



**Periodic Update Report
on
Developments in Data Protection Law
in New Zealand**

(January - June 2025)

**Twenty first report to the European Commission
by the competent supervisory authority
for the application of the Legal Data Protection Standards
in New Zealand**

2 July 2025

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2 July 2025

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Dear Bruno

Update report on developments in New Zealand data protection law

I submit this 21st report to update the European Commission in relation to matters bearing upon the legal standards for the protection of personal data in New Zealand for the six months since the last report dated 13 January 2025.¹ I am pleased to report on relevant developments during this period.

Firstly, minor amendments have been made to the Privacy Act as a consequence of the Inspector-General of Defence Act 2023 and the Customer and Product Data Act 2025. Secondly, the Customer and Product Data Act has been enacted that establishes a customer data right in New Zealand.

Thirdly, this report highlights a privacy decision of the New Zealand Supreme Court. Fourthly, New Zealand's Government Chief Digital Officer has released an AI Framework for the public sector and has issued a mandatory standard for government agencies when disclosing personal information to non-government organisations.

Otherwise, nothing has changed in the last 6 months. In essence, this report confirms that the level of data protection in New Zealand has not been diminished during the review period.

I trust that this update report is reassuring for the purposes of the Commission's ongoing monitoring of the level of data protection under New Zealand law.

Yours sincerely



Michael Webster
Privacy Commissioner
New Zealand

¹ Earlier reports are available from the Privacy Commissioner's website – see "[New Zealand-EU data protection adequacy reporting](https://www.privacy.org.nz)" Office of the Privacy Commissioner <www.privacy.org.nz>.

Background

- 1 On 19 December 2012, the European Commission formally decided that for the purposes of Article 25(6) of Directive 95/46/EC, New Zealand is considered as ensuring an adequate level of protection for personal data transferred from the European Union.² This decision was later amended by a European Commission decision of 16 December 2016 reflecting aspects of the ECJ decision in the first *Schrems* judgment.³
- 2 Regulation (EU) 2016/679 of 27 April 2016, or the General Data Protection Regulation (**GDPR**), came into effect on 25 May 2018 and repealed the 1995 Directive. However, Article 45(9) of the GDPR provides that the decisions adopted by the Commission on the basis of Article 25(6) of Directive 95/46/EC continues in force until amended, replaced or repealed by a Commission decision adopted in accordance with GDPR Article 45(3) or (5). Accordingly, the Commission's adequacy decision covering New Zealand continued under the new GDPR regime.
- 3 On [15 January 2024](#), following the first review of this adequacy decision, the Commission determined that New Zealand continues to ensure an adequate level of protection for personal data transferred from the European Union.
- 4 The European Commission has a responsibility to monitor the functioning of the decision. To assist the European Commission to undertake this monitoring, the New Zealand Privacy Commissioner as "the competent supervisory authority for the application of the legal data protection standards in New Zealand" under the European Commission's decision, has undertaken periodically to submit update reports on developments in New Zealand data protection law.⁴
- 5 On 22 December 2015, the Privacy Commissioner submitted the [first report](#) that surveyed developments since the commencement of the Commission's decision in 2013. The Privacy Commissioner submitted subsequent reports dated [2 March 2016](#) (supplement), [30 June 2016](#) and [9 December 2016](#), [26 June 2017](#) and [22 December 2017](#), [9 July 2018](#) and [21 December 2018](#), and [5 July 2019](#) and [19 December 2019](#), [8 July 2020](#), [29 January 2021](#), [9 July 2021](#), [31 January 2022](#), [4 July 2022](#), [January 2023](#), [3 July 2023](#), [2 February 2024](#), [15 July 2024](#) and [13 January 2025](#).
- 6 The Office of the Privacy Commissioner does not, and does not purport to, speak for the New Zealand Government in this report.

