

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Tuesday, the 18th Day of October 1977

NEW ZEALAND SECURITY INTELLIGENCE SERVICE AMENDMENT BILL

Proposed Amendments

Right Hon. Mr MULDOON, in Committee, to move the following amendments:

Clause 4: To amend the section that is being inserted by adding to paragraph (c) of subsection (1) the word "and"; also by adding to the said subsection (1) the following paragraph:

"(d) The communication is not privileged in proceedings in a Court of law under—

"(i) Section 8 of the Evidence Act 1908; or

"(ii) Any rule of law that confers privilege on communications of a professional nature between a law practitioner and his client.

Clause 4: To amend the section that is being inserted by omitting paragraph (d) of subsection (2); also by inserting in subsection (3), after paragraph (a), the following paragraph:

"(aa) Such other terms and conditions (if any) as the Minister considers advisable in the public interest:

Clause 4: To amend the section that is being inserted by omitting paragraph (a) of subsection (3); also by omitting from line 1 on page 4 the word "other"; also to omit the words in lines 20 and 21 on page 4, and substitute the words "report shall include information (not being information prejudicial to security) on"; also to omit from line 32 on page 4 the words "directed or"; also to insert in line 36 on page 4, after the word "make", the words "or attempting to make".

New clause 4A: To insert, after clause 4, the following new clause:

4A. Destruction of irrelevant records obtained by interception—The principal Act is hereby amended by inserting, after the said section 4A, the following section:

"4B. (1) Every person who intercepts or seizes any communication in accordance with any interception warrant shall, as soon as practicable after he makes any record, whether in writing or otherwise, of the information obtained by that interception or seizure destroy that record except so far as the information recorded therein relates directly or indirectly to the detection of activities prejudicial to security or comprises foreign intelligence information essential to security.

“(2) Every person who knowingly fails to comply with subsection (1) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.”

Clause 6: To omit from line 27 on page 5 the words “directed or”; also to omit from lines 38 and 39 on page 5 the words “subsection (1) or subsection (2)”, and substitute the words “the foregoing provisions”; also to amend the section that is being inserted by inserting, after subsection (2), the following subsection:

“(2A) A person who acquires knowledge of any information knowing that it was gained as a result of any interception or seizure in accordance with an interception warrant shall not knowingly disclose that information otherwise than in the course of his duty.

Clause 7: To omit from line 11 on page 6 the words “or former member”.

EXPLANATORY NOTE

Clause 4: This clause inserts a new section relating to interception warrants. A further paragraph is added to subsection (1) of the section providing that, before the Minister issues an interception warrant, he must be satisfied by evidence on oath that the communication to be intercepted is not privileged in a Court of law under section 8 of the Evidence Act 1908 (which relates to privilege in respect of communications to clergymen and medical men), or under any rule of law that confers privilege on communications of a professional nature between a law practitioner and his client. Paragraph (d) of subsection (2) of the section is transferred to subsection (3) so as to make it permissive; paragraph (a) of subsection (3) (which relates to directions to give assistance) is omitted; and a minor consequential amendment is made to the wording of paragraph (b) of subsection (3).

New clause 4A: This inserts in the principal Act a new section 4B that provides that every person who intercepts or seizes any communication in accordance with any interception warrant shall, as soon as practicable after he makes any record, whether in writing or otherwise, of the information obtained by that interception or seizure destroy that record except so far as the information recorded therein relates directly or indirectly to the detection of activities prejudicial to security or comprises foreign intelligence information essential to security. Failure to comply is an offence.

Clause 6 is consequentially amended by omitting a reference to a direction. The clause also provides that a person who acquires knowledge of any information knowing that it was gained as a result of any interception or seizure in accordance with an interception warrant commits an offence if he knowingly discloses that information otherwise than in the course of his duty.

Clause 7 (which relates to restriction on publication and broadcasting of information regarding staff) is amended by omitting the reference to former members of the service.