

*Mr Drayton*

## PRESERVATION OF PRIVACY

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### A BILL INTITULED

**An Act to preserve individual privacy and to prevent storage and distribution of incorrect personal information in and from computer memory banks**

**5 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 Preservation of Privacy Act 1972.

No. 34—1

Price 5c

**2. Interpretation**—In this Act, unless the context otherwise requires,—

“Commissioner” means Preservation of Privacy Commissioner:

“Data” means information programmed into and stored in a computer for eventual output: 5

“Installation” means an electronic data processing computer installation whether it be digital or analog:

“Minister” means the Minister of Internal Affairs:

“Output” means printed information produced from computer storage: 10

“Print-out” means a copy of information contained in computer storage, produced by computer operating processes, and translated into normal typescript.

**3. Act binds the Crown**—This Act shall bind the Crown. 15

**4. Preservation of Privacy Commissioner**—(1) There is hereby established a Commissioner to be known as the Privacy Commissioner.

(2) The Commissioner, to be appointed by the Minister, shall be a barrister of at least 7 years’ experience in practice, and shall not be appointed from within the Public Service. 20

(3) The Commissioner shall not be deemed to be employed in the service of Her Majesty for the purposes of the State Services Act 1962 or the Superannuation Act.

**5. Term of office of Commissioner**—(1) The Commissioner shall be appointed for a term of 5 years, but shall be eligible for reappointment from time to time. 25

(2) The Commissioner may at any time be removed from office for disability, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Governor-General, or may at any time resign his office by writing addressed to the Minister. 30

(3) Notwithstanding anything in subsection (1) of this section, the Commissioner, unless he sooner vacates his office under subsection (2) of this section, shall continue in office until his successor is appointed. 35

**6. Staff for Commissioner**—The Commissioner shall be empowered to engage staff to a level sufficient to carry out the functions hereinafter described.

**7. Salaries and allowances: Commissioner and staff—**

(1) The Commissioner and his staff are hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

5 (2) There may be paid to the Commissioner and his staff, out of money appropriated by Parliament for the purpose, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that  
10 Act shall apply accordingly.

**8. Functions of the Commissioner—**The functions of the Commissioner shall be the registration of all computer installations in New Zealand, with details of such registrations to include—

- 15 (a) The name and address of the owner(s) of the installation;  
(b) The name and address of the person responsible for the management and control of the installation;  
20 (c) The configuration and location of the installation;  
(d) Such details of the standard operating procedure of the installation as may be required by the Commissioner;  
(e) Names, addresses, and appointments of those persons authorised by the owner and/or management of the installation to have access to, and ultimate use of  
25 output data from the installation; and  
(f) The nature of the data stored in each installation and the purpose for which it is stored.

**9. Storage of data not in public interest—**Should the Commissioner determine that any information already given or  
30 required to be given under section 8 (e) and (f) above is not in the public interest or would inflict undue hardship upon innocent individuals he may order the owners of installations to take such amending action as is considered necessary.

**10. Maintenance of Installation Register—**(1) The commissioner shall maintain a Register of Computer Installations in accordance with the details contained in section 8, and such register shall be open to inspection by the public, including the news media at hours to be determined by the Commissioner.

40 (2) The Commissioner may determine that certain registrations relating to national security will not be normally available for public inspection and will be kept in a separate register.

**11. Records to be maintained by Installation Managements**—The managements of each installation shall maintain the following records which shall be available for inspection as required by the Commissioner:

- (a) Dates of output of information: 5
- (b) Names and addresses of persons supplied with that output data:
- (c) Output information supplied and purpose for which it was required.

**12. Registration of installations**—With effect from the date of commencement of this Act all owners of computer installations are to register with the Commissioner and supply those details as required by section 8 of this Act. 10

**13. Amendments to stored information**—Where it is desired to alter or add to the range of information stored in computer memory banks, the owners of installations shall be required to make application to the Commissioner, who shall within 1 calendar month of the date of application either approve, in whole or in part, or reject the application giving his reasons for doing so, in writing. 15 20

**14. Changes in persons authorised to receive output data**—Where it is desired to add to, or delete the names, addresses, and appointments of those persons authorised to have access to, and ultimate use of output data, the owners of installations shall be required to make application to the Commissioner who shall within 1 calendar month of the date of application either approve, in whole or in part, or reject the application giving his reasons for doing so, in writing. 25

**15. Print-outs to be supplied by owners of computer installations**—(1) Within 3 months of any information being programmed into computer storage, every person about whom information is stored, shall receive from the operator a print-out of all information stored about him, and thereafter he shall receive, at his own request, and on payment of a fee prescribed by the Commissioner a print-out so requested. 30 35

- (2) Every print-out so supplied shall include details of—
  - (a) The purpose of the storage of the information; and
  - (b) The purposes for which that information has been used.

5 16. **Persons receiving print-outs**—Persons who receive print-outs in accordance with section 15 of this Act, may after notice in writing to the owner of the installation, appeal to the Commissioner to have all or any part of the information amended or deleted on the basis that it is incorrect or out-dated.

10 17. **Commissioner's instructions**—The Commissioner may grant an instruction under section 16 of this Act to the owner of the installation to delete or amend information and may also issue an instruction that the recipients of the information be advised of the terms of the instruction.

15 18. **Penalties for offences**—(1) It shall be an offence, punishable on summary conviction of a fine of not more than \$1,000, or on conviction on indictment of a fine of not more than \$2,000 or imprisonment for not more than 2 years or both, for the owner of an installation to which this Act applies to fail to register it in accordance with this Act.

(2) If the owner of an installation to which this Act applies—

- 20 (a) Fails or refuses to supply a print-out when required to do so; or  
(b) Stores information for purposes other than that registered; or  
(c) Permits access to information to persons other than  
25 those having authorised access; or  
(d) Fails or refuses to comply with the instructions of the Commissioner,

30 he shall be liable in damages to the person whose personal information is involved, and shall be liable on summary conviction, to a fine of not more than \$1,000 and on conviction by indictment, to a fine of not more than \$2,000 or imprisonment for not more than 2 years or both.

(3) A person who aids in the commission of an offence covered by this section shall likewise be guilty of the offence.

35 19. **Liability for damages**—The owner of an installation who causes or permits information to be supplied, which is incorrect and causes loss to any person to whom that information refers, shall be liable in damages to that person.

**20. Appeals**—Appeals may be lodged to the Administrative Division, Supreme Court of New Zealand, against any decision made by the Commissioner under this Act.

**21. Official secrets**—The Commissioner and his staff shall be subject to the Official Secrets Act. 5

**22. Annual report**—Not later than the 30th day in June of each year, the Commissioner shall send to the Minister a report of his operations and proceedings for the preceding financial year. The report shall contain details of computer installations registered under the Act; the types of information stored; the purposes for which it is used; and should make reference to those instances in which he instructed that information was to be altered or amended as a result of print-outs being supplied to individuals. Such other details as the Commissioner may think fit may be included. 10 15