² [2013/65/EU](#): Commission Implementing Decision of 19 December 2012 pursuant to Directive 95/46/EC of the European Parliament and of the Council on the adequate protection of personal data by New Zealand (notified under document C(2012) 9557).

³ See [C/2016/8353 Commission Implementing Decision \(EU\) 2016/2295 of 16 December 2016 amending Decisions 2000/518/EC, 2002/2/EC, 2003/490/EC, 2003/821/EC, 2004/411/EC, 2008/393/EC, 2010/146/EU, 2010/625/EU, 2011/61/EU and Implementing Decisions 2012/484/EU, 2013/65](#).

⁴ 2013/65/EU, above n 2.

Statutory amendments to New Zealand privacy law

- 7 The legal standards for the protection of personal data in New Zealand are primarily set out in the Privacy Act 2020 that came into force on 1 December 2020. The Act covers the entire public and private sectors, with a few specific public interest exemptions that one might expect in a democratic society.
- 8 During the period of this report, three sections of the Privacy Act were amended as a consequence of the Inspector-General of Defence Act 2023 and the Customer and Product Data Act 2025 (**CPDA**).

Inspector-General of Defence Act 2023

- 9 This Act amended the Privacy Act (section 29) to exclude information about the Inspector-General, the Deputy Inspector-General or employees of the Inspector-General in connection with the performance or exercise of the Inspector-General of Defence's functions, duties, or powers from the scope of information privacy principles 6 and 7 (access and correction).
- 10 The Inspector-General is also added a specified person for purposes of consultation (section 208).

Customer and Product Data Act 2025

- 11 The CPDA amended the Privacy Act (section 75) to allow the Privacy Commissioner to refer a complaint to the chief executive of the Ministry of Business, Innovation, and Employment (**MBIE**), if that matter is more properly within MBIE's jurisdiction.
- 12 The Chief Executive of MBIE is also added as a specified person for purposes of consultation (section 208).

Codes of Practice

- 13 In the twelfth report to the European Commission, the Privacy Commissioner confirmed that the six codes of practice issued under the Privacy Act 1993 were repealed and replaced under the Act to reflect changes in the new Privacy Act 2020 with effect from 1 December 2020.⁵ Information about the revised Codes of Practice is available on our website [here](#).
- 14 No amendments have been made to the Codes of Practice during the Review Period.

⁵ Periodic Update Report on Developments in Data Protection Law in New Zealand (July – December 2020): Twelfth Report to the European Commission by the competent supervisory authority for the application of the Legal Data Protection Standards in New Zealand (Privacy Commissioner of New Zealand, 29 January 2021) at 7.

Part 7(1): Approved information sharing agreements

- 15 The first and second reports in this series of periodic updates explained the operation of that part of the Privacy Act (now Part 7, subpart 1) that provides for 'approved information sharing agreements' (known as **AISAs**) that can be approved by Order in Council from time to time.
- 16 Part 7, subpart 1 of the Act sets out relevant process safeguards to ensure that an AISA does not unreasonably impinge on the privacy of individuals and contains adequate safeguards to protect their privacy. For example, the Act requires agencies to undertake a privacy impact assessment when developing an AISA. The approval process has a number of system checks including consultation with the Privacy Commissioner and relevant groups and stakeholders, ministerial recommendation after taking into account consultation submissions and a set of statutory considerations, authorisation by the Executive, and ongoing reporting and Privacy Commissioner review. You can review the summary details of each AISA in [Schedule 2 to the Act](#).
- 17 No further AISAs have commenced in this period.

