

WANGANUI COMPUTER CENTRE AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Wanganui Computer Centre Act 1976.

Clause 1 relates to the Short Title.

Clauses 2 and 3 empower the Commissioner of Police to authorise the temporary establishment of remote terminals of the computer system in certain circumstances.

Clause 4 makes it clear that the use of the means of access to the computer system must be restricted to those entitled to place information on the system and to retrieve information from it.

Clause 5 substitutes in the principal Act a new section 14 dealing with the right of a person to apply for a print-out of the information recorded about him on the computer system.

Paragraphs (c) and (d) of subsection (1) of the substituted section are new. They prevent an applicant from obtaining information stored under the subject headings—

- (a) 'Document processing' where that information relates to persons wanted for arrest; or
- (b) 'Document processing' or 'missing persons' where that information, under either heading, relates to persons wanted for interview or required to be located in respect to alleged or suspected criminal offences.

Subsection (5) of the substituted section is new. It enables the rigid requirements relating to the manner in which the information is required to be supplied to the applicant to be relaxed where the Wanganui Computer Centre Privacy Commissioner considers that the circumstances so require and the manner of the supply of the information is agreed on between the applicant and the Commissioner.

Clause 6 inserts a new section 18B in the principal Act. The new section gives the Wanganui Computer Centre Privacy Commissioner and the deputy of the Commissioner a privileged position under the Defamation Act 1954 in respect of any defamation proceedings.

Clause 7 makes an amendment that is parallel to the amendment made by *clause 4*.

Clause 8 makes it clear that the status of information is not affected by the storing or processing of that information on the computer system, or by the retrieval of that information from the computer system. Such information may be used and made available to any other Department or person as if it had not been stored or processed on or retrieved from the computer system.

Clause 9 amends section 28 of the principal Act. This section provides that where certain information is made available about a person by the computer system and that person claims to have suffered loss or damage as a consequence, that person may bring an action against the Crown for the recovery of damages. The amendment widens the provision so that the action for damages may be brought not only where the information is made available by the computer system but also where the information is made available by a person during the course of his operating the computer system.

Hon. Mr Thomson

WANGANUI COMPUTER CENTRE AMENDMENT

ANALYSIS

Title	4. Use of computer system
1. Short Title	5. Information to individuals
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3. Location of remote terminals	7. Security of information
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A BILL INTITULED

An Act to amend the Wanganui Computer Centre Act 1976

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. **Short Title**—This Act may be cited as the Wanganui Computer Centre Amendment Act 1980, and shall be read together with and deemed part of the Wanganui Computer Centre Act 1976* (hereinafter referred to as the principal
10 Act).

2. **Establishment of Wanganui Computer Centre and computer system**—Section 3 (2) of the principal Act is hereby amended by repealing paragraph (b), and substituting the
15 following paragraph:
“(b) The remote terminals.”

*1976, No. 19

Amendments: 1977, No. 83; 1979, No. 118

3. Location of remote terminals—The principal Act is hereby amended by inserting, after section 3, the following section:

“3A. (1) Subject to subsection (2) of this section, the remote terminals of the computer system shall be placed in such localities as the Policy Committee may determine from time to time in consultation with the Wanganui Computer Centre Privacy Commissioner. 5

“(2) Where the Commissioner of Police believes—

“(a) That exceptional circumstances require the temporary establishment of a remote terminal or of remote terminals of the computer system; and 10

“(b) That time does not permit the location of the terminal or terminals to be determined under subsection (1) of this section,— 15

he may, subject to subsection (4) of this section, authorise the temporary establishment of the terminal or terminals in such place or places as may be designated by him.

“(3) Access to the computer system by means of any remote terminal authorised under subsection (2) of this section shall be restricted to— 20

“(a) The State Services Commission in their administration of the computer system; and

“(b) The Police Department.

“(4) Without limiting the matters that the Commissioner of Police may take into account in deciding whether or not to exercise the power conferred on him by subsection (2) of this section, it is hereby declared that he shall have regard to any guidelines which are given to him from time to time by the Policy Committee and which concern— 25 30

“(a) The circumstances in which the power may be exercised; or

“(b) The maximum time during which a terminal or terminals may be temporarily established under subsection (2) of this section; or 35

“(c) The precautions to be taken to ensure that subsection (3) of this section is observed.

“**(5)** Where the Commissioner of Police decides to exercise the power conferred on him by subsection (2) of this section, he shall, as soon as practicable after making the decision, report the decision, and his reasons for the decision,
5 to—

“(a) The Policy Committee; and

“(b) The Wanganui Computer Centre Privacy Commissioner.

“**(6)** The Commissioner of Police may not delegate any of
10 the powers, authorities, duties, and functions conferred on him by this section.

