

# **Enhancing Identity Verification and Border Processes Legislation Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

The Bill is an omnibus Bill introduced in accordance with Standing Order 263(a). The amendments in the Bill deal with an interrelated topic that can be regarded as implementing a single broad policy. That policy is to strengthen the ability of agencies within the wider justice community (including border-control agencies) to effectively and efficiently perform their functions related to law enforcement, including the detention of restricted patients, special patients, special care recipients, and other offenders.

To implement this policy, the Bill provides for better information flows between the agencies in relation to personal information (including biometric information). The collection and sharing of information will enable better identity verification of individuals for the purposes of preventing, detecting, investigating, and prosecuting offences. It will also enable better management of offenders, special care recipients, special patients, and restricted patients. In particular it will facilitate more robust mechanisms at the border to ensure that those classes of persons are not able to leave New Zealand without authorisation.

This Bill responds to weaknesses in legislation regarding offender and patient management identified in the Government Inquiry into Matters Concerning the Escape of Phillip John Smith/Traynor.

The Bill also contributes to the Government's priority of delivering better public services by reducing crime and reoffending.

Key policy decisions implemented in this Bill include—

- authorising specified agencies to access and use identity information, including biometric information, to verify the identity of individuals within the justice system and out to the border; and

- authorising the sharing of birth, death, marriage, civil union, and name change information with specified agencies for law enforcement purposes; and
- clarifying the ability of the New Zealand Customs Service to collect, use, and disclose biometric information about persons arriving in or departing from New Zealand; and
- clarifying that special care recipients, special patients, and restricted patients may not leave their secure facility or New Zealand unless authorised; and
- providing for the collection of biometric information from special care recipients, special patients, and restricted patients to strengthen the management of these patients, ensure their safety, and mitigate the risk of breaches of conditions; and
- authorising the sharing of photographic images of driver licence holders for law enforcement and identity verification purposes; and
- strengthening standard release conditions to prohibit offenders on sentences or parole conditions from leaving New Zealand without the prior written consent of their probation officers; and
- providing for the collection of biometric information from offenders to better identify offenders at New Zealand's borders and enforce the conditions specified for those individuals.

### **Departmental disclosure statement**

The Ministry of Justice is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2016&no=147>

### **Regulatory impact statements**

The Ministry of Justice, the Ministry of Health, and the Ministry of Transport produced regulatory impact statements on 18 November 2015 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact statements can be found at—

- <http://www.justice.govt.nz/assets/Documents/Publications/RIS-20160818-Identifying-offenders-attempting-to-unlawfully-leave-New-Zealand.pdf>
- <http://www.justice.govt.nz/assets/Documents/Publications/RIS-20160818-Using-personal-information-for-identity-verification-purposes-in-law-enforcement.pdf>
- <http://www.health.govt.nz/about-ministry/legislation-and-regulation/regulatory-impact-statements>

- <http://www.transport.govt.nz/about/publications/ris-bccs/>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

The New Zealand Customs Service produced regulatory impact statements on 16 September 2015 to help inform the policy decisions taken by the Government on Customs' uses and management of biometric information under the Customs and Excise Act 1996 and on Customs' management and disclosure of information.

Copies of these regulatory impact statements can be found at—

- <http://www.customs.govt.nz/news/resources/customs-and-excise-act-review/Documents/CandEAct1996Review-Biometric%20information%20RIS.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### Clause by clause analysis

*Clause 1* is the Title clause.

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

## Part 1

### Amendments to Privacy Act 1993

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

*Clause 4* amends section 96B to provide that Part 9A of the principal Act (information sharing) does not limit Part 10, *10A* (inserted by *clause 6*), or 11 of the principal Act.

*Clause 5* inserts *new section 97A* to provide that Part 10 of the principal Act (information matching) does not limit Part 9A, *10A* (inserted by *clause 6*), or 11 of the principal Act.

*Clause 6* inserts *new Part 10A* (identity information) into the principal Act.

*New section 109A* sets out the purpose of *new Part 10A*. The purpose is to authorise agencies, when carrying out particular functions, to access information held by other agencies in order to verify the identity of individuals.

*New section 109B* clarifies the relationship between *new Part 10A* and other law relating to the disclosure of personal information. *New Part 10A* does not limit the collection, use, or disclosure of personal information that is authorised or required by or under any enactment, or that is permitted by the information privacy principles. Also, *new Part 10A* does not limit Part 9A, 10, or 11 of the principal Act.

*New section 109C* defines terms used in *new Part 10A*. Two key terms defined are biometric information and identity information.

*New section 109D* refers to *new Schedule 4A* inserted into the principal Act (*see clause 8*) and provides for the agencies listed in the first column of that schedule (accessing agencies), for the purposes listed in the second column of the schedule, to ac-

cess identity information held by agencies listed in the third column of the schedule (holder agencies).

*New section 109E* provides that access to identity information permitted under *new section 109D* may be facilitated in the manner agreed by the holder agencies and accessing agencies. The form in which that information is to be made available is also to be agreed between those agencies.

*New section 109F* provides that *new Schedule 4A* may be amended by Order in Council made on the recommendation of the Minister of Justice after consultation with the Privacy Commissioner.

*Clause 7* inserts *new section 110A* to provide that Part 11 of the principal Act (law enforcement information) does not limit Part 9A, 10, or 10A (inserted by *clause 6*) of the principal Act.

*Clause 8* inserts *new Schedule 4A* into the principal Act (see *clause 6*, *new section 109D*).