Other statutory developments

- 18 The CPDA came into force on 30 March 2025. This Act establishes a customer data right in New Zealand to enable greater access to and sharing of customer and product data between businesses. The intent of a customer data right is to give customers better control and access over their data, to promote innovation and facilitate competition and to facilitate secure, standardised and efficient data sharing services.
- 19 While no sectors have yet been designated under the CPDA, regulations and standards are being developed by the MBIE to implement open banking under the CPDA, with the electricity sector expected to follow.
- 20 In terms of the relationship with the Privacy Act, the CPDA makes clear that a data holder's obligation under the Privacy Act to respond to access requests (information privacy principle 6) is not affected by a customer data request.
- 21 The CPDA also specifies that certain breaches of obligations to respond to customer data requests and breaches of data storage and security requirements will be considered breaches of the Privacy Act, and complaints may be investigated by the Privacy Commissioner using his functions and powers under the Privacy Act.

Significant court cases

- 22 In the New Zealand legislative scheme for privacy and data protection, individuals do not need to use the courts to enforce their rights. Instead, individuals generally bring complaints to the Privacy Commissioner for resolution at no cost to that individual.

- 23 Nonetheless, some parties may still choose to bring relevant privacy cases to the courts. For instance, cases that are not resolved through the Commissioner's processes can be taken to the Human Rights Review Tribunal which is part of New Zealand's system of specialist statutory tribunals. Cases can be appealed from the Tribunal through the court system. Parties may also use the vehicle of judicial review to challenge a public sector agency's decision with respect to personal information.
- 24 In this report there is an update on a proceeding of interest from my 17th report dated July 2023 concerning the Court of Appeal decision, *Tamiefuna v R*, in which the Court found the Police officer had illegally photographed a man during a random vehicle stop.⁶ These photographs were subsequently used to convict Mr Tamiefuna of criminal offending. This matter was appealed to the Supreme Court, New Zealand's highest court.⁷
- 25 A majority of the Supreme Court has now upheld the Court of Appeal's decision that taking and retaining Mr Tamiefuna's photographs for intelligence gathering purposes was an unreasonable search by the Police, in breach of his rights under section 21 of the New Zealand Bill of Rights Act 1990. The majority also upheld the earlier decision that three of the information privacy principles in the Privacy Act had been breached.
- 26 The decision affirms the constitutional protection from unreasonable searches under the New Zealand Bill of Rights Act, and the relevance of the information privacy principles in stating the expectations of the reasonable person.
- 27 In coming to a decision, the Court stated:
- "there were features of the relevant events that mean the fact [Mr Tamiefuna]'s photograph was taken whilst he was on a public road is not a conclusive factor against the asserted reasonableness of his expectations of privacy. It remains important to preserve a sufficient zone of privacy for individuals. That in turn is a part of preserving the fundamentals of a liberal democracy."
- 28 The Privacy Commissioner was an intervener in this proceeding and made submissions about relevant privacy law.

Other developments

- 29 There have been two developments from New Zealand's Government Chief Digital Officer (GCDO) relating to the public sector.
- 30 Firstly, the GCDO has issued a non-binding Public Service AI Framework to support the safe and trusted uptake of artificial intelligence technology across the public sector and

⁶ [\[2023\] NZCA 163](#).

⁷ [Tamiefuna v R \[2025\] NZSC 40](#).

supporting guidance. Information about the Framework is available [here](#) and about the guidance is available [here](#).

- 31 Secondly, under section 57(1) of the Public Service Act 2020, New Zealand's Government Chief Digital Officer issued a new standard relating to the public sector's accountability for personal information. This standard applies when personal information needs to be accessed by or collected through non-government third parties to deliver or support the delivery of public services.
- 32 Public agencies are required to meet this standard from 1 July 2025. More information is available [here](#).
- 33 The development of the standard follows an independent inquiry commissioned by the Public Service Commission into concerns relating to the protection of census data and Covid-19 vaccination data. More information is available [here](#).

Further information and reports

- 34 If you have any further questions or would like further information please contact Joanna Hayward, General Counsel, Office of the Privacy Commissioner at joanna.hayward@privacy.org.nz.
- 30 In due course, we will publish this report on the website of the Office of the Privacy Commissioner at www.privacy.org.nz.
- 31 It is anticipated that the next periodic report for the period July to December 2025 will be provided in January 2026.