

# **Government Communications Security Bureau and Related Legislation Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill is an omnibus Bill that amends the Government Communications Security Bureau Act 2003, the Inspector-General of Intelligence and Security Act 1996, and the Intelligence and Security Committee Act 1996. It is proposed (at the close of the Bill's committee of the whole House stage in Parliament) to divide the Bill into 3 separate amending Bills.

The purposes of the Bill are to—

- provide for a clearly formulated and consistent statutory framework governing the activities of the Government Communications Security Bureau (**GCSB**); and
- update that framework to respond to the changing security environment (particularly in relation to cybersecurity and information security), and to changes in the public law environment since the GCSB Act was passed in 2003; and
- enhance the external oversight mechanisms that apply to the intelligence agencies by strengthening the office of the Inspector-General of Intelligence and Security and by improving

the operation of Parliament's Intelligence and Security Committee.

### **Amendments to Government Communications Security Bureau Act 2003**

It is crucial that an agency exercising intrusive powers, as GCSB does, is governed by a consistent statutory framework that articulates the agency's functions and powers, as well as the applicable controls and limitations, in the clearest possible terms. This promotes robust internal management and effective external oversight of the agency's activities.

The March 2013 *Review of Compliance at the Government Communications Security Bureau* by Rebecca Kitteridge highlighted difficulties in interpreting the GCSB Act when the Bureau was providing assistance to other agencies, notably the New Zealand Security Intelligence Service. In a small jurisdiction like New Zealand, it is essential that specialised capabilities developed or acquired by agencies like GCSB should be available to meet key government priorities, where appropriate and subject to necessary safeguards. The Bill amends the GCSB Act to clarify this important support role as well as other aspects of the Bureau's functions.

At the same time, New Zealand faces a changing security environment in which threats are increasingly interconnected and national borders are less meaningful. Globalisation means New Zealand is no longer as distant from security threats as it once was. This changed environment means the legislation governing GCSB needs updating, to enable it to address the security challenges posed by the increasing importance of cyberspace.

The Bill retains the basic construct of the GCSB Act and the core principles underpinning GCSB's operations. Amendments to the objective, functions, powers, and limitation provisions are designed to address the issues above—namely, to improve clarity about the legal parameters for GCSB's activities; and to accommodate changes in the prevailing security environment.

*Objective and functions of GCSB*

The Bill replaces the objective of GCSB with a simple statement that it strives, through its functions, to contribute to New Zealand's national security, international relations, and economic well-being.

The Act currently provides for 3 core functions of GCSB:

- information assurance and cybersecurity:
- foreign intelligence:
- co-operation with and assistance to other entities.

These 3 functions will be retained in substance. How they are articulated will be changed to improve transparency and facilitate external oversight of GCSB's activities.

The statement of the 3 functions will be split into separate provisions (*new sections 8A, 8B, and 8C*). The information assurance and cybersecurity function will be given greater prominence, reflecting the key role GCSB plays in the wider cybersecurity domain—including its hosting of New Zealand's National Cyber Security Centre, and its responsibility to use its cybersecurity capabilities to assist a range of public entities as well as private sector organisations such as critical national infrastructure providers and organisations of national significance.

The foreign intelligence function will be described in a way that provides transparency about the nature and scope of this role, without expressly legislating the range of activities involved or the skills required in pursuit of this function.

The Act will be changed to provide a sounder basis for GCSB to offer expert advice and assistance to other entities. The Bureau will have clear legal authority to assist the New Zealand Defence Force, New Zealand Police, and New Zealand Security Intelligence Service (as well as any other department that may be specified by Order in Council) in performing their lawful functions. In providing such assistance, GCSB will be confined to activities that the other entity is lawfully able to undertake itself (though it may not have the capability), and will be subject to any limitations and restrictions that apply to the other entity.

*Powers, controls, and limitations*

The Act confers 3 powers of interception on GCSB:

- warrantless interception in situations not involving the physical connection of an interception device to a network; and not involving the installation of an interception device in any place in order to intercept communications in that place (sections 15 and 16):
- interception of communications by an interception device under an interception warrant granted by the responsible Minister (section 17):
- access to a computer system under a computer access authorisation granted by the responsible Minister (section 19).

This construct continues to provide the basic tools that GCSB needs to perform its functions, and it will be retained.

At present, section 13 of the Act dictates that the Bureau's powers are available for the purpose of obtaining foreign intelligence. While much of GCSB's work (including in the cybersecurity domain) can ultimately be linked to a foreign intelligence objective, the Act was conceived at a time when the nature, extent, and potential impact of the cyber threat was dramatically different from the threat posed now. The Act will be amended to make it clear that the powers can be used for both the foreign intelligence function and the information assurance and cybersecurity function, subject to appropriate controls and limitations.

The basic premise underpinning GCSB's operations is that it is not to conduct foreign intelligence activities against New Zealanders. This premise predated the GCSB Act, and was incorporated in the GCSB Act (in section 14) because of its importance. However, the way this basic premise was incorporated into the Act meant that it applied not only to the foreign intelligence function of the Bureau, but also to its other 2 functions: information assurance and assisting other entities. This has resulted in a growing number of difficulties, and is restricting GCSB's ability to effectively carry out its other 2 functions.

The basic premise in section 14 will be retained, with an adjustment to clarify that it only applies to the foreign intelligence function. As a safeguard in respect of New Zealanders' privacy, any activity under *new section 8A or 8B* that might involve intercepting the communications of New Zealanders will require an authorisation to be granted

jointly by the responsible Minister and the Commissioner of Security Warrants (appointed under the New Zealand Security Intelligence Service Act 1969). When GCSB is assisting another entity under *new section 8C*, the authorisation processes and any restrictions or limitations that apply to that entity will apply to the Bureau's assistance.

#### *Other amendments*

A range of amendments designed to complement other changes, or in the interests of updating the Act generally, includes the following:

- to enable the Inspector-General of Intelligence and Security to have access to the best possible information, the Act will be amended to require GCSB to maintain a written record of all warrants and authorisations in a form readily available for inspection:
- in line with the recommendation of the Law Commission in June 2011, principles 1, 5, 8, and 9 of the Privacy Act 1993 will apply to GCSB, modified if necessary to achieve the effective and efficient performance by the Bureau of its functions:
- the appointment framework for the Director of GCSB will be modified to codify the State Service Commissioner's support for that process, as currently set out in the Cabinet Manual:
- in situations of urgency where the responsible Minister is not readily available, the Attorney-General, the Minister of Foreign Affairs or the Minister of Defence will be empowered to issue an interception warrant or an access authorisation:
- the maximum penalty for unauthorised disclosure of information will be increased to align it with the penalty for similar types of offending, for example in the Crimes Act 1961.

