

Appendix G

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Commissioner's Functions Under Other Statutes

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405

The Privacy Commissioner's functions are principally set out in section 13 of the Privacy Act. Section 13(1)(u) provides that these include such other functions and duties as are conferred or imposed on the Commissioner by or under "this Act *or any other enactment.*" The provision allows for a flexible, and evolving, set of functions. Those conferred to date are set out below in the following six categories:

- complaint mechanisms;
- Commissioner's approval;
- consultations;
- appointment to another body;
- codes of practice;
- information matching.

COMPLAINTS MECHANISMS

Health Act 1956

- complaints concerning a health agency's failure or refusal to transfer health records (section 22F).

Domestic Violence Act 1995

- complaints concerning a registrar's refusal to suppress residential details on a public register relating to an individual who fears for his or her personal safety if those details were to be released (sections 118-120 of the Act and clause 11 of the Domestic Violence (Public Register) Regulations 1996).

Social Security Act 1964

- complaints concerning a breach of the code of conduct applying to obtaining information under section 11 of the Social Security Act (section 11B);
- complaints concerning failure by the Director General of Social Welfare to comply with section 131C of the Social Security Act which requires certain notice to be given before reducing benefits for failure of a work-test (section 131F).

Adoption (Intercountry) Act 1997

- implicitly authorises complaints, normally barred by section 34 of the Privacy Act, concerning certain access requests by non-New Zealanders subject to intercountry adoption orders (section 13).

COMMISSIONER'S APPROVAL

Passports Act 1992

- requires the Commissioner's approval in relation to agreements for the supply of the New Zealand passport database to Australia (section 36);
- requires the Commissioner's approval in relation to agreements to the supply of the passport database to the NZ Customs Service (section 35).

CONSULTATIONS

Official Information Act 1982

- requires the Ombudsmen to consult in relation to review of official information access requests where privacy is a possible ground for withholding information (section 29B).

Local Government Official Information and Meetings Act 1987

- requires the Ombudsmen to consult in relation to review of local government official information access requests where privacy is a possible ground for withholding information (section 29A).

Health and Disability Commissioner Act 1994

- requires the Health and Disability Commissioner to consult in relation to the preparation of a draft Code of Health and Disability Services Consumers' Rights (sections 19 and 23);
- requires the Health and Disability Commissioner to consult in respect of any review of the Code of Health and Disability Services Consumers' Rights (sections 21 and 23);
- requires the Health and Disability Commissioner to consult in relation to the appropriate means of dealing with a complaint which is more properly within the jurisdiction of the Commissioner (section 40).

Customs and Excise Act 1996

- requires the chief executive of the New Zealand Customs Service to consult in relation to agreements for disclosure of information to overseas law enforcement and customs agencies (section 281).

Financial Transactions Reporting Act 1996

- requires the Commissioner of Police to consult in relation to the preparation of suspicious transaction reporting guidelines (section 25).

Social Security Act 1964

- requires the Director-General of Social Welfare to consult on the issue or amendment of a code of conduct applying to obtaining information under section 11 of the Social Security Act (section 11B).

Ombudsmen Act 1975

- requires the Ombudsmen to consult in relation to the appropriate means to deal with a complaint which is more properly within the jurisdiction of the Commissioner (section 17A).

Inspector General of Intelligence and Security Act 1996

- allows the Inspector-General to consult in relation to any of the Inspector-General's functions (section 12).

APPOINTMENT TO OTHER BODIES

Human Rights Act 1993

- designates the Commissioner as a Human Rights Commissioner (section 7).

CODES OF PRACTICE

Local Government Act 1974

- confers additional powers to specify search references, in relation to the register of charges, by code of practice (section 122ZI).

Dog Control Act 1996

- confers additional powers in relation to the making of codes of practice affecting dog registers (section 35).

Domestic Violence Act 1995

- confers additional powers in relation to the making of codes of practice to prescribe aspects of the regime governing non-publication of information relating to protected persons on public registers (sections 122 to 124).

INFORMATION MATCHING

Social Security Act 1964

- authorises the Commissioner to monitor compliance with certain requirements of a match between the Departments of Labour and Social Welfare as if section 103 of the Privacy Act applied (section 131G);
- provides for the monitoring of the obtaining of information from employers, and its comparison with departmental records, as if the activity were an authorised information matching programme (section 11A).

Education Act 1989

- empowers the Commissioner to settle the form in which enrolment information is disclosed by education institutions to DSW (section 226A);
- empowers the Commissioner to settle the form in which enrolment information is disclosed by private training institutions to DSW (section 238B).

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407

