



PRIVACY (FIFTH SCHEDULE) ORDER 1997

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 26th day of May 1997

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 113 of the Privacy Act 1993, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and on the advice of the Minister of Justice after consultation by the Minister with the Privacy Commissioner, makes the following order.

ORDER

1. Title and commencement—(1) This order may be cited as the Privacy (Fifth Schedule) Order 1997.

(2) This order comes into force on 27 June 1997.

2. New Fifth Schedule substituted—The Privacy Act 1993 is amended by revoking the Fifth Schedule (as substituted by section 11 (3) of the Department of Justice (Restructuring) Act 1995, and amended by section 9 of the Privacy Amendment Act 1996 and clause 2 of the Privacy (Fifth Schedule) Order 1996*), and substituting the Fifth Schedule set out in the Schedule of this order.

3. Revocation—The Privacy (Fifth Schedule) Order 1996* is consequentially revoked.

Cl. 2

SCHEDULE
NEW FIFTH SCHEDULE OF PRIVACY ACT 1993
"FIFTH SCHEDULE
LAW ENFORCEMENT INFORMATION
Department for Courts Records

Subject	Description	Access Available To
Court document processing ...	Particulars of proceedings in respect of which informations are to be laid; the acceptance of data for and the preparation of associated documents	Police Serious Fraud Office Department of Corrections Ministry of Justice (access is limited to obtaining information for the purpose of research conducted by the Ministry, and with the limitation that information so obtained must not be published in a form which could reasonably be expected to identify the individual concerned)

SCHEDULE—*continued*
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
Department for Courts Records—continued

Subject	Description	Access Available To
Details of hearings 	Details of hearings of proceedings in respect of which an information has been laid, including convictions, sentences, and all other matters ancillary and subsequent to a determination	Police (access is limited so as to exclude details relating to young persons, being persons over 14 years but under 17 years, where the offence did not carry a liability to imprisonment) Land Transport Safety Authority of New Zealand (access is limited to traffic cases only) Serious Fraud Office (access is limited so as to exclude details relating to young persons, being persons over 14 years but under 17 years, where the offence did not carry a liability to imprisonment) Department of Corrections Ministry of Justice (access is limited to obtaining information for the purpose

SCHEDULE—continued
NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—continued
“FIFTH SCHEDULE—continued
LAW ENFORCEMENT INFORMATION—continued
Department for Courts Records—continued

Subject	Description	Access Available To
<p>Details of hearings—<i>continued</i></p>		<p>of research conducted by the Ministry, and with the limitation that information so obtained must not be published in a form which could reasonably be expected to identify the individual concerned)</p>
<p>Enforcement of fines and other orders</p>	<p>Particulars of writs, warrants, or orders in force and issued or made on default in the payment of fines or other monetary sums ordered in proceedings commenced by indictment or information; particulars of the persons to whom the writs, warrants, or orders relate; and particulars of fines, sentences, or orders imposed or made against those persons, including the amounts remaining payable and the arrangements for payment</p>	<p>Police Department of Corrections Ministry of Justice (access is limited to obtaining information for the purpose of research conducted by the Ministry, and with the limitation that information so obtained must not be published in a form which could reasonably be expected to identify the individual concerned)</p>

SCHEDULE—*continued*
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
 Department for Courts Records—*continued*

Subject	Description	Access Available To
Suspended sentences ...	Particulars of persons subject to suspended sentence orders or sentences subsequently imposed in respect of the original offences for which suspended sentence orders were made, pursuant to section 21A of the Criminal Justice Act 1985	Police Department of Corrections Ministry of Justice (access is limited to obtaining information for the purpose of research conducted by the Ministry, and with the limitation that information so obtained must not be published in a form which could reasonably be expected to identify the individual concerned)

SCHEDULE—*continued*
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
 Police Records

Subject	Description	Access Available To
Details of overseas hearings ...	Details of hearings of proceedings before overseas courts, including convictions, sentences, and all other matters ancillary and subsequent to a determination	Ministry of Justice (access is limited to obtaining information for the purpose of research conducted by the Ministry, and with the limitation that information so obtained must not be published in a form which could reasonably be expected to identify the individual concerned) Department of Corrections Department for Courts Serious Fraud Office
Police temporary file index ...	Details of active or recently closed Police files, including the file numbers and location of the files, and the names of complainants, victims, witnesses, suspects, and alleged offenders	Department for Courts (access is limited to— (a) Obtaining information about parties to offences for the purpose of processing cases before a court: (b) Updating Police records)
Offender identity ...	Particulars of the identity of persons who have been charged with an offence	Department for Courts (access is limited to identity details)

SCHEDULE—*continued*
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
 Police Records—*continued*

