



ANALYSIS

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1980, No. 52

An Act to amend the Wanganui Computer Centre Act 1976
[27 November 1980]

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 1980, and shall be read together with and deemed part of the Wanganui Computer Centre Act 1976 (hereinafter referred to as the principal Act).

2. Establishment of Wanganui Computer Centre and computer system—Section 3 (2) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) The remote terminals.”

3. Location of remote terminals—The principal Act is hereby amended by inserting, after section 3, the following section:

“3A. (1) Subject to subsection (2) of this section, the remote terminals of the computer system shall be placed in

such localities as the Policy Committee may determine from time to time in consultation with the Wanganui Computer Centre Privacy Commissioner.

“(2) Where the Commissioner of Police believes—

“(a) That exceptional circumstances requiring action by the Police Department require the temporary establishment of a remote terminal or of remote terminals of the computer system; and

“(b) That time does not permit the location of the terminal or terminals to be determined under subsection (1) of this section,—

he may, subject to subsection (4) of this section, authorise the temporary establishment of the terminal or terminals in such place or places as may be designated by him.

“(3) Access to the computer system by means of any remote terminal authorised under subsection (2) of this section shall be restricted to—

“(a) The State Services Commission in their administration of the computer system; and

“(b) The Police Department.

“(4) Without limiting the matters that the Commissioner of Police may take into account in deciding whether or not to exercise the power conferred on him by subsection (2) of this section, it is hereby declared that he shall act in accordance with any guidelines which are given to him from time to time by the Policy Committee and which concern—

“(a) The circumstances in which the power may be exercised; or

“(b) The precautions to be taken to ensure that subsection (3) of this section is observed.

“(5) A remote terminal authorised under subsection (2) of this section shall not, unless the Policy Committee, in consultation with the Privacy Commissioner, otherwise determines, remain established for more than 14 days after the day on which the establishment of that remote terminal is authorised by the Commissioner of Police.

“(6) Where the Commissioner of Police decides to exercise the power conferred on him by subsection (2) of this section, he shall forthwith report the decision, and his reasons for the decision, to—

“(a) The Policy Committee; and

“(b) The Wanganui Computer Centre Privacy Commissioner.

“(7) The Commissioner of Police may not delegate any of the powers, authorities, duties, and functions conferred on him by this section.

“(8) In the case of absence from duty of the Commissioner of Police (whether by reason of illness, absence from New Zealand, or for any other reason whatever) or in the case of a vacancy in the office of Commissioner of Police (whether by reason of death, resignation, or otherwise) and for so long as the absence or vacancy continues, the Deputy Commissioner of Police shall have and may exercise all the powers, authorities, duties, and functions conferred on the Commissioner of Police by this section.

“(9) The fact that the Deputy Commissioner of Police exercises any power, authority, duty, or function conferred on the Commissioner of Police by this section, shall, in the absence of proof to the contrary, be sufficient evidence of the authority of the Deputy Commissioner of Police to do so.”

4. Use of computer system—Section 4 (3) of the principal Act is hereby amended by omitting the words “Access to the computer system”, and substituting the words “The use of the means of access to the computer system”.

5. Information to individuals—The principal Act is hereby amended by repealing section 14, and substituting the following section:

“14. (1) Subject to subsection (6) of this section, every person has the right to apply to the Commissioner, in such reasonable manner as may be determined from time to time by the Commissioner, for a copy of all or part of the information recorded about the applicant on the computer system, other than information stored under the subject headings (as shown in the Schedule to this Act)—

“(a) ‘Modus operandi’; or

“(b) ‘Wanted persons’; or

“(c) ‘Document processing’ where that information relates to persons wanted for arrest; or

“(d) ‘Document processing’ or ‘missing persons’ where that information, under either heading, relates to persons wanted for interview or required to be located in respect to alleged or suspected criminal offences.