## Part 2

### Amendments to other enactments

#### Subpart 1—Amendments to Births, Deaths, Marriages, and Relationships Registration Act 1995

*Clause 9* provides that this subpart amends the Births, Deaths, Marriages, and Relationships Registration Act 1995.

*Clause 10* amends section 2 (interpretation) to insert definitions of approved information sharing agreement, information sharing agreement, and non-disclosure direction. These definitions currently appear in section 78AA. They are being moved to section 2 because these defined terms also appear in *new section 78AB*.

*Clause 11* amends section 78AA to provide that the terms approved information sharing agreement and non-disclosure direction defined in that section also have the same meanings for the purpose of *new section 78AB*.

*Clause 12* inserts *new section 78AB*. *New section 78AB* permits the sharing of birth information, death information, marriage information, civil union information, and name change information with specified agencies for law enforcement purposes without the need for an approved information sharing agreement.

#### Subpart 2—Amendments to Customs and Excise Act 1996

*Clause 13* provides that this subpart amends the Customs and Excise Act 1996 (the **principal Act**).

*Clause 14* amends section 2 (interpretation) to insert definitions of biometric information and personal information. Personal information is defined to expressly include biometric information.

*Clause 15* inserts *new sections 32D to 32F*.

*New section 32D* re-enacts in Part 3 of the principal Act existing section 279 and clarifies that Customs may collect biometric information from persons arriving in or departing from New Zealand.

*New section 32E* provides that, during the processing of a person's arrival in or departure from New Zealand, a Customs officer may request the person to verify his or her identity by providing biometric information for the purposes of biometric matching. A person who fails to comply with an officer's request can be directed to remain in a designated place until his or her identity can be established.

*New section 32F* provides for the detention of a person who fails to comply with a direction given under *new section 32E*.

*Clause 16* amends section 38Q to replace a reference to section 279 with a reference to *new section 32D*.

*Clause 17* repeals section 279.

*Clauses 18 to 20* amend sections 280A, 280C, and 280J. The effect of the amendments is to exclude the sharing of biometric information between Customs and other agencies under sections 280B, 280D, 280E, 280K, and 280L.

*Clauses 21 and 22* amend sections 281 and 282. The effect of the amendments is to enable Customs to enter into a written agreement with an overseas agency for the disclosure of personal information, including biometric information, if the functions of that agency include law enforcement, border processing of international passengers, border security, or the protection of public revenue.

### Subpart 3—Amendment to Immigration Act 2009

*Clause 23* provides that this subpart amends the Immigration Act 2009.

*Clause 24* amends the definition of biometric information in section 4 so that it is similar to the definition of that term inserted in the Customs and Excise Act 1996 (*see clause 14*).

### Subpart 4—Amendments to Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003

*Clause 25* provides that this subpart amends the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.

*Clause 26* amends section 5 (interpretation) to insert a definition of biometric information.

*Clause 27* inserts *new section 62A*, which provides for the collection of biometric information from special care recipients.

*Clause 28* inserts *new section 67A* to expressly provide that a special care recipient may not leave the secure facility in which he or she is detained unless authorised by the Minister under section 66 or the Director-General under section 67. *New section 67A* also expressly provides that a special care recipient may not depart from New

Zealand unless on authorised leave and permitted by the Minister to be absent from New Zealand.

*Clause 29* amends section 110 so that a special care recipient who breaches any condition of authorised leave or who departs from New Zealand in contravention of *new section 67A* must be regarded as having escaped. The effect of this is that in such circumstances the special care recipient may, under section 111, be retaken and returned to a secure facility.

*Clause 30* amends section 150 to provide for regulating the collection of biometric information from special care recipients.

### Subpart 5—Amendments to Land Transport Act 1998

*Clause 31* provides that this subpart amends the Land Transport Act 1998 (the **principal Act**).

*Clause 32* replaces section 200, which restricts access to photographic images of driver licence holders stored by the New Zealand Transport Agency under section 28(5) of the principal Act. The effect of the replacement is to relax those restrictions so that the photographic images may be accessed by—

- an employee of the Department of Internal Affairs, acting in the course of his or her official duties, to verify the identity of a particular individual:
- an employee of the Department of Corrections, Immigration New Zealand, the Ministry of Justice, the New Zealand Customs Service, or the New Zealand Police, acting in the course of his or her official duties, to verify the identity of a particular individual for the purpose of law enforcement:
- an agency that under *new Part 10A* of the Privacy Act 1993 (inserted by *clause 6*) may access identity information held by the New Zealand Transport Agency for the purposes specified in *new Schedule 4A* of that Act (inserted by *clause 8*).

### Subpart 6—Amendments to Mental Health (Compulsory Assessment and Treatment) Act 1992

*Clause 33* provides that this subpart amends the Mental Health (Compulsory Assessment and Treatment) Act 1992.

*Clause 34* amends section 2 (interpretation) to insert a definition of biometric information.

*Clause 35* inserts *new section 43A*, which provides for the collection of biometric information from special patients and restricted patients.

*Clause 36* inserts *new section 52A* to expressly provide that a special patient may not leave the hospital in which he or she is detained unless he or she has been granted leave of absence by the Minister under section 50 or the Director of Mental Health under section 52. *New section 52A* also expressly provides that a special patient may not depart from New Zealand unless he or she has been granted leave and is permitted

by the Minister to be absent from New Zealand. Any special patient who contravenes this provision must be treated as having escaped. Pursuant to section 56, *new section 52A* will also apply in respect of restricted patients.