#### **Amendments to Inspector-General of Intelligence and Security Act 1996**

Effective and credible oversight of the intelligence agencies is crucial to provide assurance that those agencies' powers are being used in accordance with the law and with respect for New Zealanders' right to privacy. The Inspector-General of Intelligence and Security (**IGIS**) is a source of independent external oversight, responsible for examining issues of legality and propriety, efficacy and efficiency, and human rights and privacy compliance.

The Bill amends the Inspector-General of Intelligence and Security Act 1996 to strengthen the office of the IGIS, increasing the resourcing of the office to enable a greater range of activities to be carried out, expanding the IGIS's statutory work programme, and enhancing the corresponding reporting responsibilities.

The changes to the Act include the following:

- the statutory work programme of the IGIS, which includes a focus on warrants and authorisations issued to the intelligence agencies, will be extended to require regular examination of system-wide issues that impact on operational activities:
- the IGIS will be required to certify each year in his or her annual report whether the compliance systems of the intelligence agencies are sound:
- the IGIS will be able to initiate inquiries into matters of propriety without requiring the concurrence of the responsible Minister. This will enable the IGIS to undertake independent inquiries:
- the responsible Minister will be given explicit responsibility to respond to IGIS reports within a reasonable time frame. The Minister may choose to provide those responses also to the Intelligence and Security Committee:
- the IGIS will be expected to make unclassified versions of his or her reports publicly available, with appropriate precautions being taken in respect of any privacy or security concerns:
- the legislative requirement that the IGIS be a retired High Court Judge will be removed, broadening the pool of potential candidates. The 3-year term of office will remain, with the possibility of reappointment for a maximum of 1 additional term:
- a Deputy IGIS will be appointed.

#### **Amendments to Intelligence and Security Committee Act 1996**

The Intelligence and Security Committee (ISC) is the parliamentary mechanism for oversight of the intelligence agencies. It examines issues of efficacy and efficiency, budgetary matters, and policy-setting.

The Bill amends the Intelligence and Security Committee Act 1996 to improve the ISC's ability to provide effective oversight and accountability of the intelligence agencies.

The changes to the Act involve the following:

- the Prime Minister will be required to relinquish the ISC chair if the Committee, when conducting a financial review of an intelligence agency for which the Prime Minister is the responsible Minister, is discussing the performance of that agency:
- the Prime Minister will be permitted to nominate either the Deputy Prime Minister or the Attorney-General to act as an alternate chair in circumstances where that alternate is not already a member of the ISC:
- subject to restrictions on the publication of sensitive information, the ISC will be required to table its reports in the House and make them publicly available on an Internet site.

### **Regulatory impact statement**

The Department of the Prime Minister and Cabinet with the Government Communications Security Bureau produced a regulatory impact statement on 22 March 2013 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

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

- <http://www.gcsb.govt.nz/about-us/legislation.html>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### **Clause by clause analysis**

*Clause 1* states the title of the Bill. When the Bill is divided, as noted earlier, the title of each Part will refer to the principal Act being amended.

*Clause 2* is the commencement clause and provides that the Bill comes into force on the day that is 1 month after the date on which it receives the Royal assent. When the Bill is divided, as noted earlier, this commencement clause will be repeated in each separate Bill.

## Part 1 Amendments to Government Communications Security Bureau Act 2003

*Clause 3* provides that this Part amends the Government Communications Security Bureau Act 2003.

*Clause 4* amends section 3, which specifies the purpose of the Act. The amendments substitute *new paragraphs (c) to (e)*. They have been recast to be consistent with changes in terminology being made.

*Clause 5* amends section 4, which defines terms used in the Act. The amendments repeal certain definitions, amend other definitions, and insert new definitions.

The new definition of incidentally obtained intelligence is important in relation to *new section 14* inserted by *clause 12* and to *new section 25* inserted by *clause 24*.

The new definition of information infrastructure is inserted to take the place of the repealed definition of computer system. The new definition includes any medium through or in which communications are carried or stored and includes the communications themselves.

*Clause 6* replaces sections 7 and 8 with *new sections 7 to 8D*.

*New section 7* states the objective of the Government Communications Security Bureau (the **Bureau**).

*New section 8* provides that the functions of the Bureau set out in *new sections 8A to 8C* are not to be taken as specifying any order of importance or priority. It also clarifies that the performance of the Bureau's functions, and the relative importance and priority of the functions, if any, are to be determined from time to time by the Director, subject to the control of the Minister.

*New section 8A* sets out the function of the Bureau in relation to information assurance and cybersecurity.

*New section 8B* sets out the function of the Bureau in relation to gathering and analysing intelligence about the capabilities, intentions, and activities of foreign persons and foreign organisations, and in relation to gathering and analysing intelligence about information infrastructures.

*New section 8C* sets out the function of the Bureau in relation to co-operation with certain other entities to facilitate the performance



of their functions. *New subsection (2)* provides limits on the extent of the co-operation provided, but clarifies that the co-operation may be provided even though the advice and assistance provided might involve the exercise of powers by, or the sharing of the capabilities of, the Bureau that the Bureau is not, or could not be, authorised to exercise or share in the performance of its other functions.

*New section 8D* gives the Director all the powers that are necessary or desirable for the purpose of performing the functions of the Bureau, but this is subject to the Act, any other enactment, and the general law.

*Clause 7* replaces section 9 with *new sections 9 to 9D* dealing with the appointment of the Director, the appointment process, remuneration and conditions of appointment, removal from office, and review of the Director's performance.

*Clause 8* amends section 11, which makes it an offence for current or past employees of the Bureau to unlawfully disclose information gained in connection with the Bureau. The amendments increase the maximum penalties from 2 years' to 3 years' imprisonment and from a \$2,000 to a \$5,000 fine.

*Clause 9* amends section 12, which provides for the Bureau's annual report. The amendments are drafting amendments.

*Clause 10* replaces the Part 3 heading to update terminology and reflect that the Part deals with both intercepting communications and accessing information infrastructures.

*Clause 11* replaces section 13, which sets out the purpose of Part 3. The purpose is recast to be consistent with the recasting of the Bureau's functions and with amendments made to other provisions in Part 3.

*Clause 12* replaces section 14, which provides that interceptions are not to target New Zealand citizens or permanent residents of New Zealand. The *new section 14* is expressly linked to the Bureau's intelligence-gathering function in *new section 8B* and provides that any incidentally obtained intelligence is not obtained in breach of *new section 8B*, but must not be retained or disclosed except in accordance with section 23 and *new section 25*.

