



Privacy Amendment Act 2013

Public Act 2013 No 1
Date of assent 26 February 2013
Commencement see section 2

Contents

	Page
1 Title	3
2 Commencement	3
3 Principal Act amended	3
4 Interpretation	3
5 Information privacy principles	4
6 Functions of Commissioner	4
7 Interference with privacy	5
8 New Part 9A inserted	5

Part 9A

Information sharing

Subpart 1—Preliminary matters

96A Purpose of Part	5
96B Relationship between this Part and other law relating to information sharing	6
96C Interpretation	8

Subpart 2—Information sharing agreements

Authority for information sharing

96D Information sharing between agencies	9
96E Information sharing within agencies	9

Parties

96F Parties to information sharing agreement	9
96G Representative parties	10

	<i>Lead agency</i>	
96H	Determining which party is lead agency	11
	<i>Form and content</i>	
96I	Form and content of information sharing agreement	11
	<i>Approval of information sharing agreements</i>	
96J	Governor-General may approve information sharing agreement by Order in Council	12
96K	Requirements for Order in Council	12
96L	Further provisions about Order in Council	13
96M	Application of Acts and Regulations Publication Act 1989 and Regulations (Disallowance) Act 1989	14
	<i>Procedure for recommending Order in Council</i>	
96N	Matters to which relevant Minister must have regard before recommending Order in Council	14
96O	Consultation on proposed information sharing agreement	15
	<i>Commissioner's report on approved information sharing agreement</i>	
96P	Commissioner may prepare and publish report on approved information sharing agreement	16
	Subpart 3—Matters relating to operation of approved information sharing agreements	
	<i>Notice of adverse action</i>	
96Q	Requirement to give notice of adverse action	16
96R	When requirement to give notice of adverse action applies	17
	<i>Responsibilities of lead agency</i>	
96S	Responsibilities of lead agency	17
96T	Report of lead agency	18
96U	Commissioner may specify frequency of reporting by lead agency	18
	<i>Amendment of approved information sharing agreements</i>	
96V	Amendment of approved information sharing agreement	19

	<i>Review of approved information sharing agreement</i>		
	96W	Review of operation of approved information sharing agreement	20
	96X	Report on findings of review	20
	96Y	Relevant Minister must present to House of Representatives copy of report under section 96X(1) and report setting out Government's response	21
	Subpart 4—Miscellaneous		
	96Z	Power to amend Schedule 2A	21
9		Regulations	22
10		New sections 129A and 129B inserted	22
	129A	Amendment relating to Legislation Act 2012	22
	129B	New section 96M substituted	22
11		New Schedule 2A inserted	23
	Schedule		24
	New Schedule 2A inserted into principal Act		

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Privacy Amendment Act 2013.

2 Commencement

- (1) Section 11 and the Schedule come into force on a date appointed by the Governor-General by Order in Council.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act amended

This Act amends the Privacy Act 1993.

4 Interpretation

- (1) The definition of **personal information** in section 2(1) is amended by adding “(as defined by the Births, Deaths, Marriages, and Relationships Registration Act 1995)”.

- (2) Section 2(1) is amended by inserting the following definition in its appropriate alphabetical order:
- “**serious threat**, for the purposes of principle 10(d) or 11(f), means a threat that an agency reasonably believes to be a serious threat having regard to all of the following:
- “(a) the likelihood of the threat being realised; and
 - “(b) the severity of the consequences if the threat is realised; and
 - “(c) the time at which the threat may be realised”.

5 Information privacy principles

- (1) Information privacy principle 10(d) in section 6 is amended by omitting “serious and imminent threat” and substituting “serious threat (as defined in section 2(1))”.
- (2) Information privacy principle 11(f) in section 6 is amended by omitting “serious and imminent threat” and substituting “serious threat (as defined in section 2(1))”.