*Clause 37* amends section 53 to provide that a special patient who breaches any condition of his or her leave may be retaken to a hospital.

*Clause 38* repeals section 100(4), which is no longer required because of *new section 43A*.

*Clause 39* amends section 135 to broaden the existing regulation power in subsection (1)(f) (relating to the photographing of special patients) to refer to the collection of biometric information.

### Subpart 7—Amendments to Parole Act 2002

*Clause 40* provides that this subpart amends the Parole Act 2002.

*Clause 41* amends section 4 (interpretation) to insert a definition of biometric information.

*Clause 42* amends section 14, which concerns the standard release conditions. The amendment adds the following conditions:

- an offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and
- the offender must, if a probation officer directs, allow the collection of biometric information.

*Clause 43* inserts *new section 14A*. *New section 14A* provides that the purpose of collecting biometric information under *new section 14(1)(fb)* is to enable the better identification of offenders at New Zealand's borders and to assist with the enforcement of the condition specified in *new section 14(1)(fa)*. It also provides that biometric information may only be used for this purpose.

*Clause 44* amends section 107JA, which concerns the standard extended supervision conditions. The amendment adds the following conditions:

- an offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and
- the offender must, if a probation officer directs, allow the collection of biometric information.

*Clause 45* inserts *new section 107JB*. *New section 107JB* provides that the purpose of collecting biometric information under *new section 107JA(1)(eb)* is to enable better identification of offenders at New Zealand's borders and to assist with the enforcement of the condition specified in *new section 107JA(1)(ea)*. It also provides that biometric information may only be used for this purpose.

*Clause 46* amends the Parole Regulations 2002 to reflect the changes to sections 14 and 107JA (*see clauses 42 and 44*).

## Subpart 8—Amendments to Sentencing Act 2002

*Clause 47* provides that this subpart amends the Sentencing Act 2002.

*Clause 48* amends section 4 (interpretation) to insert a definition of biometric information.

*Clause 49* amends section 49, which concerns the standard conditions of supervision. The amendment adds the following conditions:

- an offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and
- the offender must, if a probation officer directs, allow the collection of biometric information.

*Clause 50* amends section 54F, which concerns the standard conditions of intensive supervision. The amendment adds the following conditions:

- an offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and
- the offender must, if a probation officer directs, allow the collection of biometric information.

*Clause 51* amends section 69E, which concerns the conditions of community detention during a sentence term. The amendment adds the following conditions:

- an offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and
- the offender must, if a probation officer directs, allow the collection of biometric information.

*Clause 52* amends section 80C, which concerns the detention conditions that apply to an offender sentenced to home detention. The amendment adds the following conditions:

- an offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and
- the offender must, if a probation officer directs, allow the collection of biometric information.

*Clause 53* amends section 80O, which concerns the standard post-detention conditions. The amendment adds the following conditions:

- an offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and
- the offender must, if a probation officer directs, allow the collection of biometric information.

*Clause 54* inserts *new subpart 2C* in Part 2. *New subpart 2C* contains *new section 80ZMA*. It provides that the purpose of collecting biometric information is to enable the better identification of offenders at New Zealand's borders and to assist with the enforcement of the conditions specified in *new sections 49(1)(fa), 54F(1)(ga)*,

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*69E(1)(da), 80C(2)(ca), and 80O(ea)*. It also provides that biometric information may only be used for this purpose.

*Clause 55* amends the Sentencing Regulations 2002 to reflect the changes to sections 49, 54F, 69E, 80C, and 80O (*see clauses 49 to 53*).

*Schedule 1* sets out *new Schedule 4A*, which *clause 8* inserts into the Privacy Act 1993.

*Schedule 2* sets out consequential amendments to forms in the Parole Regulations 2002.

*Schedule 3* sets out consequential amendments to forms in the Sentencing Regulations 2002.



*Hon Amy Adams*

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Enhancing Identity Verification and Border Processes Legislation Act **2016**.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

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**Part 1**  
**Amendments to Privacy Act 1993**

**3 Principal Act**

This **Part** amends the Privacy Act 1993 (the **principal Act**).

**4 Section 96B amended (Relationship between this Part and other law relating to information sharing)** 5

(1) Replace the heading to section 96B with “**Relationship between Part 9A and other law relating to information disclosure**”.

(2) Replace section 96B(2)(b) with:

(b) this Part does not limit Part 10, **10A**, or 11. 10

**5 New section 97A inserted (Relationship between Part 10 and other law relating to information disclosure)**

After section 97, insert:

**97A Relationship between Part 10 and other law relating to information disclosure** 15

This Part does not—

(a) limit the collection, use, or disclosure of personal information that—

(i) is authorised or required by or under any enactment; or

(ii) is permitted by the information privacy principles:

(b) limit Part 9A, **10A**, or 11. 20

**6 New Part 10A inserted**

After section 109, insert:

**Part 10A**  
**Identity information**

**109A Purpose of Part** 25

The purpose of this Part is to authorise accessing agencies, when carrying out specified functions, to verify the identity of an individual by accessing identity information held about that individual by a holder agency.

**109B Relationship between Part 10A and other law relating to information disclosure** 30

This Part does not—

(a) limit the collection, use, or disclosure of personal information that—

(i) is authorised or required by or under any enactment; or

- (ii) is permitted by the information privacy principles:
- (b) limit Part 9A, 10, or 11.

