



## New Zealand Legislation

# Privacy Act 2020

Warning: [Some amendments have not yet been incorporated](#)

- Corrections have been made to sections 30(6)(a)(ii) and (b)(ii) and 181(3) on 8 July 2020 under section 25(1)(j)(ii) and (iii) of the Legislation Act 2012.

### Part 3

## Information privacy principles and codes of practice

### Subpart 1—Information privacy principles

#### 22 Information privacy principles

The information privacy principles are as follows:

##### Information privacy principle 1

###### *Purpose of collection of personal information*

- (1) Personal information must not be collected by an agency unless—
  - (a) the information is collected for a lawful purpose connected with a function or an activity of the agency; and
  - (b) the collection of the information is necessary for that purpose.
- (2) If the lawful purpose for which personal information about an individual is collected does not require the collection of an individual's identifying information, the agency may not require the individual's identifying information.

##### Information privacy principle 2

###### *Source of personal information*

- (1) If an agency collects personal information, the information must be collected from the individual concerned.
- (2) It is not necessary for an agency to comply with subclause (1) if the agency believes, on reasonable grounds,—
  - (a) that non-compliance would not prejudice the interests of the individual concerned; or
  - (b) that compliance would prejudice the purposes of the collection; or
  - (c) that the individual concerned authorises collection of the information from someone else; or
  - (d) that the information is publicly available information; or
  - (e) that non-compliance is necessary—
    - (i) to avoid prejudice to the maintenance of the law by any public sector agency, including prejudice to the prevention, detection, investigation, prosecution, and punishment of offences; or
    - (ii) for the enforcement of a law that imposes a pecuniary penalty; or

- (iii) for the protection of public revenue; or
- (iv) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation); or
- (v) to prevent or lessen a serious threat to the life or health of the individual concerned or any other individual; or
- (f) that compliance is not reasonably practicable in the circumstances of the particular case; or
- (g) that the information—
  - (i) will not be used in a form in which the individual concerned is identified; or
  - (ii) will be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned.

### Information privacy principle 3

#### *Collection of information from subject*

- (1) If an agency collects personal information from the individual concerned, the agency must take any steps that are, in the circumstances, reasonable to ensure that the individual concerned is aware of—
  - (a) the fact that the information is being collected; and
  - (b) the purpose for which the information is being collected; and
  - (c) the intended recipients of the information; and
  - (d) the name and address of—
    - (i) the agency that is collecting the information; and
    - (ii) the agency that will hold the information; and
  - (e) if the collection of the information is authorised or required by or under law,—
    - (i) the particular law by or under which the collection of the information is authorised or required; and
    - (ii) whether the supply of the information by that individual is voluntary or mandatory; and
  - (f) the consequences (if any) for that individual if all or any part of the requested information is not provided; and
  - (g) the rights of access to, and correction of, information provided by the IPPs.
- (2) The steps referred to in subclause (1) must be taken before the information is collected or, if that is not practicable, as soon as practicable after the information is collected.
- (3) An agency is not required to take the steps referred to in subclause (1) in relation to the collection of information from an individual if the agency has taken those steps on a recent previous occasion in relation to the collection, from that individual, of the same information or information of the same kind.
- (4) It is not necessary for an agency to comply with subclause (1) if the agency believes, on reasonable grounds,—
  - (a) that non-compliance would not prejudice the interests of the individual concerned; or
  - (b) that non-compliance is necessary—
    - (i) to avoid prejudice to the maintenance of the law by any public sector agency, including prejudice to the prevention, detection, investigation, prosecution, and punishment of offences; or
    - (ii) for the enforcement of a law that imposes a pecuniary penalty; or
    - (iii) for the protection of public revenue; or
    - (iv) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation); or
  - (c)

- that compliance would prejudice the purposes of the collection; or
- (d) that compliance is not reasonably practicable in the circumstances of the particular case; or
- (e) that the information—
  - (i) will not be used in a form in which the individual concerned is identified; or
  - (ii) will be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned.

