

Hon Paul Goldsmith
Minister of Justice

Proactive release: Government Responses to Privacy Commissioner's Reports on two Reviews of statutory authorities for information matching provisions

Date of issue: 15 April 2024

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

No.	Document	Comments
1.	Government Responses to Privacy Commissioner's Reports on two Reviews of statutory authorities for information matching provisions <i>Cabinet Paper</i> Office of the Minister of Justice 29 February 2024	Release in full
2.	Government Response to Privacy Commissioner's Report, Review of statutory authority for information matching – Immigration Act 2009, s295 <i>Report</i> 29 February 2024	<ul style="list-style-type: none">This document has been withheld because it is publicly available at: https://bills.parliament.nz/v/4/d9e22aef-4e7b-4054-0b6d-08dc3d5b6379
3.	Government Response to Privacy Commissioner's Report, Review of statutory authorities for four Inland Revenue information matches and two unused provisions <i>Report</i> 29 February 2024	<ul style="list-style-type: none">This document has been withheld because it is publicly available at: https://bills.parliament.nz/v/4/f398155e-4dec-4643-0b6e-08dc3d5b6379
4.	Government Responses to Privacy Commissioner's Reports on two Reviews of statutory authorities for information matching provisions <i>Cabinet Minute LEG-24-MIN-019</i> Cabinet Office 29 February 2024	Release in full

IN CONFIDENCE

Office of the Minister of Justice

Chair, Cabinet Legislation Committee

Government Responses to Privacy Commissioner's Reports on two Reviews of statutory authorities for information matching provisions

Proposal

1. This paper seeks approval of the Government's responses to the Privacy Commissioner's reports:
 - *'Report by the Privacy Commissioner to the Minister of Justice pursuant to section 184 of the Privacy Act 2020, in relation to a review of the operation of an information matching provision: Immigration Act 2009, s.295'* (the August 2023 Report)
 - *'Report by the Privacy Commissioner to the Minister of Justice pursuant to section 184 of the Privacy Act 2020 on provisions authorising four Inland Revenue Department matches and two unused provisions* (the November 2023 Report).¹

Background

- 2 Information matching involves the comparison of one set of records with another, to find records in both sets of data that relate to the same person. Some statutory provisions use data matching to detect fraud in social assistance programmes, or to trace people who owe debts to the Crown but they can also be used to ensure people get entitlements for which they are eligible.
- 3 The Privacy Commissioner has a regulatory role to monitor the use of this data to safeguard individuals and maintain transparency and trust in Government.
- 4 Section 184(1)(a) of the Privacy Act 2020 (Privacy Act) requires the Privacy Commissioner to, at intervals of not more than five years, review the operation of every information matching provision authorised under Part 7 and Schedule 6 of the Privacy Act and consider whether:
 - the authority conferred by the information matching provision should be continued; and
 - any amendments to the provision are necessary or desirable.

¹ These provisions are: Births, Deaths, Marriages, and Relationships Registration Act 2011, s.112; Customs and Excise Act 2018, s.306 and Student Loan Scheme Act 2011, s.208; Customs and Excise Act 2018, s.307; Immigration Act 2009, s.298 and s.299. The Immigration Act provisions are currently unused.

- 5 Section 185 of the Privacy Act requires the responsible Minister to present a copy of the Privacy Commissioner's report to the House under section 184 and provide a Government response within six months.

The Privacy Commissioner's findings

August 2023 Report (presented to the House on 30 August 2023)

- 6 The Privacy Commissioner considered the information matching provision at section 295 of the Immigration Act 2009. The purpose of this section is to facilitate the exchange of information between the Ministry of Business, Innovation, and Employment (MBIE) and the Ministry of Justice.
- 7 Section 295 empowered the 'Silent Alert Programme', a data matching programme utilised by the Ministry of Justice Collections department, to obtain address information of fine defaulters from the departure/arrival cards that travellers complete as they pass through the New Zealand border. This is in order to enforce payment of fines.
- 8 The Silent Alert Programme was shut down in September 2016 due to diminishing returns from the work required of Immigration NZ staff physically locating the departure/arrival cards, creating a backlog of information that was often out of date by the time it was obtained.
- 9 The Privacy Commissioner considered that this information matching provision should be repealed as, although the paper cards are being replaced with electronic declarations, the Ministry of Justice does not plan to use this provision in future. The Ministry of Justice and MBIE both agree with this recommendation.