### 109C Interpretation

In this Part,—

**access**, in relation to a database, includes remote access to that database 5

**accessing agency** means an agency specified in the first column of **Schedule 4A**

**biometric information**, in relation to a person, means information that comprises—

- (a) 1 or more of the following kinds of personal information: 10
  - (i) a photograph of all or any part of the person’s head and shoulders:
  - (ii) impressions of the person’s fingerprints:
  - (iii) a scan of the person’s irises; and
- (b) an electronic record of the personal information that is capable of being used for biometric matching 15

**database** means any information recording system used by an agency to store information

**holder agency** means an agency specified in the third column of **Schedule 4A**

**identity information**, in relation to an individual, means any information that identifies, or relates to the identity of, the individual, and includes (without limitation) the following information: 20

- (a) the individual’s biographical details (for example, the individual’s name, address, date of birth, place of birth, and gender):
- (b) the individual’s biometric information: 25
- (c) a photograph or visual image of the individual:
- (d) details of the individual’s—
  - (i) New Zealand travel document; or
  - (ii) certificate of identity:
- (e) details of any distinguishing features (including tattoos and birthmarks). 30

### 109D Access by agencies to identity information

An accessing agency may, for the purpose specified in the second column of **Schedule 4A** opposite the name of the accessing agency, have access to an individual’s identity information held by a holder agency specified in the third column of that schedule opposite the name of the accessing agency. 35

**109E Manner and form of access**

- (1) Access to identity information permitted under **section 109D** may be facilitated between a holder agency and an accessing agency in the manner agreed by the agencies (for example, by direct access to information stored in a holder agency's database, or by exchange of information between the agencies). 5
- (2) Identity information that is held by a holder agency and accessed by an accessing agency under **section 109D** may be made available to the accessing agency in the form agreed by the agencies.

**109F Amendment of Schedule 4A**

The Governor-General may, by Order in Council made on the recommendation of the responsible Minister given after consultation with the Privacy Commissioner,— 10

- (a) add, remove, amend, or replace any item in **Schedule 4A**; or
- (b) repeal **Schedule 4A** and substitute a new schedule.

**7 New section 110A inserted (Relationship between Part 11 and other law relating to information disclosure)** 15

After section 110, insert:

**110A Relationship between Part 11 and other law relating to information disclosure**

This Part does not— 20

- (a) limit the collection, use, or disclosure of personal information that—
- (i) is authorised or required by or under any enactment; or
- (ii) is permitted by the information privacy principles:
- (b) limit Part 9A, 10, or **10A**.

**8 New Schedule 4A inserted** 25

After Schedule 4, insert the **Schedule 4A** set out in **Schedule 1** of this Act.

**Part 2**

**Amendments to other enactments**

**Subpart 1—Amendments to Births, Deaths, Marriages, and Relationships Registration Act 1995** 30

**9 Principal Act**

This **subpart** amends the Births, Deaths, Marriages, and Relationships Registration Act 1995 (the **principal Act**).

**10 Section 2 amended (Interpretation)**

In section 2, insert in their appropriate alphabetical order:

**approved information sharing agreement** and **information sharing agreement** have the meanings given to them by section 96C of the Privacy Act 1993

**non-disclosure direction** means a direction made by the Registrar-General on a request under section 75A(2)(b) that a person's birth information, marriage information, civil union information, or name change information not be disclosed to the public

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**11 Section 78AA amended (Disclosure of birth information, death information, marriage information, civil union information, and name change information under approved information sharing agreement)**

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Repeal section 78AA(5).

**12 New section 78AB inserted (Disclosure of birth information, death information, marriage information, civil union information, and name change information for law enforcement purposes)**

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After section 78AA, insert:

**78AB Disclosure of birth information, death information, marriage information, civil union information, and name change information for law enforcement purposes**

(1) This section applies if a specified agency has reason to suspect that a particular individual—

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(a) is, or is liable to be, detained under an enactment:

(b) is, or is liable to be, arrested under a warrant issued by a court or any Registrar:

(c) is contravening, or is about to contravene, an enactment or a court order:

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(d) is liable to be prosecuted for an offence punishable by imprisonment:

(e) is, or is liable to be, detained or arrested in respect of a traffic offence:

(f) is endangering, or is threatening to endanger, the life, health, or safety of a person or group of persons:

(g) is injured or dead.

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(2) If this section applies, the Registrar-General may, despite the existence or absence of an approved information sharing agreement, share the following personal information about the particular individual with the specified agency:

(a) birth information:

(b) death information:

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(c) marriage information:

(d) civil union information:

- (e) name change information.
  - (3) This section does not limit section 74, 78A, or 78AA.
  - (4) **Subsection (1)** applies whether or not a non-disclosure direction is in force in respect of any or all of the personal information about an identifiable individual referred to in that subsection. 5
  - (5) For the purposes of this section, **specified agency** means any of the following:
    - (a) the Department of Corrections:
    - (b) the Department of Internal Affairs:
    - (c) the part of the Ministry of Business, Innovation, and Employment referred to as Immigration New Zealand: 10
    - (d) the Ministry of Justice:
    - (e) the Ministry of Transport:
    - (f) the New Zealand Customs Service:
    - (g) the New Zealand Police:
    - (h) the New Zealand Transport Agency. 15
- Compare: 1993 No 28 s 97; 1996 No 27 s 32C(1); 2009 No 51 s 4

## Subpart 2—Amendments to Customs and Excise Act 1996

### 13 Principal Act

This **subpart** amends the Customs and Excise Act 1996 (the **principal Act**).