#### Information privacy principle 4

##### *Manner of collection of personal information*

An agency may collect personal information only—

- (a) by a lawful means; and
- (b) by a means that, in the circumstances of the case (particularly in circumstances where personal information is being collected from children or young persons),—
  - (i) is fair; and
  - (ii) does not intrude to an unreasonable extent upon the personal affairs of the individual concerned.

#### Information privacy principle 5

##### *Storage and security of personal information*

An agency that holds personal information must ensure—

- (a) that the information is protected, by such security safeguards as are reasonable in the circumstances to take, against—
  - (i) loss; and
  - (ii) access, use, modification, or disclosure that is not authorised by the agency; and
  - (iii) other misuse; and
- (b) that, if it is necessary for the information to be given to a person in connection with the provision of a service to the agency, everything reasonably within the power of the agency is done to prevent unauthorised use or unauthorised disclosure of the information.

#### Information privacy principle 6

##### *Access to personal information*

- (1) An individual is entitled to receive from an agency upon request—
  - (a) confirmation of whether the agency holds any personal information about them; and
  - (b) access to their personal information.
- (2) If an individual concerned is given access to personal information, the individual must be advised that, under IPP 7, the individual may request the correction of that information.
- (3) This IPP is subject to the provisions of [Part 4](#).

#### Information privacy principle 7

##### *Correction of personal information*

- (1) An individual whose personal information is held by an agency is entitled to request the agency to correct the information.
- (2) An agency that holds personal information must, on request or on its own initiative, take such steps (if any) that are reasonable in the circumstances to ensure that, having regard to the purposes for which the information may lawfully be used, the information is accurate, up to date, complete, and not misleading.
- (3) When requesting the correction of personal information, or at any later time, an individual is entitled to—
  - (a) |

- (b) provide the agency with a statement of the correction sought to the information (a **statement of correction**); and
- (b) request the agency to attach the statement of correction to the information if the agency does not make the correction sought.
- (4) If an agency that holds personal information is not willing to correct the information as requested and has been provided with a statement of correction, the agency must take such steps (if any) that are reasonable in the circumstances to ensure that the statement of correction is attached to the information in a manner that ensures that it will always be read with the information.
- (5) If an agency corrects personal information or attaches a statement of correction to personal information, that agency must, so far as is reasonably practicable, inform every other person to whom the agency has disclosed the information.
- (6) Subclauses (1) to (4) are subject to the provisions of [Part 4](#).

#### Information privacy principle 8

##### *Accuracy, etc, of personal information to be checked before use or disclosure*

An agency that holds personal information must not use or disclose that information without taking any steps that are, in the circumstances, reasonable to ensure that the information is accurate, up to date, complete, relevant, and not misleading.

#### Information privacy principle 9

##### *Agency not to keep personal information for longer than necessary*

An agency that holds personal information must not keep that information for longer than is required for the purposes for which the information may lawfully be used.

#### Information privacy principle 10

##### *Limits on use of personal information*

- (1) An agency that holds personal information that was obtained in connection with one purpose may not use the information for any other purpose unless the agency believes, on reasonable grounds,—
  - (a) that the purpose for which the information is to be used is directly related to the purpose in connection with which the information was obtained; or
  - (b) that the information—
    - (i) is to be used in a form in which the individual concerned is not identified; or
    - (ii) is to be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned; or
  - (c) that the use of the information for that other purpose is authorised by the individual concerned; or
  - (d) that the source of the information is a publicly available publication and that, in the circumstances of the case, it would not be unfair or unreasonable to use the information; or
  - (e) that the use of the information for that other purpose is necessary—
    - (i) to avoid prejudice to the maintenance of the law by any public sector agency, including prejudice to the prevention, detection, investigation, prosecution, and punishment of offences; or
    - (ii) for the enforcement of a law that imposes a pecuniary penalty; or
    - (iii) for the protection of public revenue; or
    - (iv) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation); or
  - (f) that the use of the information for that other purpose is necessary to prevent or lessen a serious threat to—
    - (i) public health or public safety; or

- (ii) the life or health of the individual concerned or another individual.
- (2) In addition to the uses authorised by subclause (1), an intelligence and security agency that holds personal information that was obtained in connection with one purpose may use the information for any other purpose (a **secondary purpose**) if the agency believes on reasonable grounds that the use of the information for the secondary purpose is necessary to enable the agency to perform any of its functions.