6 Functions of Commissioner

Section 13 is amended by inserting the following subsections after subsection (1):

- “(1AA) Without limiting subsection (1), the functions of the Commissioner in relation to information sharing under Part 9A are—
- “(a) to make submissions on an information sharing agreement for which approval by Order in Council under section 96J is being sought;
 - “(b) to report to a relevant Minister, under section 96P(1), on any matter relating to privacy that arises or is likely to arise in respect of an approved information sharing agreement and on any other matter specified in that section;
 - “(c) to publish a copy of a report referred to in paragraph (b) in accordance with section 96P(3);
 - “(d) to receive and investigate complaints about any alleged interference with privacy under an approved information sharing agreement in accordance with Part 8;
 - “(e) if appropriate under the circumstances, to exempt an agency, under section 96R, from the requirement to give

notice of adverse action under section 96Q or to reduce the period of notice required under that section:

- “(f) to conduct a review under section 96W on the operation of an approved information sharing agreement:
- “(g) to report to a relevant Minister under section 96X on the findings of a review conducted under section 96W:
- “(h) to require a public sector agency to report, in accordance with section 96S, on the operation of each approved information sharing agreement for which it is the lead agency.

“(1AB) In subsection (1AA), **adverse action**, **approved information sharing agreement**, **information sharing agreement**, **lead agency**, and **relevant Minister** have the meanings given to them by section 96C.”

7 **Interference with privacy**

Section 66(1)(a) is amended by inserting the following subparagraphs after subparagraph (ii):

- “(iia) the action breaches an information privacy principle or a code of practice as modified by an Order in Council made under section 96J; or
- “(iib) the provisions of an information sharing agreement approved by an Order in Council made under section 96J have not been complied with; or”.

8 **New Part 9A inserted**

The following Part is inserted after Part 9:

“Part 9A

“Information sharing

“Subpart 1—Preliminary matters

“96A Purpose of Part

- “(1) The purpose of this Part is to enable the sharing of personal information to facilitate the provision of public services.
- “(2) To achieve that purpose, this Part—

- “(a) provides a mechanism for the approval of information sharing agreements for the sharing of information between or within agencies; and
- “(b) authorises exemptions from or modifications to—
 - “(i) any of the information privacy principles (except principles 6 and 7, which relate respectively to the right to have access to, and correct, personal information):
 - “(ii) any code of practice (except any code of practice that modifies principles 6 and 7); and
- “(c) reduces any uncertainty about whether personal information can be lawfully shared for the provision of the public services, and in the circumstances, described in approved information sharing agreements.

“96B Relationship between this Part and other law relating to information sharing

- “(1) To avoid doubt, nothing in this Part—
 - “(a) limits the collection, use, or disclosure of personal information that is authorised or required by or under any enactment; and
 - “(b) compels agencies to enter into an information sharing agreement if those agencies are already allowed to share personal information—
 - “(i) by or under any other enactment:
 - “(ii) in circumstances where an exemption from or a modification to any 1 or more of the information privacy principles or any code of practice is not required to make the sharing of the information lawful.
- “(2) Without limiting subsection (1)(a),—
 - “(a) this Part does not limit section 7, 54 or 57; and
 - “(b) this Part and Parts 10 and 11 do not limit one another.
- “(3) An information sharing agreement may—
 - “(a) duplicate an information sharing provision by providing for an agency to share the same personal information as specified in the information sharing provision—
 - “(i) with the same agencies specified in the information sharing provision; and

- “(ii) for the same purposes specified in the information sharing provision; or
 - “(b) extend an information sharing provision that is not a restricted information sharing provision by providing for an agency to share the same personal information as specified in the information sharing provision—
 - “(i) with the same agencies specified in the information sharing provision for a purpose not specified in the information sharing provision; or
 - “(ii) with an agency not specified in the information sharing provision for a purpose specified in the information sharing provision; or
 - “(iii) with an agency not specified in the information sharing provision and for a purpose not specified in the information sharing provision; or
 - “(c) duplicate a restricted information sharing provision by providing for an agency to share the same personal information as specified in the restricted information sharing provision—
 - “(i) with the same agencies specified in the restricted information sharing provision; and
 - “(ii) for the same purposes specified in the restricted information sharing provision; or
 - “(d) extend in any manner specified in paragraph (b) a restricted information sharing provision only if—
 - “(i) the restricted information sharing provision is an information matching provision (as defined in section 97); or
 - “(ii) there is express statutory authorisation to do so.
- “(4) In subsection (3),—
- “**information sharing provision** means a provision in any enactment other than this Act that authorises or requires the sharing of personal information by an agency with 1 or more other agencies for 1 or more specified purposes
- “**restricted information sharing provision** means an information sharing provision that expressly restricts the purposes for which the personal information may be shared to those purposes specified.