### 14 Section 2 amended (Interpretation) 20

In section 2(1), insert in their appropriate alphabetical order:

**biometric information**, in relation to a person, means information that comprises—

- (a) 1 or more of the following kinds of information:
  - (i) a photograph of all or any part of the person’s head and shoulders: 25
  - (ii) impressions of the person’s fingerprints:
  - (iii) a scan of the person’s irises; and
- (b) an electronic record of the information that is capable of being used for biometric matching

**personal information** means information about an identifiable person (including, without limitation, biometric information) 30

### 15 New sections 32D to 32F and cross-heading inserted

After section 32C, insert:

*Information*

**32D Arrival and departure information**

The Customs may, for the purposes of monitoring the movement of craft and persons, passenger and crew processing, and border security, collect and use the following information about craft and persons arriving in or departing from New Zealand: 5

- (a) details of craft movements including the craft name and registration number or identifier, estimated date and time of arrival or departure, and place of origin and destination; and
- (b) personal information including the person's name, date of birth, gender, biometric information, passport number, nationality, and travel movements. 10

Compare: 1996 No 27 s 279

**32E Verification of identity using biometric information**

(1) A Customs officer may, during the processing of a person's arrival in or departure from New Zealand, request that person to verify his or her identity by providing biometric information for the purposes of biometric matching. 15

(2) A person who fails to comply with a request made under **subsection (1)** may be directed by a Customs officer to remain in a designated place for either or both of the following purposes: 20

- (a) to enable the officer to make any inquiries necessary to establish the identity of the person:
- (b) to enable the officer to obtain the attendance of, or make inquiries of, another officer who is authorised, in respect of a matter specified in section 32C(1), to do 1 or more of the following: 25
  - (i) question the person:
  - (ii) ascertain or determine the status of the person:
  - (iii) detain the person:
  - (iv) arrest the person.

(3) A person must comply with a direction given to the person under **subsection (2)**. 30

(4) A direction given to a person under **subsection (2)** ceases to have effect 4 hours after it is given.

(5) In this section,—  
**another officer** means— 35

- (a) a constable; or
- (b) a bailiff; or
- (c) an employee or agent of a department of State

<b>designated place</b> means—	
(a) a Customs controlled area; or	
(b) a Customs place; or	
(c) a place approved by the chief executive for the purposes of—	
(i) the arrival of a craft in New Zealand; or	5
(ii) the departure of a craft from New Zealand.	
<b>32F Detention of persons failing to comply with a direction under section 32E</b>	
(1) A Customs officer may detain a person who fails to comply with a direction given under <b>section 32E(2)</b> .	
(2) A Customs officer may detain a person under this section only for either or both of the purposes specified in <b>section 32E(2)</b> .	10
(3) A person must not be detained under this section for a period exceeding 4 hours.	
(4) Reasonable force may be used, if necessary, to detain a person under this section.	15
(5) Nothing in this section prevents a person from—	
(a) being detained or further detained under another provision of this Act or under any other enactment if there are lawful grounds for that detention; or	
(b) being arrested under section 174.	20
(6) In this section, to <b>detain a person</b> includes to deliver the person to a Police station or into the custody of a constable.	
<b>16 Section 38Q amended (Part does not limit other access to or use of information)</b>	
In section 38Q(e), replace “section 279” with “ <b>section 32D</b> ”.	25
<b>17 Section 279 repealed (Arrival and departure information)</b>	
Repeal section 279.	
<b>18 Section 280A amended (Interpretation)</b>	
In section 280A, replace the definition of <b>identifying information</b> with:	
<b>identifying information</b> means information that identifies, or relates to the identity of, a person, but does not include biometric information	30
<b>19 Section 280C amended (Interpretation)</b>	
In section 280C, replace the definition of <b>identifying information</b> with:	
<b>identifying information</b> means information that identifies, or relates to the identity of, a person, but does not include biometric information	35

- 20 Section 280J amended (Defined terms for sections 280K and 280L)**  
In section 280J, replace the definition of **identifying information** with:  
**identifying information** means information that identifies, or relates to the identity of, a person, but does not include biometric information
- 21 Section 281 amended (Disclosure of information overseas)** 5  
After section 281(1), insert:  
(1A) Despite subsection (1), the chief executive may not disclose biometric information relating to any person to an overseas agency, body, or person for the purpose of assisting the overseas agency, body, or person to perform the function specified in subsection (1)(d). 10
- 22 Section 282 amended (Information that may be disclosed)**  
Replace section 282(1)(j) with:  
(j) personal information:  
Subpart 3—Amendment to Immigration Act 2009
- 23 Principal Act** 15  
This **subpart** amends the Immigration Act 2009 (the **principal Act**).
- 24 Section 4 amended (Interpretation)**  
In section 4, replace the definition of **biometric information** with:  
**biometric information**, in relation to a person, means information that comprises— 20  
(a) 1 or more of the following kinds of personal information:  
(i) a photograph of all or any part of the person’s head and shoulders;  
(ii) impressions of the person’s fingerprints;  
(iii) a scan of the person’s irises; and  
(b) a record, whether physical or electronic, of the personal information that is capable of being used for biometric matching 25
- Subpart 4—Amendments to Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003
- 25 Principal Act**  
This **subpart** amends the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 (the **principal Act**). 30
- 26 Section 5 amended (Interpretation)**  
In section 5(1), insert in its appropriate alphabetical order:

**biometric information** has the same meaning as in section 2(1) of the Customs and Excise Act 1996

**27 New section 62A inserted (Collection of biometric information from special care recipients)**

After section 62, insert:

5

**62A Collection of biometric information from special care recipients**

- (1) This section provides for the collection of biometric information to—
  - (a) strengthen the management of special care recipients; and
  - (b) ensure the safety and security of special care recipients; and
  - (c) better manage the risk of special care recipients breaching **section 67A**.
- (2) A special care recipient must allow the collection of biometric information if directed by—
  - (a) the Director-General of Health; or
  - (b) the care manager for the special care recipient; or
  - (c) a compulsory care co-ordinator.
- (3) This section is subject to any regulations made under **section 150(ca)**.

