

Privacy (Giving Privacy Commissioner Necessary Tools) Amendment Bill

Member's Bill

Explanatory note

General policy statement

The New Zealand public has been subject to a number of privacy breaches by various government agencies. In order to prevent breaches of this magnitude it is important that the Privacy Commissioner is able to undertake investigations to identify gaps in process and maintenance and bring the agencies into compliance with the Privacy Act 1993 (the **Act**). The ability of the Commissioner to issue compliance notices and demand information-handling audits across the public and private sectors is the only way to ensure that private information of New Zealanders held by agencies is not misused or breached by the public sector or by outside entities.

This Bill will provide the Privacy Commissioner with powers that are required for the Commissioner to function effectively and this was echoed in the Law Commission's recommendations to the Government in its Review of the Privacy Act 1993, published in 2011, when it said "At the moment, enforcement of the Privacy Act is complaints-driven. People can complain to the Privacy Commissioner about breaches of their privacy rights under the Act. But the Commissioner has only limited powers to take action about breaches of

the Act on her own initiative. Such a system is often not well suited to addressing underlying systemic problems”.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. It provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Privacy Act 1993 (the **principal Act**).

Clause 4 is the purpose clause.

Clause 5 inserts *new section 13(1)(ab)*.

Clause 6 inserts *new section 92A*.

Sue Moroney

**Privacy (Giving Privacy
Commissioner Necessary Tools)
Amendment Bill**

Member's Bill

Contents

	Page
1 Title	1
2 Commencement	1
3 Principal Act	2
4 Purpose	2
5 Section 13 amended (Functions of Commissioner)	2
6 New section 92A inserted (Issuing compliance notices to agencies)	2
92A Issuing compliance notices to agencies	2

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Privacy (Giving Privacy Commissioner Necessary Tools) Amendment Act **2013**.

- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.

- 3 Principal Act**
This Act amends the Privacy Act 1993 (the **principal Act**).
- 4 Purpose**
The purpose of this Act is to ensure that the Privacy Commissioner has sufficient investigative and enforcement powers. 5
- 5 Section 13 amended (Functions of Commissioner)**
In section 13(1), after paragraph (a), insert:
“(ab) to conduct audits of an agency’s practices and systems for handling personal information and the personal information maintained by that agency for the purpose of ascertaining whether or not the information is maintained according to the information privacy principles.” 10
- 6 New section 92A inserted (Issuing compliance notices to agencies)**
After section 92, insert: 15
“**92A Issuing compliance notices to agencies**
The Commissioner may issue a notice to an agency that is found to be in breach of this Act requiring that agency to take action to bring its practices into compliance with the Act. ”
-