“**(7)** In the case of absence from duty of the Commissioner of Police (whether by reason of illness, absence from New Zealand, or for any other reason whatever) or in the case of
15 a vacancy in the office of Commissioner of Police (whether by reason of death, resignation, or otherwise) and for so long as the absence or vacancy continues, the Deputy Commissioner of Police shall have and may exercise all the powers, authorities, duties, and functions conferred on the Commissioner of Police by this section.
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“**(8)** The fact that the Deputy Commissioner of Police exercises any power, authority, duty, or function conferred on the Commissioner of Police by this section, shall, in the absence of proof to the contrary, be sufficient evidence of
25 the authority of the Deputy Commissioner of Police to do so.”

4. Use of computer system—Section 4 (3) of the principal Act is hereby amended by omitting the words “Access to the computer system”, and substituting the words “The use of
30 the means of access to the computer system”.

5. Information to individuals—The principal Act is hereby amended by repealing section 14, and substituting the following section:

“14. (1) Subject to subsection (6) of this section, every
35 person has the right to apply to the Commissioner, in such reasonable manner as may be determined from time to time by the Commissioner, for a copy of all or part of the information recorded about the applicant on the computer system, other than information stored under the subject headings
40 (as shown in the Schedule to this Act)—

- “(a) ‘Modus operandi’; or
 - “(b) ‘Wanted persons’; or
 - “(c) ‘Document processing’ where that information relates to persons wanted for arrest; or
 - “(d) ‘Document processing’ or ‘missing persons’ where that information, under either heading, relates to persons wanted for interview or required to be located in respect to alleged or suspected criminal offences. 5
- “(2) Subject to subsection (6) of this section, the Commissioner, on being satisfied as to— 10
- “(a) The identity of the applicant; and
 - “(b) The applicant’s entitlement to make the application,—
- shall forthwith acquire a copy of the required information. 15
- “(3) Subject to the directions of the Policy Committee, the Commissioner may decline to release any information that has been requested under subsection (1) of this section if, in the opinion of the Commissioner, the release of the information would be likely to be detrimental to the administration of justice. 20
- “(4) The Commissioner shall forward the information to which the applicant is entitled by registered post to the Postmaster of any permanent post office nominated by the applicant, and the Commissioner shall advise the applicant that this has been done. The applicant shall be responsible for collecting in person, or by an agent acting upon written attested authority to the satisfaction of the Postmaster, the information from the nominated permanent post office, and the applicant or agent shall be required to produce such personal identification as the Director-General of the Post Office and the Commissioner from time to time decide. 25 30
- “(5) Notwithstanding anything in subsection (4) of this section, the information to which the applicant is entitled may, where the Commissioner considers that the circumstances so require, be forwarded by the Commissioner, in such manner as may be agreed upon between the applicant and the Commissioner, to— 35
- “(a) The applicant; or
 - “(b) A person authorised by the applicant. 40

“(6) Unless the Commissioner is satisfied that there are good and sufficient reasons to the contrary, no person shall be entitled to make more than one request under this section during any 12 months’ period.

5 “(7) No fee shall be charged for the provision under this section of any information.”

6. Qualified privilege—The principal Act is hereby amended by inserting, after section 18A (as inserted by section 4 of the Wanganui Computer Centre Amendment
10 Act 1977), the following section:

“18B. For the purposes of clause 5 of the First Schedule to the Defamation Act 1954, any report made under this Act by the Commissioner or the deputy of the Commissioner shall be deemed to be an official report made by a person
15 holding an inquiry under the authority of the legislature of New Zealand.”

7. Security of information—Section 26 (1) of the principal Act is hereby amended by omitting the words “access to the computer system is”, and substituting the words “the means
20 of access to the computer system are”.

8. Processing of information—Section 27 of the principal Act is hereby amended by repealing subsection (5) and the proviso to that subsection, and substituting the following subsections:

25 “(5) Any Department that has, in accordance with this Act, stored or processed any information on the computer system, or retrieved from the computer system any information to which it is entitled, may, subject to the provisions of this Act,—

30 “(a) Use the information in any manner whatsoever; or

“ (b) Make all or any part of the information available to any other Department or person,—

as if the information had not been stored or processed on or retrieved from the computer system.

35 “(5A) Nothing in subsection (5) of this section overrides any other Act or authorises the doing of any act in relation to the use, or the making available, of information, being an act that would otherwise be unlawful.”

9. Damages—Section 28 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Any person who claims to have suffered loss or damage as a consequence of— 5

“(a) Incorrect or unauthorised information about him having been made available to any person by the computer system or by any person during the course of his operating the computer system; or

“(b) Authorised information about him having been made available, by the computer system or by any person during the course of his operating the computer system, to any person not authorised to receive it— 10

may bring an action against the Crown for the recovery of damages.” 15