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**28 New section 67A inserted (Special care recipients not to leave secure facility or depart from New Zealand without permission)**

After section 67, insert:

**67A Special care recipients not to leave secure facility or depart from New Zealand without permission**

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- (1) A special care recipient may not leave the secure facility in which the special care recipient is detained unless—
  - (a) authorised by the Minister under section 66; or
  - (b) authorised by the Director-General under section 67.
- (2) A special care recipient may not depart from New Zealand unless—
  - (a) the special care recipient is on authorised leave; and
  - (b) the special care recipient is permitted by the Minister, on terms and conditions specified by the Minister, to be absent from New Zealand during that authorised leave; and
  - (c) the special care recipient's departure from New Zealand is in accordance with the terms and conditions of the Minister's permission given under **paragraph (b)**.
- (3) In **subsection (2)**,—

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<b>authorised leave</b> , in relation to a special care recipient, means leave from the secure facility in which the special care recipient is detained that is authorised under section 66 or 67	
<b>depart</b> includes—	
(a) attempt to depart:	5
(b) prepare to depart.	
<b>29 Section 110 amended (Meaning of care recipient who has escaped)</b>	
(1) After section 110(a), insert:	
(ab) who has breached any terms or conditions of authorised leave; or	
(2) In section 110(c), after “leave”, insert “; or”.	10
(3) After section 110(c), insert:	
(d) who has departed from New Zealand in contravention of <b>section 67A(2)</b> .	
<b>30 Section 150 amended (Regulations)</b>	
After section 150(c), insert:	15
(ca) restricting or otherwise regulating the collection under <b>section 62A</b> of biometric information from special care recipients:	
Subpart 5—Amendments to Land Transport Act 1998	
<b>31 Principal Act</b>	
This <b>subpart</b> amends the Land Transport Act 1998 (the <b>principal Act</b> ).	20
<b>32 Section 200 replaced (Restrictions on access to photographic images of driver licence holders)</b>	
Replace section 200 with:	
<b>200 Restrictions on access to photographic images of driver licence holders</b>	
(1) Except as provided in this section or <b>Part 10A</b> of the Privacy Act 1993, no person other than a person acting in the course of the person’s official duties as an employee of the agency may access or use any photographic image stored under section 28(5).	25
(2) A person who is acting in the course of the person’s official duties as an employee of the Department of Internal Affairs may access or use any photographic image stored under section 28(5) to verify the identity of a particular individual.	30
(3) A person who is the next of kin of a deceased individual to whom a photographic image stored under section 28(5) relates may access the photographic image—	35

- (a) on production to the Agency of—
    - (i) a death certificate (within the meaning of section 2 of the Births, Deaths, Marriages, and Relationships Registration Act 1995) relating to the death of the individual; or
    - (ii) the grant of probate of the will of the individual or of letters of administration to the individual’s estate; and
  - (b) only if the person who is seeking access to the photographic image satisfies the Agency that the person is the individual’s next of kin.
- (4) A person who is acting in the course of the person’s official duties as an employee of a specified agency may access or use any photographic image stored under section 28(5) to verify the identity of a particular individual for the purpose of law enforcement. 10
- (5) For the purposes of this section,—  
**next of kin** includes a spouse, a civil union partner, and a de facto partner  
**specified agency** means any of the following: 15
- (a) the Department of Corrections:
  - (b) the part of the Ministry of Business, Innovation, and Employment that administers the Immigration Act 2009:
  - (c) the Ministry of Justice:
  - (d) the New Zealand Customs Service: 20
  - (e) the New Zealand Police.

Subpart 6—Amendments to Mental Health (Compulsory Assessment and Treatment) Act 1992

- 33 Principal Act**  
This **subpart** amends the Mental Health (Compulsory Assessment and Treatment) Act 1992 (the **principal Act**). 25
- 34 Section 2 amended (Interpretation)**  
In section 2(1), insert in its appropriate alphabetical order:  
**biometric information** has the same meaning as in section 2(1) of the Customs and Excise Act 1996 30
- 35 New section 43A and cross-heading inserted**  
After section 43, insert:
- Collection of biometric information*
- 43A Collection of biometric information**  
(1) This section provides for the collection of biometric information to— 35