“(2) Subject to subsection (6) of this section, the Commissioner, on being satisfied as to—

“(a) The identity of the applicant; and

“(b) The applicant’s entitlement to make the application,—

shall forthwith acquire a copy of the required information.

“(3) Subject to the directions of the Policy Committee, the Commissioner may decline to release any information that has been requested under subsection (1) of this section if, in the opinion of the Commissioner, the release of the information would be likely to be detrimental to the administration of justice.

“(4) The Commissioner shall forward the information to which the applicant is entitled by registered post to the Postmaster of any permanent post office nominated by the applicant, and the Commissioner shall advise the applicant that this has been done. The applicant shall be responsible for collecting in person, or by an agent acting upon written attested authority to the satisfaction of the Postmaster, the information from the nominated permanent post office, and the applicant or agent shall be required to produce such personal identification as the Director-General of the Post Office and the Commissioner from time to time decide.

“(5) Notwithstanding anything in subsection (4) of this section, the information to which the applicant is entitled may, where the Commissioner considers that the circumstances so require, be forwarded by the Commissioner, in such manner as may be agreed upon between the applicant and the Commissioner, to—

“(a) The applicant; or

“(b) A person authorised by the applicant.

“(6) Unless the Commissioner is satisfied that there are good and sufficient reasons to the contrary, no person shall be entitled to make more than one request under this section during any 12 months’ period.

“(7) No fee shall be charged for the provision under this section of any information.”

6. Qualified privilege—The principal Act is hereby amended by inserting, after section 18A (as inserted by section 4 of the Wanganui Computer Centre Amendment Act 1977), the following section:

“18B. For the purposes of clause 5 of the First Schedule to the Defamation Act 1954, any report made under this Act by the Commissioner or the deputy of the Commissioner shall be deemed to be an official report made by a person holding an inquiry under the authority of the legislature of New Zealand.”

7. Security of information—Section 26 (1) of the principal Act is hereby amended by omitting the words “access to the computer system is”, and substituting the words “the means of access to the computer system are”.

8. Processing of information—Section 27 of the principal Act is hereby amended by repealing subsection (5) and the proviso to that subsection, and substituting the following subsections:

“(5) Any Department that has, in accordance with this Act, stored or processed any information on the computer system, or retrieved from the computer system any information to which it is entitled, may, subject to the provisions of this Act,—

“(a) Use the information within the Department for any official purpose; or

“(b) Make all or any part of the information available to any other Department or person,—

as if the information had not been stored or processed on or retrieved from the computer system.

“(5A) Nothing in subsection (5) of this section overrides any other Act or authorises the doing of any act in relation to the use, or the making available, of information, being an act that would otherwise be unlawful.

“(5B) Where the Policy Committee considers, in relation to any case or class of cases, that the exercise by any Department of the power conferred by subsection (5) (b) of this section would be, or could lead to, an unwarranted intrusion upon the privacy of any individual, the Policy Committee may recommend to the permanent head of that Department that, in that case or class of cases, the power so conferred either—

“(a) Should not be exercised; or

“(b) Should be exercised only in such circumstances or in accordance with such conditions as are specified in the recommendation.

“(5c) Notwithstanding subsection (5) (b) of this section, every recommendation made under subsection (5B) of this section shall be observed by the permanent head of the Department to whom the recommendation is made, unless the Minister in charge of or responsible for that Department otherwise directs. As soon as practicable after any such direction is given, the Minister shall publish in the *Gazette* and lay before Parliament a copy of that direction.”

9. Damages—Section 28 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Any person who claims to have suffered loss or damage as a consequence of—

“(a) Incorrect or unauthorised information about him having been made available to any person by the computer system or by any person during the course of his operating the computer system; or

“(b) Authorised information about him having been made available, by the computer system or by any person during the course of his operating the computer system, to any person not authorised to receive it—

may bring an action against the Crown for the recovery of damages.”

This Act is administered in the State Services Commission.