“96C Interpretation

In this Part, unless the context otherwise requires,—

“**adverse action** has the meaning given to it by section 97 and includes a decision to impose a penalty or a fine or to recover a penalty or a fine

“**approved information sharing agreement** means an information sharing agreement approved by an Order in Council that is for the time being in force

“**code of practice** means a code of practice issued under section 46

“**department** has the meaning given to it by section 2(1) and also includes—

“(a) the New Zealand Police;

“(b) the New Zealand Transport Agency

“**information sharing agreement** or **agreement** means an agreement between or within agencies that enables the sharing of personal information (whether or not the sharing also includes information that is not personal information) to facilitate the provision of a public service

“**lead agency** means a department that enters into an information sharing agreement and is designated as the lead agency in—

“(a) the agreement; and

“(b) the Order in Council approving the agreement

“**local authority** means a local authority or public body named or specified in Schedule 1 of the Local Government Official Information and Meetings Act 1987

“**Order in Council**, except in sections 96V(3) and 96Z, means an Order in Council made under section 96J(1)

“**organisation** means—

“(a) an organisation named in Part 2 of Schedule 1 of the Ombudsmen Act 1975; and

“(b) an organisation named in Schedule 1 of the Official Information Act 1982

“**private sector agency** means a non-government agency

“**public sector agency** means a department, an organisation, or a local authority

“**public service** means a public function or duty that is conferred or imposed on a public sector agency—

- “(a) by or under law; or
- “(b) by a policy of the Government

“**relevant Minister** means the Minister who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for a lead agency

“**sharing**, in relation to any information, means all or any of the following if authorised by an approved information sharing agreement:

- “(a) collecting the information:
- “(b) storing the information:
- “(c) checking the information:
- “(d) using the information:
- “(e) disclosing the information:
- “(f) exchanging the information:
- “(g) if necessary, assigning a unique identifier to an individual.

“Subpart 2—Information sharing agreements

“*Authority for information sharing*

“**96D Information sharing between agencies**

An approved information sharing agreement may authorise an agency to share any personal information with 1 or more other agencies in accordance with the terms of the agreement.

“**96E Information sharing within agencies**

An approved information sharing agreement may authorise a part of an agency to share any personal information with 1 or more parts of the same agency in accordance with the terms of the agreement.

“*Parties*

“**96F Parties to information sharing agreement**

“(1) Any 2 or more of the following may enter into an information sharing agreement:

- “(a) a public sector agency:

- “(b) a private sector agency:
 - “(c) a part of a public sector agency:
 - “(d) a part of a private sector agency.
- “(2) Subsection (1) is subject to subsections (3) and (4).
- “(3) An overseas agency may not enter into an information sharing agreement.
- “(4) At least 1 of the agencies that enters into an information sharing agreement must be—
- “(a) a public sector agency that is a department; or
 - “(b) part of a public sector agency that is a department.

“96G Representative parties

- “(1) An agency that represents the interests of a class of agencies may enter into an information sharing agreement with a department if that agency is—
- “(a) a public sector agency that is not a department; or
 - “(b) a private sector agency.
- “(2) If an agreement is proposed to be entered into under subsection (1), any agency (except a department) that is a member of the class of agencies referred to in that subsection may become a party to the agreement by being sufficiently identified in a schedule to the agreement (a **Schedule of Parties**).
- “(3) At any time after an agreement has been entered into the lead agency may, with or without the consent of any agency,—
- “(a) amend the Schedule of Parties to add or remove agencies as parties:
 - “(b) substitute a new Schedule of Parties.
- “(4) An agency that becomes a party to the agreement under subsection (2) or (3) may, but need not, share or participate in the sharing of any personal information with 1 or more other agencies in accordance with the terms of the agreement.
- “(5) Unless the context otherwise requires, every reference in this Part to a party to an information sharing agreement includes an agency that becomes a party to an agreement under subsection (2) or (3).

*“Lead agency***“96H Determining which party is lead agency**

- “(1) If only 1 public sector agency that is a department enters into an information sharing agreement, it must be designated as the lead agency for the agreement.
- “(2) If more than 1 public sector agency that is a department enters into an information sharing agreement, the parties to the agreement may agree between themselves which of those public sector agencies is to be designated as the lead agency.