(a)	strengthen the management of special patients and restricted patients in hospitals; and	
(b)	ensure the safety and security of special patients and restricted patients; and	
(c)	better manage the risk of special patients and restricted patients breaching <b>section 52A</b> .	5
(2)	A person who is a special patient or a restricted patient must allow the collection of biometric information if directed by—	
(a)	the Director of Mental Health; or	
(b)	the Director of Area Mental Health Services; or	10
(c)	the person in charge of the hospital in which the patient is detained.	
(3)	This section is subject to any regulations made under <b>section 135(1)(f)</b> .	
<b>36</b>	<b>New section 52A inserted (Special patients not to leave hospital or depart from New Zealand without permission)</b>	
	After section 52, insert:	15
<b>52A</b>	<b>Special patients not to leave hospital or depart from New Zealand without permission</b>	
(1)	A special patient may not leave the hospital in which the special patient is detained unless—	
(a)	granted leave of absence by the Minister under section 50; or	20
(b)	granted leave of absence by the Director under section 52.	
(2)	A special patient may not depart from New Zealand unless—	
(a)	the special patient has been granted leave of absence under section 50 or 52; and	
(b)	the special patient is permitted by the Minister, on terms and conditions specified by the Minister, to be absent from New Zealand during that leave; and	25
(c)	the special patient’s departure from New Zealand is in accordance with the terms and conditions of the Minister’s permission given under <b>paragraph (b)</b> .	30
(3)	A special patient who contravenes <b>subsection (2)</b> must be treated as having escaped.	
(4)	In <b>subsection (2)</b> , <b>depart</b> includes—	
(a)	attempt to depart:	
(b)	prepare to depart.	35

- 37 Section 53 amended (Escape and absence without leave)**  
In section 53, after “escapes,”, insert “or who breaches any condition of his or her leave.”.
- 38 Section 100 amended (Psychiatric security institutions)**  
Repeal section 100(4). 5
- 39 Section 135 amended (Regulations)**  
Replace section 135(1)(f) with:  
(f) restricting or otherwise regulating the collection under **section 43A** of biometric information from special patients and restricted patients:  
Subpart 7—Amendments to Parole Act 2002 10
- 40 Principal Act**  
This **subpart** amends the Parole Act 2002 (the **principal Act**).
- 41 Section 4 amended (Interpretation)**  
In section 4(1), insert in its appropriate alphabetical order:  
**biometric information** has the same meaning as in section 2(1) of the Customs and Excise Act 1996 15
- 42 Section 14 amended (Standard release conditions)**  
After section 14(1)(f), insert:  
(fa) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer: 20  
(fb) the offender must, if a probation officer directs, allow the collection of biometric information:
- 43 New section 14A inserted (Purpose of collecting biometric information under section 14(1)(fb))**  
After section 14, insert: 25
- 14A Purpose of collecting biometric information under section 14(1)(fb)**  
Biometric information collected under **section 14(1)(fb)** may only be used for the purpose of helping—  
(a) to identify offenders before they leave New Zealand; and  
(b) to enforce the condition specified in **section 14(1)(fa)**. 30
- 44 Section 107JA amended (Standard extended supervision conditions)**  
After section 107JA(1)(e), insert:

- (ea) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:
- (eb) the offender must, if a probation officer directs, allow the collection of biometric information:
- 45 New section 107JB inserted (Purpose of collecting biometric information under section 107JA(1)(eb))** 5
- After section 107JA, insert:
- 107JB Purpose of collecting biometric information under section 107JA(1)(eb)**
- Biometric information collected under **section 107JA(1)(eb)** may only be used for the purpose of helping— 10
- (a) to identify offenders before they leave New Zealand; and
- (b) to enforce the condition specified in **section 107JA(1)(ea)**.
- 46 Parole Regulations 2002 amended**
- Amend the Parole Regulations 2002 as set out in **Schedule 2**.
- Subpart 8—Amendments to Sentencing Act 2002 15
- 47 Principal Act**
- This **subpart** amends the Sentencing Act 2002 (the **principal Act**).
- 48 Section 4 amended (Interpretation)**
- In section 4(1), insert in its appropriate alphabetical order:
- biometric information** has the same meaning as in section 2(1) of the Customs and Excise Act 1996 20
- 49 Section 49 amended (Standard conditions of supervision)**
- After section 49(1)(f), insert:
- (fa) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer: 25
- (fb) the offender must, if a probation officer directs, allow the collection of biometric information:
- 50 Section 54F amended (Standard conditions of intensive supervision)**
- After section 54F(1)(g), insert:
- (ga) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer: 30
- (gb) the offender must, if a probation officer directs, allow the collection of biometric information:

- 51 Section 69E amended (Conditions of community detention during sentence term)**
- After section 69E(1)(d), insert:
- (da) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer: 5
  - (db) the offender must, if a probation officer directs, allow the collection of biometric information:
- 52 Section 80C amended (Detention conditions applying to offender sentenced to home detention)**
- After section 80C(2)(c), insert: 10
- (ca) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:
  - (cb) the offender must, if a probation officer directs, allow the collection of biometric information:
- 53 Section 80O amended (Standard post-detention conditions)** 15
- After section 80O(e), insert:
- (ea) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:
  - (eb) the offender must, if a probation officer directs, allow the collection of biometric information: 20
- 54 New subpart 2C of Part 2 inserted**
- After section 80ZM, insert:
- Subpart 2C—Biometric information
- 80ZMA Purpose of collecting biometric information**
- (1) Biometric information collected under **section 49(1)(fb), 54F(1)(gb), 69E(1)(db), 80C(2)(cb), or 80O(eb)** may only be used for the purpose of helping— 25
    - (a) to identify offenders before they leave New Zealand; and
    - (b) to enforce the conditions specified in **sections 49(1)(fa), 54F(1)(ga), 69E(1)(da), 80C(2)(ca), and 80O(ea)**. 30
  - (2) Biometric information may be used only for the purpose referred to in **subsection (1)**.
- 55 Sentencing Regulations 2002 amended**
- Amend the Sentencing Regulations 2002 as set out in **Schedule 3**.

