

Mr Morrison

**NEW ZEALAND SECURITY INTELLIGENCE SERVICE
AMENDMENT**

ANALYSIS

Title
1. Short Title

2. Interpretation
3. Issue of interception warrant

A BILL INTITULED

**An Act to amend the New Zealand Security Intelligence
Service Act 1969**

BE IT ENACTED by the Parliament of New Zealand as follows:

5 **1. Short Title**—This Act may be cited as the New Zealand Security Intelligence Service Amendment Act 1987, and shall be read together with and deemed part of the New Zealand Security Intelligence Service Act 1969 (hereinafter referred to as the principal Act).

10 **2. Interpretation**—Section 2 of the principal Act is hereby amended by inserting in its appropriate alphabetical order, the following definition:

15 “‘Chief Justice’ means that person exercising the functions of Chief Justice for the time being as defined by the Judicature Act 1908.”

3. Issue of interception warrant—The principal Act is hereby amended by repealing section 4A and substituting the following section:

20 “4A. (1) On an application made in writing by the Director, or by the person for the time being acting as the Director, the Chief Justice may issue an interception warrant authorising the interception or seizure of any communication not otherwise,

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lawfully obtainable by the person making the interception or seizure, if the Chief Justice is satisfied on evidence on oath given by the applicant that—

- “(a) The interception or seizure is necessary either—
 - “(i) For the detection of activities prejudicial to security; or
 - “(ii) For the purpose of gathering foreign intelligence information essential to security; and
- “(b) The value of the information sought to be obtained is such as to justify the particular interception or seizure; and
- “(c) The information is not likely to be obtained by any other means; and
- “(d) The communication is not privileged in proceedings in a Court of Law under—
 - “(i) Section 8 of the Evidence Act 1908; or
 - “(ii) Any rule of law that confers privilege on communications of a professional nature between a law practitioner and that practitioner’s client.
- “(2) Any such interception warrant shall:
 - “(a) Specify the type of communication to be intercepted or seized; and
 - “(b) State the identity of the persons, (if known), whose communications are sought to be intercepted or seized, or (where the identity of the persons is not known) the place in respect of which communications may be intercepted or seized; and
 - “(c) Specify the person who may make the interception or seizure; and
 - “(d) Be valid for the period specified therein.
- “(3) Any such interception warrant may include—
 - “(a) Such other terms and conditions (if any) as the Chief Justice considers advisable in the public interest:
 - “(b) A request to any person or persons or class of persons to give such assistance as may be specified in the warrant in making the interception or seizure; and, where any such request is made to any persons who are in the employment of another person, the warrant shall also contain a request that the services of the persons who are requested to assist shall be made available to the Security Intelligence Service by the employers of those persons and all other

persons who are in any way in control of the persons who are requested to assist.

5 “(4) Nothing in this Act or in any interception warrant issued under this section shall authorise the interception or seizure of any information stored on the computer system established under the Wanganui Computer Centre Act 1976. Every person who gains or attempts to gain access to that computer system otherwise than as authorised by that Act commits an offence against section 29 (2) (a) of that Act.

10 “(5) The Attorney-General shall, as soon as practicable after the close of each year ending with the 31st day of March, review all warrants issued under subsection (1) of this section for the preceding 12 months or at any time in force during those 12 months, and prepare and lay before Parliament a
15 report relating to such of those warrants as were issued for the purpose of subparagraph (i) of paragraph (a) of subsection (1) of this section and the interceptions and seizures made for those purposes in the immediately preceding year, which report shall include information (not being information prejudicial to
20 security) on—

“(a) The number of warrants issued for the purposes of that subparagraph; and

“(b) The average length of time for which the last-mentioned warrants were in force; and

25 “(c) The methods of interception and seizure used under the last-mentioned warrants,

“and shall provide a general assessment of the importance of the warrants issued for the purposes of that subparagraph.

30 “(6) Every person who, by any interception warrant issued under subsection (1) of this section, is authorised to intercept or seize any communication, or is requested to give any assistance in making the interception or seizure, and in taking any reasonable action necessarily involved in making or
35 assisting to make or attempting to make the interception or seizure in accordance with the terms and conditions of the warrant; and

“(a) No civil or criminal proceedings shall lie against that person by reason of that person so doing; and

40 “(b) The issue of the warrant shall not be subject to judicial review under Part I of the Judicature Amendment Act 1972 or otherwise.

“(7) Where it is necessary to prove in any proceedings in any Court that any person was acting at any time pursuant to an interception warrant, it shall not be necessary to produce the warrant to the Court, but a certificate by the Attorney-General as to any matters specified in the warrant shall be conclusive 5 evidence as to all such matters so certified.

“(8) Subsection (6) of this section is in addition to and not in derogation of any other enactment relating to the execution of warrants.

“(9) This section shall have effect notwithstanding anything 10 to the contrary in any other Act.”