*“Form and content***“96I Form and content of information sharing agreement**

- “(1) An information sharing agreement must be in writing.
- “(2) An information sharing agreement must—
- “(a) specify with due particularity the purpose of the information sharing agreement:
 - “(b) set out the information referred to in section 96K:
 - “(c) contain an overview of the operational details about the sharing of information under the agreement:
 - “(d) specify the safeguards that will apply to protect the privacy of individuals and ensure that any interference with their privacy is minimised:
 - “(e) if a party to the agreement is a private sector agency, state which public sector agency will be responsible for dealing with complaints about an alleged interference with privacy if the private sector agency is unable to be held to account for those complaints:
 - “(f) state that every party to the agreement must give any reasonable assistance that is necessary in the circumstances to allow the Commissioner or an individual who wishes to make a complaint about an interference with privacy to determine the agency against which the complaint should be made:
 - “(g) if entered into under section 96G,—
 - “(i) identify the party that is a public sector agency or private sector agency representing the interests of a class of agencies; and
 - “(ii) describe that class of agencies; and

- “(iii) include a schedule that sufficiently identifies the public sector agencies or private sector agencies within that class that are parties to the agreement.
- “(3) An information sharing agreement may specify any other terms or conditions that the parties may agree, including—
 - “(a) the fees and charges that are payable under the agreement; and
 - “(b) any other business processes relating to the sharing of information under the agreement.

“Approval of information sharing agreements

“96J Governor-General may approve information sharing agreement by Order in Council

- “(1) The Governor-General may, by Order in Council made on the recommendation of the relevant Minister, approve an information sharing agreement.
- “(2) An Order in Council may grant an exemption from or modify the application of—
 - “(a) any 1 or more of the information privacy principles (except principles 6 and 7):
 - “(b) any code of practice (except any code of practice that modifies principles 6 and 7).
- “(3) An Order in Council that, under subsection (2), grants an exemption from any 1 or more of the information privacy principles (except principles 6 and 7) or any code of practice (except any code of practice that modifies principles 6 and 7) may provide that the exemption is unconditional or is subject to any conditions that are prescribed in the Order in Council.
- “(4) An Order in Council that, under subsection (2), modifies the application of any 1 or more of the information privacy principles or any code of practice may do so by prescribing standards that are more stringent or less stringent than the standards that are prescribed by the principle or, as the case may be, the code of practice.

“96K Requirements for Order in Council

- An Order in Council must—
- “(a) state, if applicable,—

- “(i) the nature of the exemption granted under section 96J(2) and the conditions of the exemption (if any):
- “(ii) how any of the information privacy principles or any code of practice will be modified under section 96J(2):
- “(b) state the public service or public services the provision of which the information sharing agreement is intended to facilitate:
- “(c) specify with due particularity the personal information or the type of personal information to be shared under the agreement:
- “(d) set out the parties, or classes of parties, to the agreement and designate 1 of the parties as the lead agency:
- “(e) for every party to the agreement,—
 - “(i) describe the personal information or type of personal information that the party may share with each of the other parties; and
 - “(ii) state how the party may use the personal information; and
 - “(iii) state the adverse actions that the party can reasonably be expected to take as a result of sharing personal information under the agreement; and
 - “(iv) specify the procedure that the party must follow before taking adverse action against an individual as a result of sharing personal information under the agreement if the requirement in section 96Q(1) does not apply because of section 96R(a)(ii):
- “(f) state how a copy of the agreement can be accessed.

“96L Further provisions about Order in Council

- “(1) An Order in Council must provide that it comes into force on a date specified in the Order in Council (which must not be a date that is before the date on which it is made).
- “(2) An Order in Council remains in force until it—
 - “(a) expires on a date appointed in the Order in Council (if any); or
 - “(b) is revoked.

- “(3) An Order in Council must insert into Schedule 2A—
- “(a) a description of each of the following:
 - “(i) the information sharing agreement that is approved by the Order in Council;
 - “(ii) the public service or the public services the provision of which the agreement is intended to facilitate;
 - “(iii) the personal information or type of personal information that may be shared between or within the agencies that are party to the agreement; and
 - “(b) the name of the agreement; and
 - “(c) the name of the lead agency for the agreement; and
 - “(d) the Internet site address where a copy of the agreement can be accessed.

“96M Application of Acts and Regulations Publication Act 1989 and Regulations (Disallowance) Act 1989

An Order in Council is a regulation for the purposes of—

- “(a) the Acts and Regulations Publication Act 1989; and
- “(b) the Regulations (Disallowance) Act 1989.

“Procedure for recommending Order in Council

“96N Matters to which relevant Minister must have regard before recommending Order in Council

- “(1) Before recommending the making of an Order in Council, the relevant Minister must—
- “(a) be satisfied of the matters set out in subsection (2); and
 - “(b) have regard to any submissions made under section 96O(1)(a) in relation to the information sharing agreement that is proposed for approval by the Order in Council.
- “(2) The matters referred to in subsection (1)(a) are as follows:
- “(a) that the information sharing agreement will facilitate the provision of any public service or public services;
 - “(b) that the type and quantity of personal information to be shared under the agreement are no more than is necessary to facilitate the provision of that public service or those public services:

- “(c) that the agreement does not unreasonably impinge on the privacy of individuals and contains adequate safeguards to protect their privacy:
- “(d) that the benefits of sharing personal information under the agreement are likely to outweigh the financial and other costs of sharing it:
- “(e) that any potential conflicts or inconsistencies between the sharing of personal information under the agreement and any other enactment have been identified and appropriately addressed.

“960 Consultation on proposed information sharing agreement

- “(1) The agencies proposing to enter into an information sharing agreement must, before the proposed agreement is concluded,—
 - “(a) consult with, and invite submissions on the proposed agreement from,—
 - “(i) the Commissioner; and
 - “(ii) any person or organisation that the agencies consider represents the interests of the classes of individuals whose personal information will be shared under the proposed agreement; and
 - “(iii) any other person or organisation that the agencies consider should be consulted; and
 - “(b) have regard to any submissions made under paragraph (a).
- “(2) The Commissioner—
 - “(a) must consider the privacy implications of the proposed agreement; and
 - “(b) may make any submissions under subsection (1)(a)(i) that he or she thinks fit.
- “(3) The agencies must give the relevant Minister a copy of the submissions made under subsection (1)(a) (if any).

*“Commissioner’s report on approved
information sharing agreement*

**“96P Commissioner may prepare and publish report on
approved information sharing agreement**

- “(1) If an information sharing agreement is approved by Order in Council, the Commissioner may prepare a report to the relevant Minister on any matter relating to privacy that arises or is likely to arise in respect of the agreement.
- “(2) Without limiting subsection (1), the Commissioner may include in a report under that subsection—
- “(a) any comment that he or she wishes to make about the consultation that the agencies carried out under section 96O(1)(a); and
 - “(b) any submissions that he or she made to the agencies under section 96O(1)(a)(i).
- “(3) The Commissioner—
- “(a) may publish a report under subsection (1); but
 - “(b) must consult the relevant Minister before doing so.

**“Subpart 3—Matters relating to operation of
approved information sharing agreements**

“Notice of adverse action

“96Q Requirement to give notice of adverse action

- “(1) A party to an approved information sharing agreement must give written notice to an individual before it takes any adverse action against the individual on the basis (whether wholly or in part) of personal information about the individual that was shared under the agreement.
- “(2) The notice must—
- “(a) give details of the adverse action that the party proposes to take and the personal information about the individual on which the action is based; and
 - “(b) state that the individual has 10 working days from the receipt of the notice in which to dispute the correctness of that personal information.
- “(3) To avoid doubt, an individual who is given the notice may take any steps that are available under any enactment to dispute any

proposed adverse action against him or her, but he or she may show cause under this section as to why the proposed adverse action should not be taken only on the basis that it is based on incorrect personal information.

“96R When requirement to give notice of adverse action applies

The requirement to give notice under section 96Q applies unless—

- “(a) an approved information sharing agreement provides that a party to the agreement may—
 - “(i) give a shorter period of notice than the 10-working-day period referred to in section 96Q(2)(b); or
 - “(ii) dispense with the giving of the notice; or
- “(b) if an approved information sharing agreement does not provide in the manner specified in paragraph (a), the Commissioner, on the application of a party to an approved information sharing agreement, allows the party in the circumstances of a particular case to—
 - “(i) give a shorter period of notice than the 10-working-day period referred to in section 96Q(2)(b); or
 - “(ii) dispense with the giving of the notice.