## Schedule 1

### New Schedule 4A inserted into Privacy Act 1993

s 8

<b>Schedule 4A</b>		
<b>Identity information</b>		
<b>ss 109D, 109F</b>		
<b>Accessing agency</b>	<b>Purpose of access</b>	<b>Holder agency</b>
Department of Corrections	To verify the identity of— (a) a person under control or supervision (as defined in section 3(1) of the Corrections Act 2004); (b) a person who under section 30B of the Bail Act 2000 has been granted bail with an electronic monitoring condition	Department of Internal Affairs MBIE (Immigration) Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) Ministry of Justice New Zealand Police New Zealand Transport Agency
Department of Internal Affairs	To verify the identity of a person who has applied for— (a) the issue of— (i) a New Zealand travel document: (ii) a certificate of New Zealand citizenship: (iii) an electronic identity credential: (b) the registration of a name change	Department of Corrections MBIE (Immigration) Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) New Zealand Police New Zealand Transport Agency
MBIE (Immigration)	To verify the identity of a person— (a) who is seeking to travel to New Zealand: (b) who is arriving in or departing from New Zealand: (c) who is applying for a visa: (d) who an immigration officer has good cause to suspect— (i) has committed an offence against the Immigration Act 2009: (ii) has obtained a visa under a fraudulent identity:	Department of Corrections Department of Internal Affairs Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) Ministry of Justice New Zealand Customs Service New Zealand Police New Zealand Transport Agency

5

<b>Accessing agency</b>	<b>Purpose of access</b>	<b>Holder agency</b>
	(iii) is liable for deportation or turnaround:  (iv) is unlawfully in New Zealand	
Ministry of Health and District Health Boards	To verify the identity of a person who— (a) is being admitted, or returned, to a hospital as a special patient or restricted patient; or (b) is being admitted, or returned, to a secure facility as a special care recipient	Department of Corrections Department of Internal Affairs MBIE (Immigration) New Zealand Police
New Zealand Customs Service	To verify the identity of a person who— (a) is in a Customs controlled area; and (b) is departing, or attempting to depart, from New Zealand	Department of Corrections Department of Internal Affairs MBIE (Immigration) Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) New Zealand Transport Agency
New Zealand Police	To verify the identity of a person— (a) whose identifying particulars have been taken under section 32 or 33 of the Policing Act 2008: (b) whose identifying particulars have been taken under section 11 of the Returning Offenders (Management and Information) Act 2015: (c) who has breached, has attempted to breach, or is preparing to breach a condition of any sentence, or order imposed under any enactment, that the person not leave New Zealand	Department of Corrections Department of Internal Affairs MBIE (Immigration) Ministry of Health and District Health Boards (only in relation to special patients, restricted patients, and special care recipients) New Zealand Customs Service New Zealand Transport Agency

**Note:** A reference in this schedule to MBIE (Immigration) is a reference to the part of the Ministry of Business, Innovation, and Employment that administers the Immigration Act 2009.

## Schedule 2

### Amendments to Parole Regulations 2002 (SR 2002/179)

s 46

**Schedule**

In the Schedule, form 1, under the heading “**Standard release conditions**”, after paragraph (f), insert: 5

(fa) you must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and

(fb) you must, if a probation officer directs, allow the collection of biometric information; and 10

In the Schedule, form 2, under the heading “**Standard release conditions**”, after paragraph (f), insert:

(fa) you must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and

(fb) you must, if a probation officer directs, allow the collection of biometric information; and 15

In the Schedule, form 3, under the heading “**Standard release conditions**”, after paragraph (f), insert:

(fa) you must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and 20

(fb) you must, if a probation officer directs, allow the collection of biometric information; and

In the Schedule, form 4, under the heading “**Standard release conditions**”, after paragraph (f), insert:

(fa) you must not leave or attempt to leave New Zealand without the prior written consent of a probation officer; and 25

(fb) you must, if a probation officer directs, allow the collection of biometric information; and

**Schedule 3**  
**Amendments to Sentencing Regulations 2002 (SR 2002/178)**

s 55

**Schedule**

In the Schedule, form 1, under the heading “**Standard conditions of sentence of supervision**”, after paragraph (f), insert: 5

(fa) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:

(fb) the offender must, if a probation officer directs, allow the collection of biometric information: 10

In the Schedule, form 2, under the heading “**Standard conditions of sentence of intensive supervision**”, after paragraph (g), insert:

(ga) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:

(gb) the offender must, if a probation officer directs, allow the collection of biometric information: 15

In the Schedule, form 4, under the heading “**Standard conditions of sentence of community detention**”, after paragraph (d), insert:

(da) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer: 20

(db) the offender must, if a probation officer directs, allow the collection of biometric information:

In the Schedule, form 6, under the heading “**Standard conditions of sentence of home detention**”, after paragraph (c), insert:

(ca) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer: 25

(cb) the offender must, if a probation officer directs, allow the collection of biometric information:

In the Schedule, form 6, under the heading “**Standard post-detention conditions of sentence of home detention**”, replace “Section 80N” with “Section 80O”. 30

In the Schedule, form 6, under the heading “**Standard post-detention conditions of sentence of home detention**”, after paragraph (e), insert:

(ea) the offender must not leave or attempt to leave New Zealand without the prior written consent of a probation officer:

(eb) the offender must, if a probation officer directs, allow the collection of biometric information: