



ANALYSIS

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1977, No. 83

An Act to amend the Wanganui Computer Centre Act 1976

[16 December 1977]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Wanganui Computer Centre Amendment Act 1977, and shall be read together with and deemed part of the Wanganui Computer Centre Act 1976 (hereinafter referred to as the principal Act).

2. Use of computer system—Section 4 of the principal Act is hereby amended by adding the following subsections:

“(6) Notwithstanding anything to the contrary in this Act, it is hereby declared that the State Services Commission or any Department having access to the computer system may use the computer system for the storage, processing, and retrieval of fictitious information for all or any of the following purposes:

“(a) Training employees in the use of the computer system, or testing the computer system or any part thereof:

“Provided that all such fictitious information stored on the computer system under this para-

graph shall at all times be clearly identified as being for training or testing purposes and shall be kept distinct from all other information stored on the computer system:

“(b) Detecting any misuse of the computer system, whether or not the misuse amounts to an offence against this Act or any other Act:

“Provided that the specific authority of the Commissioner of Police shall be obtained for the storage of fictitious information on the computer system under this paragraph, and he shall forthwith report to the Wanganui Computer Centre Privacy Commissioner any decision so to use the computer system and the reasons therefor.

“(7) Any use of the computer system authorised by subsection (6) of this section shall not be an offence against section 29 of this Act.”

3. Evidence—The principal Act is hereby amended by inserting, after section 16, the following section:

“16A. (1) Subject to the provisions of this section, the Commissioner may from time to time require any person who in his opinion is able to give any information relating to any matter that is being investigated by the Commissioner to furnish to him any such information, and to produce any documents or papers or things that in the Commissioner's opinion relate to any such matter as aforesaid and that may be in the possession or under the control of that person. This subsection shall apply whether or not the person is an officer, employee, or member of any Department or organisation, and whether or not such documents, papers, or things are in the custody or under the control of any Department or organisation.

“(2) The Commissioner may summon before him and examine on oath—

“(a) Any person who is an officer or employee or member of the State Services Commission or any Department having access to the computer system under paragraph (a) or paragraph (b) of section 4 (3) of this Act and who in the Commissioner's opinion is able to give any such information as aforesaid; or

“(b) Any complainant; or

“(c) With the prior approval of the Attorney-General in each case, any other person who in the Commissioner’s opinion is able to give any such information—

and for that purpose may administer an oath. Every such examination by the Commissioner shall be deemed to be a judicial proceeding within the meaning of section 108 of the Crimes Act 1961 (which relates to perjury).

“(3) Nothing in this section shall authorise the Privacy Commissioner to require any member of the Policy Committee or any other person to supply any information or to produce any document or paper that might involve the disclosure of any process or deliberations of the Policy Committee.

“(4) Subject to the provisions of subsection (5) of this section, no person who is bound by the provisions of any enactment, other than the State Services Act 1962 and the Official Secrets Act 1951, to maintain secrecy in relation to, or not to disclose, any matter shall be required to supply any information to or answer any question put by the Commissioner in relation to that matter, or to produce to the Commissioner any document or paper or thing relating to it, if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.

“(5) With the previous consent in writing of any complainant, any person to whom subsection (4) of this section applies may be required by the Commissioner to supply information or answer any question or produce any document or paper or thing relating only to the complainant, and it shall be the duty of the person to comply with that requirement.

“(6) Where the Attorney-General certifies that the giving of any information or the answering of any question or the production of any document or paper might prejudice the investigation or detection of offences, the Commissioner shall not require the information or answer to be given or, as the case may be, the document or paper to be produced.

“(7) Every person shall have the same privileges in relation to the giving of information, the answering of questions, and the production of documents and papers and things as witnesses have in any Court.

“(8) Except on the trial of any person for perjury within the meaning of the Crimes Act 1961 in respect of his sworn testimony, no statement made or answer given by that or any

other person in the course of any inquiry by or any proceedings before the Commissioner shall be admissible in evidence against any person in any Court or at any inquiry or in any other proceedings, and no evidence in respect of proceedings before the Commissioner shall be given against any person.

“(9) No person shall be liable to prosecution for an offence against the Official Secrets Act 1951 or any enactment, other than this Act, by reason of his compliance with any requirement or request of the Commissioner under this section.

“(10) Where any person is required by the Commissioner to attend before him for the purposes of this section, the person shall be entitled to the same fees, allowances, and expenses as if he were a witness in a Court, and the provisions of any regulations in that behalf made under the Summary Proceedings Act 1957 and for the time being in force shall apply accordingly. For the purposes of this subsection the Commissioner shall have the powers of a Court under any such regulations to fix or disallow, in whole or in part, or increase the amounts payable thereunder.”

Cf. 1975, No. 9, s. 19

4. Delegation of powers by Commissioner—The principal Act is hereby amended by inserting, after section 18, the following section:

“18A. (1) With the prior approval of the Governor-General in Council, the Commissioner may from time to time, by writing under his hand, delegate to any person holding any office under him any of his powers under this Act in relation to receiving requests and acquiring information under subsection (1) of section 14 of this Act, and receiving and investigating but not reporting upon complaints under sections 15 and 16 of this Act.

“(2) Any delegation under this section may be made to a specified person or to the holder for the time being of a specified office or to the holders of offices of a specified class.

“(3) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Commissioner.

“(4) Any such delegation may be made subject to such restrictions and conditions as the Commissioner thinks fit, and may be made either generally or in relation to any particular case or class of cases.

“(5) Until any such delegation is revoked, it shall continue in force according to its tenor. In the event of the Commissioner by whom it was made ceasing to hold office, it shall continue to have effect as if made by his successor.

“(6) Any person purporting to exercise any power of the Commissioner by virtue of a delegation under this section shall, when required to do so, produce evidence of his authority to exercise the power.”

Cf. 1975, No. 9, s. 28

5. Offences—(1) Section 29 (2) of the principal Act is hereby amended—

(a) By inserting in paragraph (a), before the words “attempts to gain”, the words “gains or”:

(b) By inserting in paragraph (b), before the words “attempts to interfere”, the words “interferes or”:

(c) By adding to paragraph (c) the word “or”.

(2) Section 29 (2) of the principal Act is hereby further amended by adding the following paragraphs:

“(d) Having lawful access to the computer system, knowingly discloses, other than with the authority of the Permanent Head of his Department or in the proper discharge of his official duties, any information obtained directly from the computer system; or

“(e) Being in possession of information obtained either directly or indirectly from the computer system, fails to comply with any direction given by any officer of the State Services Commission or of any Department having access to the computer system for the return or disposal of any record of that information and all copies thereof.”

(3) Section 29 of the principal Act is hereby further amended by inserting, after subsection (2), the following subsections:

“(2A) Every person commits an offence against this Act and is liable on summary conviction to a fine not exceeding \$500 who,—

“(a) Without lawful justification or excuse, wilfully obstructs, hinders, or resists the Commissioner or any other person in the exercise of his powers under this Act:

- “(b) Without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Commissioner or of any other person under this Act:
- “(c) Knowingly makes any false statement to or misleads or attempts to mislead the Commissioner or any other person in the exercise of his powers under this Act.
- “(2B) No prosecution for an offence against paragraph (d) or paragraph (e) of subsection (2) of this section shall be commenced except with the consent of the Attorney-General.”
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This Act is administered in the State Services Commission.