*Clause 13* amends section 15, which prohibits, unless authorised, the connecting or installing of interception devices. The amendments are

technical to reflect the change in terminology from computer systems to information infrastructures.

*Clause 14* inserts *new sections 15A and 15B*.

*New section 15A* provides for the Director, for the purpose of performing the Bureau's functions under *new section 8A or 8B*, to apply to the Minister for an interception warrant to intercept communications or an access authorisation to access information infrastructures. The new section sets out the matters that the Minister must be satisfied about before issuing a warrant or an authorisation.

*New section 15B* requires the Commissioner of Security Warrants (appointed under the New Zealand Security Intelligence Service Act 1969) to be involved if anything that may be done under a warrant or an authorisation issued under *new section 15A* is for the purpose of intercepting the private communications of a New Zealand citizen or permanent resident of New Zealand under *new section 8A or new section 8B* to the extent that intercepting the person's private communications under that section is not precluded by *new section 14*.

*Clause 15* amends section 16, which permits certain interceptions without an interception warrant or an access authorisation.

The amendments—

- specify that the section applies to interceptions for the purposes of the Bureau's functions in *new sections 8A and 8B*;
- specify that it does not authorise the interception of private communications of New Zealand citizens or permanent residents of New Zealand.

*Clause 16* repeals section 17 and the cross-heading above section 17. Section 17 has been assimilated into *new section 15A* inserted by *clause 14*.

*Clause 17* amends section 18, which provides for certain matters about interception warrants. The amendments widen the application of the section to include access authorisations.

*Clause 18* replaces section 19 with *new sections 19 and 19A*. *New section 19* requires the Director to keep a register of interception warrants and access authorisations that have been issued. *New section 19A* provides for the urgent issue of interception warrants or access authorisations by the Attorney-General, the Minister of Defence, or the Minister of Foreign Affairs if the Minister is unavailable and it is necessary to issue them before the Minister is available.

*Clause 19* makes a drafting amendment to section 20.

*Clause 20* replaces section 21 with a new section that confers immunity from civil and criminal liability for certain things done under the Act if done in good faith and in a reasonable manner.

*Clauses 21 to 23* make drafting amendments to sections 22, 23, and 24 respectively.

*Clause 24* replaces section 25. The new section specifies when and to whom incidentally obtained intelligence about New Zealand citizens or permanent New Zealand residents may be retained and communicated. The ground in the current section 25 of preventing or detecting serious crime in New Zealand or any other country is retained and the following 2 new grounds are added:

- preventing or responding to threats to human life in New Zealand or any other country:
- identifying, preventing, or responding to threats or potential threats to the national security of New Zealand or any other country.

*Clause 25* inserts *new sections 25A and 25B* dealing with the protection and disclosure of personal information. *New section 25A* requires the Director, in consultation with the Inspector-General of Intelligence and Security and the Privacy Commissioner, to formulate a policy on the protection and disclosure of personal information that complies with the principles set out in *new section 25B*. *New section 25B* sets out the principles about collecting, using, storing, and retaining personal information.

*Clause 26* makes consequential amendments to other Acts as set out in the *Schedule*.

## **Part 2**

### **Amendments to Inspector-General of Intelligence and Security Act 1996**

*Clause 27* provides that this Part amends the Inspector-General of Intelligence and Security Act 1996.

*Clause 28* amends section 2(1), which contains definitions of terms, and inserts a definition of Deputy Inspector-General.

*Clause 29* replaces section 5 with *new section 5*, which provides for the appointment of an Inspector-General of Intelligence and Se-

curity and a Deputy Inspector-General of Intelligence and Security. The Deputy Inspector-General has all the powers and functions of the Inspector-General, subject to the control and direction of the Inspector-General. The Deputy Inspector-General has all the powers and functions of the Inspector-General if there is a vacancy in the office of the Inspector-General or if the Inspector-General is absent from duty for any reason.

*Clause 30* amends section 6, which provides for the Inspector-General's term of office. The amendments—

- add a reference to the Deputy Inspector-General:
- provide a maximum term of appointment of 3 years for each:
- provide that each can be reappointed, but in the case of the Inspector-General only once.

*Clause 31* amends section 11, which specifies the functions of the Inspector-General. The amendments replace subsection (1)(c), (d), and (da) with new paragraphs. Paragraph (c) is replaced with 2 new paragraphs. The effect of this is to permit the Inspector-General to inquire into the propriety of particular activities of an intelligence and security agency without needing the agreement of the Minister. Paragraphs (d) and (da) are replaced with 2 new paragraphs. *New paragraph (d)* requires the Inspector-General to review, at intervals of not more than 12 months,—

- the effectiveness and appropriateness of procedures adopted by each intelligence and security agency to ensure compliance with its governing legislation in relation to the issue and execution of warrants and authorisations:
- the effectiveness and appropriateness of compliance systems concerning operational activity, including supporting policies and practices of each intelligence and security agency relating to certain matters, including risk management and legal compliance generally.

*New paragraph (da)* requires the Inspector-General to conduct unscheduled audits of the procedures and compliance systems described in *new paragraph (d)*.

This clause also repeals section 11(2). That subsection placed limitations on the ability of the Inspector-General to do anything of his or her own motion in relation to a complaint about any activity of an intelligence and security agency.

*Clause 32* amends section 12, which authorises the Inspector-General to consult certain public office holders and disclose information necessary for that purpose.

The effect of the amendments is to add a reference to the Independent Police Conduct Authority as one of the public offices that may be consulted.

*Clause 33* amends section 15 consequential on the amendments to section 12.

*Clause 34* amends section 25, which specifies what the Inspector-General must do on completing an inquiry. The amendments—

- require the Minister to provide his or her response to the report to the Inspector-General and the chief executive of the intelligence and security agency concerned;
- permit the Minister to provide his or her response to the Intelligence and Security Committee.

These amendments do not apply to the extent that a report relates to employment matters or security clearance issues.

*Clause 35* inserts *new section 25A*, which requires the Director-General, as soon as practicable after forwarding a report as required under section 25(1), to make a copy of the report publicly available on an Internet site maintained by the Inspector-General. The new section specifies matters that must not be disclosed in the report made available under this section.

*Clause 36* amends section 27, which provides for the Inspector-General's annual report. The amendments—

- require the Inspector-General to certify whether each intelligence and security agency's compliance systems are sound;
- require the Inspector-General, as soon as practicable after his or her annual report is presented to Parliament, to make a copy of his or her report (as presented to Parliament) publicly available on an Internet site maintained by the Inspector-General.

### **Part 3**

#### **Amendments to Intelligence and Security Committee Act 1996**

*Clause 37* provides that this Part amends the Intelligence and Security Committee Act 1996.

*Clause 38* amends section 6, which specifies the functions of the Committee. Section 6(1)(e) specifies one of the Committee's functions to be to report to the House of Representatives on the activities of the Committee. The amendment substitutes a *new paragraph (e)*, which requires the Committee to present an annual report to the House of Representatives and to make an annual report publicly available on the Internet site of the New Zealand Parliament.

*Clause 39* inserts *new section 7A*, which contains further provisions about the chairperson of the Committee. The new section provides—

- that the Prime Minister is not to chair a meeting of the Committee while it is discussing, in the course of a financial review of an intelligence and security agency, any matter relating to the performance of the intelligence and security agency if the Prime Minister is the responsible Minister of the agency. In that case, one of the members of the Committee appointed under section 7(1)(c) must act as chairperson:
- that the chairperson of the Committee may appoint either the Deputy Prime Minister or the Attorney-General (if not already a member of the Committee) to act as chairperson in the absence of the chairperson.

*Clause 40* makes amendments to section 18 that are consequential on the amendment made by *clause 38*.

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*Rt Hon John Key*

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Government Communications Security Bureau and Related Legislation Amendment Act **2013**.
- 2 Commencement** 5  
This Act comes into force on the day that is 1 month after the date on which it receives the Royal assent.

**Part 1**  
**Amendments to Government  
Communications Security Bureau  
Act 2003** 10

- 3 Principal Act**  
This **Part** amends the Government Communications Security Bureau Act 2003 (the **principal Act**).
- 4 Section 3 amended (Purpose)** 15  
Replace section 3(c) to (e) with:
- “(c) specify the circumstances in which the Bureau requires an interception warrant or access authorisation to intercept communications:
- “(d) specify the conditions that are necessary for the issue of an interception warrant or access authorisation and the matters that may be authorised by a warrant or an authorisation: 20

“(e) specify the circumstances in which the Bureau may use interception devices to intercept communications without a warrant or an authorisation.”

**5 Section 4 amended (Interpretation)**

- (1) This section amends section 4. 5
- (2) Repeal the definitions of **computer access authorisation** or **authorisation**, **computer system**, **foreign communications**, **foreign intelligence**, and **network**.
- (3) Insert in their appropriate alphabetical order:  
“**access authorisation** means an authorisation issued under **section 15A(1)(b)**  
“**incidentally obtained intelligence** means intelligence—  
“(a) that is obtained in the course of gathering intelligence about the capabilities, intentions, or activities of foreign organisations or foreign persons; but 15  
“(b) that is not intelligence of the kind referred to in **paragraph (a)**  
“**information infrastructure** includes electromagnetic emissions, communications systems and networks, information technology systems and networks, and any communications 20  
carried on, contained in, or relating to those emissions, systems, or networks”.
- (4) In the definition of **access**, replace “computer system” with “information infrastructure”.
- (5) In the definition of **communication**, after “sounds,”, insert “information,”. 25
- (6) In the definition of **foreign organisation**, paragraph (d), replace “exclusively” with “principally”.
- (7) In the definition of **interception warrant**, replace “section 17” with “**section 15A(1)(a)**”. 30

**6 Sections 7 and 8 replaced**

Replace sections 7 and 8 with:

“**7 Objective of Bureau**

The objective of the Bureau, in performing its functions, is to contribute to— 35

“(a) the national security of New Zealand; and

- “(b) the international relations and well-being of New Zealand; and
- “(c) the economic well-being of New Zealand.

“**8 Functions of Bureau**

- “(1) **Sections 8A to 8C** set out the functions of the Bureau. 5
- “(2) The order in which the functions are set out is not to be taken as specifying any order of importance or priority.
- “(3) The performance of the Bureau’s functions and the relative importance and priority of the functions, if any, are to be determined, from time to time, by the Director, subject to the control of the Minister. 10
- “(4) Without limiting **subsection (3)**, the performance of the Bureau’s functions under **section 8A** (information assurance and cybersecurity) and **section 8C** (co-operation with other entities to facilitate their functions) is at the discretion of the Director. 15
- “(5) In addition to the functions set out in **sections 8A to 8C**, the Bureau has the functions (if any) conferred on it by or under any other Act.

“**8A Information assurance and cybersecurity** 20

This function of the Bureau is—

- “(a) to co-operate with, and provide advice and assistance to, any public authority whether in New Zealand or overseas, or to any other entity authorised by the Minister, on any matters relating to the protection, security, and integrity of— 25
  - “(i) communications, including those that are processed, stored, or communicated in or through information infrastructures; and
  - “(ii) information infrastructures of importance to the Government of New Zealand; and 30
- “(b) without limiting **paragraph (a)**, to do everything that is necessary or desirable to protect the security and integrity of the communications and information infrastructures referred to in **paragraph (a)**, including identifying and responding to threats or potential threats to 35

- those communications and information infrastructures;  
and
- “(c) to report to the following on anything done under **paragraphs (a) and (b)** and any intelligence gathered as a result: 5
- “(i) the Minister; and
- “(ii) any person or office holder (whether in New Zealand or overseas) authorised by the Minister to receive the report.
- “**8B Intelligence gathering and analysis** 10
- “(1) This function of the Bureau is—
- “(a) to gather and analyse intelligence (including from information infrastructures) in accordance with the Government’s requirements about the capabilities, intentions, and activities of foreign persons and foreign organisations; and 15
- “(b) to gather and analyse intelligence about information infrastructures; and
- “(c) to communicate any intelligence gathered and any analysis of the intelligence to— 20
- “(i) the Minister; and
- “(ii) any person or office holder (whether in New Zealand or overseas) authorised by the Minister to receive the intelligence.
- “(2) For the purpose of performing its function under **subsection (1)(a) and (b)**, the Bureau may co-operate with, and provide advice and assistance to, any public authority (whether in New Zealand or overseas) and any other entity authorised by the Minister for the purposes of this subsection. 25
- “**8C Co-operation with other entities to facilitate their functions** 30
- “(1) This function of the Bureau is to co-operate with, and provide advice and assistance to, the following for the purpose of facilitating the performance of their functions:
- “(a) the New Zealand Police; and 35
- “(b) the New Zealand Defence Force; and
- “(c) the New Zealand Security Intelligence Service; and

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- “(d) any department (within the meaning of the Public Finance Act 1989) specified for the purposes of this section by the Governor-General by Order in Council made on the recommendation of the Minister.
- “(2) To avoid doubt, the Bureau may perform its function under **subsection (1)**— 5
- “(a) to the extent that the advice and assistance is provided for the purpose of activities that the entities may lawfully undertake; and
- “(b) subject to any limitations, restrictions, and protections under which those entities perform their functions and exercise their powers; and 10
- “(c) even though the advice and assistance might involve the exercise of powers by, or the sharing of the capabilities of, the Bureau that the Bureau is not, or could not be, authorised to exercise or share in the performance of its other functions. 15
- “8D Director has full powers for purpose of performing Bureau’s functions**
- “(1) The Director has all the powers that are necessary or desirable for the purpose of performing the functions of the Bureau. 20
- “(2) **Subsection (1)** applies subject to this Act, any other enactment, and the general law.”
- 7 Section 9 replaced (Director of Bureau)**  
Replace section 9 with: 25
- “9 Appointment of Director**
- “(1) The Director of the Bureau is appointed by the Governor-General, on the recommendation of the Prime Minister, for a term not exceeding 5 years, and may from time to time be reappointed. 30
- “(2) To avoid doubt, the mere fact that a person holds the position of Director does not entitle the person to be reappointed or to expect to be reappointed.
- “9A Appointment process**  
The State Services Commissioner— 35

- “(a) is responsible for managing the process for the appointment of the Director; and
- “(b) must provide advice on the nominations for Director to the Prime Minister.

“**9B Remuneration and conditions of appointment of Director** 5

- “(1) The Director is paid the remuneration and allowances determined by the Remuneration Authority.
- “(2) The other terms and conditions of the Director’s appointment are determined from time to time by the State Services Commissioner. 10

“**9C Removal from office**

- “(1) The Governor-General may at any time for just cause, on the recommendation of the Prime Minister, remove the Director from office.
- “(2) The removal must be made by written notice to the Director. 15
- “(3) The notice must—
  - “(a) state the date on which the removal takes effect, which must not be earlier than the date on which the notice is received; and
  - “(b) state the reasons for the removal. 20
- “(4) The State Services Commissioner is responsible for advising the Prime Minister on any proposal to remove the Director from office.
- “(5) In this section, **just cause** includes misconduct, inability to perform the functions of office, and neglect of duty. 25

“**9D Review of performance of Director**

- “(1) The Minister may direct the State Services Commissioner or another person to review, either generally or in respect of any particular matter, the performance of the Director.
- “(2) The person conducting a review under **subsection (1)** must report to the Minister on the manner and extent to which the Director is fulfilling all of the requirements imposed on the Director, whether under this Act or otherwise. 30
- “(3) No review under this section may consider any security operations undertaken, or proposed to be undertaken.” 35

- 8 Section 11 amended (Prohibition on unauthorised disclosure of information)**  
In section 11(2),—  
(a) replace “2 years” with “3 years”; and  
(b) replace “\$2,000” with “\$5,000”. 5
- 9 Section 12 amended (Annual report)**  
(1) In section 12(2), replace “without delay” with “as soon as practicable”.  
(2) In section 12(3)(c), delete “computer”.
- 10 Part 3 heading replaced** 10  
Replace the Part 3 heading with:  
**“Part 3  
“Intercepting communications and  
accessing information infrastructures”.**
- 11 Section 13 replaced (Purpose of Part)** 15  
Replace section 13 with:  
**“13 Purpose of Part**  
The purpose of this Part is—  
“(a) to authorise the Bureau to intercept communications and access information infrastructures for the purpose of performing its functions under **sections 8A and 8B**; and 20  
and  
“(b) to place restrictions and limitations on—  
“(i) the interception of communications and the accessing of information infrastructures; and 25  
“(ii) the retention and use of information derived from the interception of communications and the accessing of information infrastructures.”
- 12 Section 14 replaced (Interceptions not to target domestic communications)** 30  
Replace section 14 with:



- “14 Interceptions not to target New Zealand citizens or permanent residents for intelligence-gathering purposes**
- “(1) In performing the Bureau’s function in **section 8B**, the Director, any employee of the Bureau, and any person acting on behalf of the Bureau must not authorise or do anything for the purpose of intercepting the private communications of a person who is a New Zealand citizen or a permanent resident of New Zealand, unless (and to the extent that) the person comes within the definition of foreign person or foreign organisation in section 4.
- “(2) Any incidentally obtained intelligence obtained by the Bureau in the performance of its function in **section 8B**—
- “(a) is not obtained in breach of **section 8B**; but
- “(b) must not be retained or disclosed except in accordance with sections 23 and **25**.”
- 13 Section 15 amended (Interceptions for which warrant or authorisation required)**
- (1) In section 15(1)(a), replace “a network” with “an information infrastructure”.
- (2) In section 15(2),—
- (a) replace “a computer access authorisation” with “an access authorisation”; and
- (b) replace “a computer system” with “an information infrastructure”.
- 14 New sections 15A and 15B and cross-heading inserted**
- After section 15, insert:
- “Authorisations to intercept communications or access information infrastructures*
- “15A Authorisation to intercept communications or access information infrastructures**
- “(1) For the purpose of performing the Bureau’s functions under **section 8A or 8B**, the Director may apply in writing to the Minister for the issue of—
- “(a) an interception warrant authorising the use of interception devices to intercept communications not otherwise

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- lawfully obtainable by the Bureau of the following kinds:
- “(i) communications made or received by 1 or more persons or classes of persons specified in the authorisation or made or received in 1 or more places or classes of places specified in the authorisation: 5
  - “(ii) communications that are sent from, or are being sent to, an overseas country:
- “(b) an access authorisation authorising the accessing of 1 or more specified information infrastructures or classes of information infrastructures that the Bureau cannot otherwise lawfully access. 10
- “(2) The Minister may grant the proposed interception warrant or access authorisation if satisfied that— 15
- “(a) the proposed interception or access is for the purpose of performing a function of the Bureau under **sections 8A or 8B**; and
  - “(b) the outcome sought to be achieved under the proposed interception or access justifies the particular interception or access; and 20
  - “(c) the outcome is not likely to be achieved by other means; and
  - “(d) there are satisfactory arrangements in place to ensure that nothing will be done in reliance on the warrant or authorisation beyond what is necessary for the proper performance of a function of the Bureau; and 25
  - “(e) there are satisfactory arrangements in place to ensure that the nature and consequences of acts done in reliance on the warrant or authorisation will be reasonable, having regard to the purposes for which they are carried out. 30
- “(3) Before issuing a warrant or an authorisation, the Minister must consult the Minister of Foreign Affairs about the proposed warrant or authorisation.
- “(4) The Minister may issue a warrant or an authorisation subject to any conditions that the Minister considers desirable in the public interest. 35
- “(5) This section applies despite anything in any other Act.

**“15B Involvement of Commissioner of Security Warrants**

- “(1) An application for, and issue of, an interception warrant or access authorisation under **section 15A** must be made jointly to, and issued jointly by, the Minister and the Commissioner of Security Warrants if anything that may be done under the warrant or authorisation is for the purpose of intercepting the private communications of a New Zealand citizen or permanent resident of New Zealand under—
- “(a) **section 8A**; or
- “(b) **section 8B**, to the extent that intercepting the person’s private communications under that section is not precluded by **section 14**.
- “(2) For the purposes of **subsection (1)**, **section 15A** applies—
- “(a) as if references to the Minister were references to the Minister and the Commissioner of Security Warrants; and
- “(b) with any other necessary modifications.
- “(3) In this section, **Commissioner of Security Warrants** means the Commissioner of Security Warrants appointed under section 5A of the New Zealand Security Intelligence Service Act 1969.”

**15 Section 16 amended (Certain interceptions permitted without interception warrant or computer access authorisation)**

- (1) In the heading to section 16, delete “**computer**”.
- (2) In section 16, before subsection (1), insert:
- “(1A) This section—
- “(a) applies to the interception of communications for the purpose of the Bureau’s functions in **sections 8A and 8B**; but
- “(b) does not authorise anything to be done for the purpose of intercepting the private communications of a New Zealand citizen or permanent resident of New Zealand.”
- (3) In section 16(1), delete “foreign”.
- (4) Replace section 16(2) with:
- “(2) The Director, or an employee of the Bureau, or a person acting on behalf of the Bureau may, without an interception warrant,

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or, as the case requires, without an access authorisation, intercept communications by using an interception device or by accessing an information infrastructure, but only if—

- “(a) the interception does not involve any activity specified in section 15(1); and 5
- “(b) any access to an information infrastructure is limited to access to 1 or more communication links between computers or to remote terminals; and
- “(c) the interception is carried out by the Director or with the authority of the Director for the purpose of performing the Bureau’s function in **section 8A or 8B.**” 10

**16 Section 17 and cross-heading repealed**

Repeal section 17 and the cross-heading above section 17.

**17 Section 18 amended (Persons acting under warrant)**

- (1) In the heading to section 18, after “**warrant**”, insert “**or access authorisation**”. 15
- (2) Replace section 18(1) with:
  - “(1) Every interception warrant and access authorisation must specify the person or class of persons who may make the interception or obtain the access authorised by the warrant or the authorisation.” 20
- (3) In section 18(2),—
  - (a) after “A warrant”, insert “or an authorisation”; and
  - (b) after “the warrant”, insert “or authorisation”.
- (4) In section 18(3), after “warrant”, insert “or authorisation”. 25
- (5) In section 18(4),—
  - (a) after “a warrant”, insert “or an authorisation”; and
  - (b) after “the warrant”, insert “or the authorisation”.

**18 Section 19 and cross-heading replaced**

Replace section 19 and the cross-heading above section 19 with: 30

*“Register of interception warrants and access  
authorisations*

**“19 Register of interception warrants and access  
authorisations**

- “1) The Director must keep a register of interception warrants and access authorisations issued under this Part. 5
- “2) The following information must be entered in the register in relation to each interception warrant and access authorisation issued under this Part:
- “(a) the date of issue: 10
  - “(b) the period for which the warrant or authorisation is issued:
  - “(c) the function or functions of the Bureau to which the warrant or authorisation relates:
  - “(d) in the case of a warrant, the interception device or interception devices specified: 15
  - “(e) in the case of an authorisation,—
    - “(i) any person specified in the authorisation:
    - “(ii) any place specified in the authorisation:
    - “(iii) the information infrastructure or information infrastructures specified in the authorisation: 20
    - “(iv) any conditions specified in the authorisation.
- “3) The Director must make the register available to the Minister or the Inspector-General of Intelligence and Security as and when requested by the Minister or the Inspector-General. 25

*“Urgent issue of warrants and authorisations*

**“19A Urgent issue of warrants and authorisations**

- “1) This section applies if—
- “(a) the Minister is unavailable to issue an interception warrant or access authorisation; and 30
  - “(b) circumstances make it necessary to issue a warrant or an authorisation before the Minister is available to do so.
- “2) Any of the following may issue a warrant or an authorisation:
- “(a) the Attorney-General: 35
  - “(b) the Minister of Defence:
  - “(c) the Minister of Foreign Affairs.

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“(3) A person issuing a warrant or an authorisation under **subsection (2)** may do so only to the same extent and subject to the same terms and conditions as apply to the issue of a warrant or an authorisation by the Minister.”

**19 Section 20 amended (Director’s functions in relation to warrants and authorisations not to be delegated)** 5  
In section 20, replace “section 17 or section 19” with “**section 15A**”.

**20 Section 21 replaced (Action taken in accordance with warrant or authorisation justified)** 10  
Replace section 21 with:

**“21 Immunity from civil and criminal liability**

“(1) Every person is immune from civil or criminal liability—

“(a) for any act done in good faith in order to obtain a warrant or an authorisation under this Act: 15

“(b) for anything done in good faith under a warrant or an authorisation under this Act or under section 16, if done in a reasonable manner.

“(2) Every person is immune from civil and criminal liability for any act done in good faith and in a reasonable manner in order to assist a person to do anything authorised by a warrant or an authorisation under this Act or under section 16. 20

“(3) In any civil proceeding in which a person asserts that he or she has an immunity under this section, the onus is on the person to prove the facts necessary to establish the basis of the claim. 25

“(4) Section 86 of the State Sector Act 1988 applies to the Director and any employee of the Bureau subject to this section.”

**21 Section 22 amended (Term of warrant or authorisation)**  
In section 22(1), delete “computer”.

**22 Section 23 amended (Destruction of irrelevant records obtained by interception)** 30

(1) In section 23(1), delete “computer”.

(2) In section 23(1), after “except to the extent”, insert “permitted by **section 25** or to the extent”.

- (3) In section 23(1)(a), replace “section 7(1)(a)” with “**section 7**”.
- (4) In section 23(1)(b), replace “section 8” with “**section 8A or 8B**”.
- 23 Section 24 amended (Duty to minimise impact of interception on third parties)** 5  
In section 24, replace “a computer” with “an”.
- 24 Section 25 replaced (Prevention or detection of serious crime)**  
Replace section 25 with: 10
- “25 When incidentally obtained intelligence may be retained and communicated to other persons**
- “**(1)** Despite section 23, the Director may—
- “**(a)** retain incidentally obtained intelligence that comes into the possession of the Bureau for 1 or more of the purposes specified in **subsection (2)**; and 15
- “**(b)** communicate that intelligence to the persons specified in **subsection (3)**.
- “**(2)** The purposes are—
- “**(a)** preventing or detecting serious crime in New Zealand or any other country: 20
- “**(b)** preventing or responding to threats to human life in New Zealand or any other country:
- “**(c)** identifying, preventing, or responding to threats or potential threats to the national security of New Zealand or any other country. 25
- “**(3)** The persons are—
- “**(a)** any employee of the New Zealand Police:
- “**(b)** any member of the New Zealand Defence Force:
- “**(c)** the Director of Security under the New Zealand Security Intelligence Service Act 1969: 30
- “**(d)** any other person that the Director thinks fit to receive the information.”
- 25 New sections 25A and 25B and cross-heading inserted**  
After section 25, insert: 35

*“Protection and disclosure of personal  
information*

**“25A Formulation of policy on personal information**

- “(1) As soon as is reasonably practicable after the commencement  
of this section, the Director must, in consultation with the In- 5  
spector-General of Intelligence and Security and the Privacy  
Commissioner, formulate a policy that applies to the Bureau  
(in a manner compatible with the requirements of national se-  
curity) the principles set out in **section 25B**.
- “(2) The policy must require— 10
- “(a) all employees and persons acting on behalf of the Bu-  
reau to comply with the policy; and
  - “(b) the level of compliance with the policy to be regularly  
audited; and
  - “(c) the Director to advise the Privacy Commissioner of the 15  
results of audits conducted under the policy.
- “(3) The Director must regularly review the policy and, if he or she  
considers it appropriate to do so, revise the policy in consult-  
ation with the Inspector-General of Intelligence and Security  
and the Privacy Commissioner. 20

**“25B Principles to protect personal information**

The principles referred to in **section 25A(1)** are as follows:

- “(a) the Bureau must not collect personal information un-  
less—
- “(i) the information is collected for a lawful purpose 25  
connected with a function of the Bureau; and
  - “(ii) the collection of the information is reasonably  
necessary for that purpose, having regard to the  
nature of intelligence gathering:
- “(b) the Bureau must ensure— 30
- “(i) that any personal information it holds is protected  
by such security safeguards as it is reasonable in  
the circumstances to take against—
  - “(A) loss; and
  - “(B) access, use, modification, or disclosure, 35  
except with the authority of the Bureau;  
and
  - “(C) other misuse; and



- “(ii) that if it is necessary for any personal information that it holds to be given to a person in connection with the provision of a service to the Bureau, everything reasonably within the power of the Bureau is done to prevent unauthorised use or unauthorised disclosure of the information: 5
- “(c) the Bureau must not use personal information without taking such steps (if any) as are, in the light of the interests and constraints of national security and the nature of intelligence gathering, reasonable to ensure that, having regard to the purpose for which the information is proposed to be used, the information is accurate, up to date, complete, relevant, and not misleading: 10
- “(d) the Bureau must not keep personal information longer than is required for the purposes for which the information may be lawfully used.” 15
- 26 Consequential amendments**  
The Acts listed in the **Schedule** are consequentially amended in the manner indicated in that schedule.
- Part 2** 20  
**Amendments to Inspector-General of  
Intelligence and Security Act 1996**
- 27 Principal Act**  
This **Part** amends the Inspector-General of Intelligence and Security Act 1996 (the **principal Act**). 25
- 28 Section 2 amended (Interpretation)**  
In section 2(1), insert in its appropriate alphabetical order:  
“**Deputy Inspector-General** means the Deputy Inspector-General of Intelligence and Security holding office under **section 5**”. 30
- 29 Section 5 and cross-heading replaced**  
Replace section 5 and the cross-heading above section 5 with:

*“Inspector-General and Deputy  
Inspector-General of Intelligence and  
Security*

- “5 Inspector-General and Deputy Inspector-General of  
Intelligence and Security 5**
- “(1) There must be—
- “(a) an Inspector-General of Intelligence and Security; and
- “(b) a Deputy Inspector-General of Intelligence and Security.
- “(2) The Inspector-General and Deputy Inspector-General must be 10  
appointed by the Governor-General on the recommendation  
of the Prime Minister following consultation with the Intelli-  
gence and Security Committee established by section 5 of the  
Intelligence and Security Committee Act 1996.
- “(3) The Deputy Inspector-General has and may exercise and 15  
perform the powers and functions of the Inspector-General  
(whether under this Act or any other enactment), but subject  
to—
- “(a) the control and direction of the Inspector-General; and
- “(b) to avoid doubt, the same duties, obligations, restric- 20  
tions, and terms under which the Inspector-General ex-  
ercises and performs his or her powers and functions.
- “(4) Sections 7 to 9 and 18 apply to the Deputy Inspector-General  
as if references in those sections to the Inspector-General were  
references to the Deputy Inspector-General. 25
- “(5) If there is a vacancy in the office of the Inspector-General, or if  
the Inspector-General is absent from duty for any reason, the  
Deputy Inspector-General has and may exercise and perform  
all the powers, functions, and duties of the Inspector-General  
for as long as the vacancy or absence continues. 30
- “(6) The fact that the Deputy Inspector-General exercises or per-  
forms any power, function, or duty of the Inspector-General  
is, in the absence of proof to the contrary, conclusive evidence  
of the Deputy Inspector-General’s authority to do so.”
- 30 Section 6 amended (Term of office) 35**
- (1) Replace section 6(1) with:

- “(1) Every person appointed as the Inspector-General or Deputy Inspector-General—  
“(a) is to be appointed for a term not exceeding 3 years; and  
“(b) may be reappointed, but in the case of the Inspector-General only once.” 5
- (2) In section 6(2) and (3), after “Inspector-General”, insert “or Deputy Inspector-General” in each place.

**31 Section 11 amended (Functions of Inspector-General)**

- (1) Replace section 11(1)(c), (d), and (da) with:
- “(c) to inquire at the request of the Minister or the Prime Minister or of the Inspector-General’s own motion, but subject to the concurrence of the Minister, into any matter where it appears that a New Zealand person has been or may be adversely affected by any act, omission, practice, policy, or procedure of an intelligence and security agency: 10  
15
- “(ca) to inquire at the request of the Minister or the Prime Minister or of the Inspector-General’s own motion into the propriety of particular activities of an intelligence and security agency: 20
- “(d) without limiting paragraph (a), to review at intervals of not more than 12 months—  
“(i) the effectiveness and appropriateness of the procedures adopted by each intelligence and security agency to ensure compliance with its governing legislation in relation to the issue and execution of warrants and authorisations; and 25  
“(ii) the effectiveness and appropriateness of compliance systems concerning operational activity, including all supporting policies and practices of an intelligence and security agency relating to— 30  
“(A) administration; and  
“(B) information management; and  
“(C) risk management; and  
“(D) legal compliance generally: 35
- “(da) to conduct unscheduled audits of the procedures and compliance systems described in **paragraph (d)**.”.
- (2) Repeal section 11(2).

(3) In section 11(3), replace “(1)(c)(ii)” with “**(1)(ca)**”.

**32 Section 12 amended (Consultation)**

Replace section 12(2) with:

- “(2) The Inspector-General may—
- “(a) consult any of the persons specified in **subsection (3)** 5  
about any matter relating to the functions of the In-  
spector-General under section 11; and
  - “(b) despite section 26(1), disclose to any of the persons con-  
sulted any information that the Inspector-General con-  
siders necessary for the purpose of the consultation. 10
- “(3) The persons are—
- “(a) the Controller and Auditor-General:
  - “(b) an Ombudsman:
  - “(c) the Privacy Commissioner:
  - “(d) a Human Rights Commissioner: 15
  - “(e) the Independent Police Conduct Authority.”

**33 Section 15 amended (Jurisdiction of courts and other agencies not affected)**

In section 15(3), replace “or of the Privacy Commissioner” with “, the Privacy Commissioner, a Human Rights Commis- 20  
sioner, or the Independent Police Conduct Authority”.

**34 Section 25 amended (Reports in relation to inquiries)**

After section 25(5), insert:

- “(6) As soon as practicable after receiving a report from the In-  
spector-General, the Minister— 25
- “(a) must provide his or her response to the Inspector-Gen-  
eral and the chief executive of the intelligence and se-  
curity agency concerned; and
  - “(b) may provide his or her response to the Intelligence and  
Security Committee established under section 5 of the 30  
Intelligence and Security Committee Act 1996.
- “(7) **Subsection (6)** does not apply to the extent that a report re-  
lates to employment matters or security clearance issues.”

**35 New section 25A inserted (Publication of  
Inspector-General's reports under section 25)**

After section 25, insert:

**“25A Publication of Inspector-General's reports under section  
25**

5

“(1) As soon as practicable after forwarding a report as required by section 25(1), the Inspector-General must make a copy of the report publicly available on an Internet site maintained by or on behalf of the Inspector-General.

“(2) However, the Inspector-General must not, in the copy of a report made publicly available under **subsection (1)**, disclose—

10

“(a) information the public disclosure of which would be likely to prejudice the entrusting of information to the Government of New Zealand on a basis of confidence—

15

“(i) by the government of any other country or any agency of such a government; or

“(ii) by any international organisation; or

“(b) information the public disclosure of which would be likely to endanger the safety of any person; or

20

“(c) the identity of any person who is or has been an officer, employee, or agent of an intelligence and security agency other than the chief executive, or any information from which the identity of such a person could reasonably be inferred; or

25

“(d) information the public disclosure of which would be likely to prejudice—

“(i) the continued discharge of the functions of an intelligence and security agency; or

“(ii) the security or defence of New Zealand or the international relations of the Government of New Zealand; or

30

“(e) any information about employment matters or security clearance issues.”

**36 Section 27 amended (Reports by Inspector-General)**

35

(1) After section 27(2)(b), insert:

“(ba) certify whether each intelligence and security agency's compliance systems are sound; and”.

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- (2) In section 27(3), replace “lay a copy of the report before” with “present a copy of the report to”.
- (3) In section 27(4) and (6), replace “laid before” with “presented to”.
- (4) After section 27(6), insert: 5
- “(6A) As soon as practicable after a copy of the report is presented to the House of Representatives under subsection (3), the Inspector-General must make a copy of the report (as presented to the House of Representatives) publicly available on an Internet site maintained by or on behalf of the Inspector-General.” 10

**Part 3  
Amendments to Intelligence and Security  
Committee Act 1996**

- 37 Principal Act**  
This **Part** amends the Intelligence and Security Committee Act 1996 (the **principal Act**). 15
- 38 Section 6 amended (Functions of Committee)**  
Replace section 6(1)(e) with:
  - “(e) subject to section 18,—
  - “(i) to present an annual report to the House of Representatives on the activities of the Committee; 20
  - and
  - “(ii) to make an annual report publicly available on the Internet site of the New Zealand Parliament.”
- 39 New section 7A inserted (Further provisions relating to chairperson)** 25  
After section 7, insert:
  - “**7A Further provisions relating to chairperson**
  - “(1) **Subsection (2)** applies if—
  - “(a) the Committee is, in the course of conducting a financial review of an intelligence and security agency, discussing any matter relating to the performance of the intelligence and security agency; and 30

- 
- “(b) the Prime Minister is the responsible Minister under the legislation governing the intelligence security agency.
- “(2) If the Prime Minister is chairing the meeting of the Committee at which the matter is discussed,—
- “(a) the Prime Minister must not act as chairperson of the Committee; and 5
- “(b) another member of the Committee nominated by the Prime Minister, being one of the 2 members appointed under section 7(1)(c), must act as chairperson.
- “(3) The chairperson of the Committee may appoint either of the following (if not already a member of the Committee) to be an alternate chairperson to act as chairperson at the discretion of the chairperson in the absence of the chairperson at a meeting of the Committee: 10
- “(a) the Deputy Prime Minister: 15
- “(b) the Attorney-General.”
- 40 Section 18 amended (Restrictions on reports to House of Representatives)**
- In section 18(1), replace “reporting” with “presenting an annual report or other report”. 20
-

## Schedule

s 26

## Consequential amendments

**Radiocommunications Act 1989 (1989 No 148)**

In section 133A(2)(c)(ii), replace “foreign intelligence” with “intelligence about the capabilities, intentions, and activities of foreign persons and foreign organisations”.

5

Repeal section 133A(3)(a).

**Search and Surveillance Act 2012 (2012 No 24)**

In section 47(1)(c)(ii), replace “17” with “**15A(1)(a)**”.

**Telecommunications (Interception Capability) Act 2004 (2004 No 19)**

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In section 3(1), definition of **interception warrant**, paragraph (c), replace “17” with “**15A(1)(a)**”.

In section 3(1), definition of **other lawful interception authority**, replace paragraph (a)(ii) with:

“(ii) to access an information infrastructure (within the meaning of the Government Communications Security Bureau Act 2003) that is granted under **section 15A(1)(b)** of that Act; and”.

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