November 2023 Report (presented to the House on 22 December 2023)

- 10 The Privacy Commissioner considered the following information matching provisions:
- **BDM/IR Newborns Tax Number Programme** – Inland Revenue operates an information match with the Department of Internal Affairs, to enable parents to apply for a tax number for their child when they register the birth, under section 112 of the Births, Deaths, Marriages, and Relationships Registration Act 2021.
 - **Customs and Excise Act 2018, section 306 and Student Loan Scheme Act 2011, section 208** –
 - **Customs/IR Student Loan Alerts Programme** – Inland Revenue operates an information match with the New Zealand Customs Service to receive an alert when an individual with an outstanding loan balance enters New Zealand, under section 306 of the Customs and Excise Act 2018.
 - **Customs/IR Student Loan Interest Programme** – Inland Revenue operates an information match with the New Zealand Customs Service, to be advised of travel movements of individuals with student loans so that IR can assess eligibility for interest write-offs, under section 306 of the Customs and Excise Act 2018.
 - **Customs and Excise Act 2018, section 307**

- **Customs/IR Child Support Alerts** – Inland Revenue operates an information match with the New Zealand Customs Service, to be alerted to parents in serious default of their child support obligations entering or leaving New Zealand, under section 307 of the Customs and Excise Act 2018.
 - **Immigration Act 2009, section 298** – This provision would allow Immigration New Zealand to share information to the Ministry of Social Development (MSD) for MSD to verify entitlements.
 - **Immigration Act 2009, section 299** – This provision would allow Immigration New Zealand to obtain information from MSD to recover the costs of visa holders' social security benefits from their sponsors.
- 11 The Privacy Commissioner considered that all of these information matching provisions should be continued without amendment.

Comment on the Privacy Commissioner's recommendations

- 12 The draft Government responses acknowledge and thank the Privacy Commissioner for his reports.
- 13 The draft Government response to the August 2023 Report agrees with the recommendation to repeal the information matching provision and notes that the government will look to do this as soon as practicable, through an appropriate legislative mechanism.
- 14 The draft Government response to the November 2023 Report agrees with the recommendation to continue the information matching provisions without amendments.

Timing of the Government responses

- 15 A Government response for each report is required within six months of tabling. The Government Response for the August report is due by 29 February 2024 and the Government Response for the November report is due by 18 June 2024.
- 16 For convenience, I intend to present the Government responses to the House at the same time, by 29 February 2024).

Consultation

- 17 Consultation with the following agencies has been undertaken: Office of the Privacy Commissioner, Ministry of Business, Innovation and Employment (Immigration New Zealand), Ministry of Social Development, New Zealand Customs Service, and the Inland Revenue Department.

Financial implications

- 18 There are no financial implications arising from tabling the proposed Government responses.

Publicity and proactive release

- 19 I intend to proactively release this Cabinet paper in accordance Cabinet Office Circular CO (23) 4, with any appropriate redactions on the Ministry of Justice website, as soon as practicable after the Government response is tabled.

Recommendations

The Minister of Justice recommends that the Cabinet Legislation Committee:

- 1 **note** that the Privacy Commissioner's August 2023 Report recommended that the relevant information matching provision should be repealed;
- 2 **note** that the Privacy Commissioner's November 2023 Report recommended that the relevant information matching provisions should be continued without amendment;
- 3 **agree** that the Government responses accept the Privacy Commissioner's recommendations;
- 4 **approve** the attached Government response to the August 2023 Report of the Privacy Commissioner entitled '*Review of a statutory authority for information matching: Immigration Act 2009, s.295*' and,
- 5 **approve** the attached Government response to the November 2023 Report of the Privacy Commissioner entitled '*Review of the statutory authorities for four Inland Revenue information matches*';
- 6 **invite** the Minister of Justice to present the Government responses to the House in accordance with Standing Order 252.

Authorised for lodgement

Hon Paul Goldsmith

Minister of Justice



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Government Responses to the Privacy Commissioner's Reports on Two Reviews of Statutory Authorities for Information Matching Provisions

Portfolio Justice

On 29 February 2024, the Cabinet Legislation Committee:

- 1 **noted** that the Privacy Commissioner's August 2023 Report *Review of a statutory authority for information matching - Immigration Act 2009, s 295* recommended that the relevant information matching provision should be repealed;
- 2 **noted** that the Privacy Commissioner's November 2023 Report *Review of statutory authorities for information matching: Four Inland Revenue Department matches and two unused provisions* recommended that the relevant information matching provisions should be continued without amendment;
- 3 **agreed** that the Government accept the Privacy Commissioner's recommendations;
- 4 **approved** the government response, attached as Appendix A to the submission under LEG-24-SUB-0019, to the August 2023 Report of the Privacy Commissioner entitled *Review of a statutory authority for information matching: Immigration Act 2009, s.295*;
- 5 **approved** the government response, attached as Appendix B to the submission under LEG-24-SUB-0019, to the November 2023 Report of the Privacy Commissioner entitled *Review of statutory authorities for information matching: Four Inland Revenue Department matches and two unused provisions*;
- 6 **invited** the Minister of Justice to present the government responses referred to in paragraphs 4 and 5 above to the House in accordance with Standing Order 252.

Rebecca Davies
Committee Secretary

Attendance: see over

Present:

Rt Hon Winston Peters
Hon David Seymour
Hon Brooke van Velden
Hon Shane Jones
Hon Chris Bishop (Chair)
Hon Simeon Brown
Hon Paul Goldsmith
Hon Judith Collins
Hon Nicole Mckee
Hon Casey Costello
Hon Simon Watts
Hon Andrew Bayly
Scott Simpson, MP
Todd Stevenson, MP
Jamie Arbuckle, MP

Officials present from:

Officials Committee for LEG
Office of the Leader of the House