“Responsibilities of lead agency

“96S Responsibilities of lead agency

- “(1) A lead agency for an information sharing agreement must, if the agreement is approved by Order in Council under section 96J(1),—
 - “(a) make a copy of the agreement—
 - “(i) available for inspection, free of charge, at the lead agency’s head office on any working day; and
 - “(ii) accessible, free of charge, on an Internet site maintained by or on behalf of the lead agency; and
 - “(b) prepare a report on the operation of the agreement at the intervals required by the Commissioner under section 96U; and

- “(c) carry out any other responsibilities imposed by this Part.
- “(2) A lead agency does not need to comply with subsection (1)(a)(ii) if the relevant Minister designates an Internet site maintained by or on behalf of another public sector agency as the Internet site where a copy of the agreement is to be made accessible free of charge.
- “(3) To avoid doubt, nothing in this section applies to a party to an information sharing agreement that is not the lead agency except as provided in subsection (2).

“96T Report of lead agency

- “(1) A report prepared by a lead agency under section 96S(1)(b) must include the matters prescribed in regulations made under this Act that the Commissioner specifies to the lead agency after having regard to—
 - “(a) the costs of reporting;
 - “(b) the degree of public interest in information about the matters prescribed in those regulations;
 - “(c) the significance of the privacy implications of the approved information sharing agreement.
- “(2) A report must be included—
 - “(a) in the lead agency’s annual report under the Public Finance Act 1989, if it is required annually; or
 - “(b) in the lead agency’s annual report under the Public Finance Act 1989 that immediately follows the end of each interval specified under section 96U(1)(b).

“96U Commissioner may specify frequency of reporting by lead agency

- “(1) The Commissioner may require a lead agency to prepare a report under section 96S(1)(b) either—
 - “(a) annually; or
 - “(b) at less frequent intervals that the Commissioner may specify.
- “(2) In determining the appropriate frequency in subsection (1) of a report under section 96S(1)(b), the Commissioner must have regard to—
 - “(a) the costs of reporting;

- “(b) the degree of public interest in information about the matters prescribed in regulations made under this Act:
- “(c) the significance of the privacy implications of the approved information sharing agreement.

“Amendment of approved information sharing agreements

“96V Amendment of approved information sharing agreement

- “(1) This section applies if the parties to an approved information sharing agreement amend the agreement (whether in accordance with the Commissioner’s recommendation in a report under section 96X(1) or otherwise).
- “(2) As soon as practicable after the amendment is made, the lead agency must—
 - “(a) give written notice of the amendment to—
 - “(i) the Commissioner; and
 - “(ii) the relevant Minister; and
 - “(b) make a copy of the amendment—
 - “(i) available for inspection, free of charge, at the lead agency’s head office on any working day; and
 - “(ii) accessible, free of charge, on the Internet site where a copy of the agreement is accessible.
- “(3) The information sharing agreement approved by Order in Council continues to have effect as if the amendment notified under subsection (2) had not been made unless the Governor-General, by a further Order in Council made on the recommendation of the relevant Minister, approves the agreement as amended by the parties.
- “(4) Sections 96J to 96P apply, subject to any necessary modifications, to the approval of the agreement as so amended.
- “(5) Nothing in subsection (2)(a), (3), or (4) applies if the amendment to an approved information sharing agreement relates only to—
 - “(a) the fees and charges payable under the agreement; or
 - “(b) the name or description of a party to the agreement; or
 - “(c) any terms or conditions of the agreement that the lead agency considers, after consulting the Commissioner,

do not, or are unlikely to, have any effect on the privacy implications of the agreement.

“Review of approved information sharing agreement

“96W Review of operation of approved information sharing agreement

- “(1) The Commissioner may, on his or her own initiative, conduct a review of the operation of an approved information sharing agreement—
- “(a) at the end of a period of 12 months after the Order in Council approving the agreement is made; and
 - “(b) at any time that the Commissioner considers appropriate for any subsequent reviews.
- “(2) In conducting a review, the Commissioner must—
- “(a) consult the following about the review:
 - “(i) the parties to the agreement;
 - “(ii) any person or organisation that the Commissioner considers represents the interests of the classes of individuals whose personal information is being shared under the agreement; and
 - “(b) consider any submissions made on the review.
- “(3) The parties to the agreement must take all reasonable steps to co-operate with the review.