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Subject	Description	Access Available To
Offender identity— <i>continued</i>		<p>for the purposes of—</p> <p>(a) Entering information relating to prosecutions initiated otherwise than by the Police or the Land Transport Safety Authority of New Zealand; or</p> <p>(b) Providing assistance to victims in accordance with the Criminal Justice Act 1985 and the Victims of Offences Act 1987; or</p> <p>(c) Updating an existing database of court proceedings)</p> <p>Department of Corrections (access is limited to identity details for the purposes of—</p> <p>(a) Entering information relating to prosecutions initiated otherwise than by the</p>

SCHEDULE—*continued*
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
 Police Records—*continued*

Subject	Description	Access Available To
Offender identity— <i>continued</i>		<p>Police or the Land Transport Safety Authority of New Zealand; or</p> <p>(b) Research conducted by the Department, and with the limitation that information so obtained must not be published in a form which could reasonably be expected to identify the individual concerned)</p> <p>Ministry of Justice (access is limited to obtaining information for the purpose of research conducted by the Ministry, and with the limitation that information so obtained must not be published in a form which could reasonably be</p>

SCHEDULE—*continued*
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
 Police Records—*continued*

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Privacy (Fifth Schedule) Order 1997

Subject	Description	Access Available To
Offender identity— <i>continued</i>		expected to identify the individual concerned)
Victim identity 	The name, sex, date of birth, address, and telephone number of persons who are the victims of a criminal offence in respect of which another person has been charged	Department for Courts (access is limited to identity details for the purpose of providing assistance to victims in accordance with the Criminal Justice Act 1985 and the Victims of Offences Act 1987)
Medical details 	An indicator to identify persons who are or have been special patients under the Mental Health (Compulsory Assessment and Treatment) Act 1992 or any former Act and the hospitals at which those persons are or have been detained as special patients, or as committed patients, or as patients (within the meaning of that Act)	Land Transport Safety Authority of New Zealand (access is limited to obtaining information required for the purposes of— (a) Section 24 of the Transport Services Licensing Act 1989; or (b) Section 46 of the Transport (Vehicle and Driver

SCHEDULE—*continued*
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
 Police Records—*continued*

Subject	Description	Access Available To
Medical details— <i>continued</i>		Registration and Licensing) Act 1986) Department for Courts Department of Corrections Ministry of Justice (access is limited to obtaining information for the purpose of research conducted by the Ministry, and with the limitation that information so obtained must not be published in a form which could reasonably be expected to identify the individual concerned)
Traffic offence and infringement enforcement and document processing	Traffic offence and infringement enforcement processing, including infringement fees enforcement and preparation of documents	Land Transport Safety Authority of New Zealand Department for Courts (access is limited to obtaining information for the purpose

SCHEDULE—*continued*
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
 Police Records—*continued*

Subject	Description	Access Available To
Traffic offence and infringement enforcement and document processing— <i>continued</i> Vehicles of interest	Particulars of motor vehicles stolen, unlawfully taken, missing, abandoned, or found, or where location is for other reasons required to be known by the Police	of processing cases before a court) Ministry of Transport (access is limited so as to exclude such particulars as the Police may determine in any case) Ministry of Commerce (access is limited to information required for the purposes of section 9 of the Motor Vehicle Securities Act 1989 by the Registrar of Motor Vehicle Securities)
Wanted persons	Particulars concerning persons wanted for arrest	Land Transport Safety Authority of New Zealand (access is limited to obtaining information for the purposes of—

SCHEDULE—*continued*
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
 Police Records—*continued*

Subject	Description	Access Available To
Wanted persons— <i>continued</i>		<p>(a) Section 24 of the Transport Services Licensing Act 1989:</p> <p>(b) Carrying out the functions conferred on the Authority by section 17 (1) of the Land Transport Act 1993:</p> <p>(c) Carrying out the functions conferred on the Authority by the notice dated 22 August 1993 and published in the <i>Gazette</i> on 2 September 1993 at page 2626)</p> <p>Department for Courts (access is limited to persons wanted in connection with fines enforcement)</p>
Missing persons 	Particulars concerning persons missing or required to be located	Land Transport Safety Authority of New Zealand (access is limited so as to exclude

SCHEDULE—*continued*
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
Police Records—continued

Subject	Description	Access Available To
Missing persons— <i>continued</i>		such particulars as the Police may determine in any case) Department for Courts (access is limited to persons required to be located in connection with fines enforcement)

SCHEDULE—*continued*
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
Land Transport Safety Authority Records

