1C), requiring the disclosure of any other application made within the previous three months, the Law Society recommends that section 14 of the Act be deleted. This is a duplication, and it is preferable that new section 10(1C) be inserted over the retention of section 14, which only requires the provision of details of any other application made within the previous 28 days.
- 2.6 Lastly, it is worth noting that the Court of Appeal and the Regulatory Impact Statement identified an alternative option to respond to the issues of the Act's outmoded model: bringing the regime within the ambit of the SSA.<sup>7</sup> Although only briefly discussed in the RIS, this option was not progressed due to concerns that the policy work required to ensure that adoption of the approach was proportionate, necessary and reasonable would take more time than progressing option two, amending the Act to align more closely to the SSA provisions. Operational expediency is identified in the RIS as a high priority and a benefit of the proposed amendments, given that current settings are prompting legal challenges post-*Pikia*.<sup>8</sup>
- 2.7 We acknowledge that progressing the option of inserting the SFO as an agency that operates under the SSA would require further analysis and consideration of the powers it would grant to the SFO, but suggest that continuing such an analysis may be worthwhile as part of a wider review of the SFO and SSA regimes to better future-proof the SFO regime moving forward.

### 3 Clause 7 - Effect of warrant

- 3.1 Clause 7 sets out the effect of having a warrant issued. It includes new sections 12(1)(c), 12A(1)(c), and 12C(2)(b), enabling the use of force for both gaining entry and for breaking open anything in or on the place searched. This replicates the existing section 12(1)(c) power to use force. While the use of such a power may be reasonable and necessary in some circumstances, we consider the updated phrasing of this power as contained in section 110(c) of the SSA to be preferable. We recommend the Select Committee consider amending the wording of new section 12(1)(c), 12A(1)(c) and 12C(2)(b) to replicate section 110(c) of the SSA rather than continue to use the outdated wording of the Act. In our view, this would ensure better safeguarding against the risk of an inappropriate use of force. This would also eliminate the need for the prescribed limitation at new section 12F, regarding the use of force not being an authorisation to use force against a person.

<sup>7</sup> *R v Pikia* at [182]; Ministry of Justice *Regulatory Impact Statement: Targeted amendments to the Serious Fraud Office Act 1990* (23 October 2025) (RIS) at [67] – [69] and [73].

<sup>8</sup> RIS at [12] – [19] and [73].

- 3.2 If the Select Committee considers it is preferable to retain the current wording of section 12 of the Act, we further recommend that the limitation on the exercise of those powers as described in new section 12F be amended to include new section 12(1)(c) as a power that does not authorise the application of force to any person.



Jesse Savage

**Vice-President**