“96X Report on findings of review

- “(1) After completing a review under section 96W, the Commissioner may report to the relevant Minister if he or she has reasonable grounds to suspect that an approved information sharing agreement is—
- “(a) operating in an unusual or unexpected way (that is, in a way that was not foreseen by the Commissioner or the parties to the agreement at the time the agreement was entered into);
 - “(b) failing to facilitate the provision of the public service or public services to which it relates;
 - “(c) unreasonably impinging on the privacy of individuals:

- “(d) operating in such a way that the costs of sharing personal information under the agreement outweigh the benefits of sharing it.
- “(2) The Commissioner may recommend in the report that—
 - “(a) the parties to the agreement should amend it in 1 or more material respects; or
 - “(b) the Order in Council by which the agreement was approved should be revoked.

“96Y Relevant Minister must present to House of Representatives copy of report under section 96X(1) and report setting out Government’s response

The relevant Minister must—

- “(a) present a copy of a report under section 96X(1) to the House of Representatives within 5 working days after receiving it from the Commissioner or, if Parliament is not in session, as soon as possible after the commencement of the next session of Parliament; and
- “(b) as soon as possible after complying with paragraph (a), present a report to the House of Representatives setting out the Government’s response to the report under section 96X(1).

“Subpart 4—Miscellaneous

“96Z Power to amend Schedule 2A

- “(1) Without limiting the matters that an Order in Council made under section 96J must insert into Schedule 2A in accordance with section 96L(3), the Governor-General may, by Order in Council,—
 - “(a) make any amendments to Schedule 2A that are required—
 - “(i) to recognise the abolition or dissolution of any agency that is party to an approved information sharing agreement or any change in the name of such an agency; or
 - “(ii) to reflect any change in the Internet site address where a copy of an approved information sharing agreement can be accessed; or

- “(iii) to reflect any amendments to an approved information sharing agreement that are approved under section 96V; or
 - “(iv) to correct any error or omission in any description in that schedule:
 - “(b) remove any description or matter in Schedule 2A, including all of the descriptions or matters relating to an approved information sharing agreement if the Order in Council by which it was approved has expired or has been revoked:
 - “(c) otherwise amend or replace Schedule 2A.
- “(2) To avoid doubt, any of the matters set out in this section may be included in an Order in Council made under section 96J or in a separate Order in Council made under this section.”

9 Regulations

Section 128 is amended by inserting the following paragraph after paragraph (a):

- “(aa) prescribing the matters that the Commissioner may specify to a lead agency as matters that are to be included in a report by the lead agency under section 96S(1)(b):”.

10 New sections 129A and 129B inserted

The following sections are inserted after section 129:

“129A Amendment relating to Legislation Act 2012

Section 129B takes effect on the repeal of the Acts and Regulations Publication Act 1989 and the Regulations (Disallowance) Act 1989.

“129B New section 96M substituted

Section 96M is repealed and the following section substituted:

“96M Application of Legislation Act 2012

An Order in Council—

- “(a) is a legislative instrument for the purposes of the Legislation Act 2012; and
- “(b) is a disallowable instrument for the purposes of the Legislation Act 2012; and

“(c) must be presented to the House of Representatives under section 41 of that Act.”

11 New Schedule 2A inserted

The Schedule 2A set out in the Schedule is inserted after Schedule 2.

Schedule
New Schedule 2A inserted into principal Act
Schedule
Approved information sharing agreements

s 11

ss 96L(3), 96Z

Name of agreement	Public service(s) to be facilitated by agreement	Internet address where copy of agreement can be accessed	Lead agency for agreement	Description of personal information or type of personal information to be shared under agreement

Legislative history

19 February 2013	Divided from Privacy (Information Sharing) Bill (Bill 318–2) by committee of the whole House as Bill 318–3A
21 February 2013	Third reading
26 February 2013	Royal assent

This Act is administered by the Ministry of Justice.