Subject	Description	Access Available To
Drivers' licences register ...	A national register of all drivers' licences (whether issued by the Land Transport Safety Authority of New Zealand or a local body)	Department for Courts Department of Corrections Ministry of Justice (access is limited to obtaining information for the purpose of research conducted by the Ministry, and with the limitation that information so obtained must not be published in a form which could reasonably be expected to identify the individual concerned) Police Local authorities authorised under section 112 of this Act Serious Fraud Office Ministry of Transport (access is limited to obtaining information for the purpose of verifying the identity of people who are or apply to be—

SCHEDULE—*continued*
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
 Land Transport Safety Authority Records—*continued*

Subject	Description	Access Available To
Drivers' licences register— <i>continued</i>		(a) Registered as owners of vehicles on the motor vehicles register; or (b) Holders of licences issued under the Road User Charges Act 1977)
Transport services licensing register	A national register of all transport service licences	Police
Demerit points	The recording of demerit points in relation to traffic offences	Police

SCHEDULE—*continued*
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
 Ministry of Transport Records

Subject	Description	Access Available To
Motor vehicles register ...	A national register of all motor vehicles	<p>Department for Courts Police Local authorities authorised under section 112 of this Act Serious Fraud Office Land Transport Safety Authority of New Zealand (access is limited to obtaining information for the purposes of carrying out the functions conferred on the Authority by—</p> <p style="margin-left: 2em;">(a) Section 17 (1) of the Land Transport Act 1993: (b) The notice dated 22 August 1993 and published in the <i>Gazette</i> on 2 September 1993 at page 2626)</p>
Road user charges 	Details of licences issued under the Road User Charges Act 1977 and details of the corresponding licence holders	Police (access is limited to obtaining information for the purpose of enforcing the Road User Charges Act 1977)

“FIFTH SCHEDULE—continued

LAW ENFORCEMENT INFORMATION—continued

Ministry of Transport Records—continued

Subject	Description	Access Available To
Road user charges— <i>continued</i>		<p>Land Transport Safety Authority of New Zealand (access is limited to obtaining information for the purposes of carrying out the functions conferred on the Authority by—</p> <p>(a) Section 17 (1) of the Land Transport Act 1993:</p> <p>(b) The notice dated 22 August 1993 and published in the <i>Gazette</i> on 2 September 1993 at page 2626]</p>

SCHEDULE—*continued*
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
 Department of Corrections Records

Subject	Description	Access Available To
Community-based sentences and conditions of release	Particulars of persons released on probation or parole, or released on conditions under Part VI of the Criminal Justice Act 1985, or sentenced to community service, periodic detention, supervision, or community care	Police (access is limited to the person's area of reporting) Department for Courts Ministry of Justice (access is limited to obtaining information for the purpose of research conducted by the Ministry, and with the limitation that information so obtained must not be published in a form which could reasonably be expected to identify the individual concerned)
Records of inmates	Particulars of inmates of penal institutions, including the date of release from the penal institutions	Police (access is limited to the location and the date of release of the inmate) Department for Courts Ministry of Justice (access is limited to obtaining information for the purpose of research conducted by the Ministry, and with the limitation that information

SCHEDULE—continued
 NEW FIFTH SCHEDULE OF PRIVACY ACT 1993—*continued*
 “FIFTH SCHEDULE—*continued*
 LAW ENFORCEMENT INFORMATION—*continued*
 Department of Corrections Records—continued

Subject	Description	Access Available To
Records of inmates— <i>continued</i>		so obtained must not be published in a form which could reasonably be expected to identify the individual concerned.”

MARIE SHROFF,
 Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 27 June 1997, substitutes a new Fifth Schedule of the Privacy Act 1993.

The Fifth Schedule of that Act specifies the categories of law enforcement information to which certain public sector agencies may have access, and the limitations on access.

As substituted, the new Fifth Schedule consolidates recent amendments to the schedule and makes some further changes. The changes allow certain public sector agencies new access to law enforcement information, and specify further limitations on the access of some of the public sector agencies that have existing access. The main changes are—

- The item relating to details of hearings in the *Police Records* part of the schedule is now restricted to details of overseas hearings.
- A new item relating to the Police temporary file index is included in the *Police Records* part of the schedule. The Department for Courts has limited access to this index.
- Access by the Land Transport Safety Authority to medical details and wanted persons information held by the Police is now limited.
- The Department for Courts is given limited access to traffic offence and infringement enforcement and document processing information held by the Police.
- The Ministry of Transport is given limited access to the drivers' licences register that is maintained by the Land Transport Safety Authority.
- A new item relating to road user charges is included in the *Ministry of Transport Records* part of the schedule. The Police and the Land Transport Safety Authority have limited access to this information.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 29 May 1997.

This order is administered in the Ministry of Justice.