Information privacy principle 11

*Limits on disclosure of personal information*

- (1) An agency that holds personal information must not disclose the information to any other agency or to any person unless the agency believes, on reasonable grounds,—
  - (a) that the disclosure of the information is one of the purposes in connection with which the information was obtained or is directly related to the purposes in connection with which the information was obtained; or
  - (b) that the disclosure is to the individual concerned; or
  - (c) that the disclosure is authorised by the individual concerned; or
  - (d) that the source of the information is a publicly available publication and that, in the circumstances of the case, it would not be unfair or unreasonable to disclose the information; or
  - (e) that the disclosure of the information is necessary—
    - (i) to avoid prejudice to the maintenance of the law by any public sector agency, including prejudice to the prevention, detection, investigation, prosecution, and punishment of offences; or
    - (ii) for the enforcement of a law that imposes a pecuniary penalty; or
    - (iii) for the protection of public revenue; or
    - (iv) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation); or
  - (f) that the disclosure of the information is necessary to prevent or lessen a serious threat to—
    - (i) public health or public safety; or
    - (ii) the life or health of the individual concerned or another individual; or
  - (g) that the disclosure of the information is necessary to enable an intelligence and security agency to perform any of its functions; or
  - (h) that the information—
    - (i) is to be used in a form in which the individual concerned is not identified; or
    - (ii) is to be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned; or
  - (i) that the disclosure of the information is necessary to facilitate the sale or other disposition of a business as a going concern.
- (2) This IPP is subject to IPP 12.

Information privacy principle 12

*Disclosure of personal information outside New Zealand*

- (1) An agency (A) may disclose personal information to a foreign person or entity (B) in reliance on IPP 11(1)(a), (c), (e), (f), (h), or (i) only if—
  - (a) the individual concerned authorises the disclosure to B after being expressly informed by A that B may not be required to protect the information in a way that, overall, provides comparable safeguards to those in this Act; or
  - (b) B is carrying on business in New Zealand and, in relation to the information, A believes on reasonable grounds that B is subject to this Act; or
  - (c)

- (d) A believes on reasonable grounds that B is subject to privacy laws that, overall, provide comparable safeguards to those in this Act; or
  - (e) A believes on reasonable grounds that B is a participant in a prescribed binding scheme; or
  - (f) A believes on reasonable grounds that B is subject to privacy laws of a prescribed country; or
  - (g) A otherwise believes on reasonable grounds that B is required to protect the information in a way that, overall, provides comparable safeguards to those in this Act (for example, pursuant to an agreement entered into between A and B).
- (2) However, subclause (1) does not apply if the personal information is to be disclosed to B in reliance on IPP 11(1)(e) or (f) and it is not reasonably practicable in the circumstances for A to comply with the requirements of subclause (1).
- (3) In this IPP,—
- prescribed binding scheme** means a binding scheme specified in regulations made under [section 213](#)
- prescribed country** means a country specified in regulations made under [section 214](#).

### Information privacy principle 13

#### *Unique identifiers*

- (1) An agency (A) may assign a unique identifier to an individual for use in its operations only if that identifier is necessary to enable A to carry out 1 or more of its functions efficiently.
- (2) A may not assign to an individual a unique identifier that, to A's knowledge, is the same unique identifier as has been assigned to that individual by another agency (B), unless—
  - (a) A and B are associated persons within the meaning of [subpart YB](#) of the Income Tax Act 2007; or
  - (b) the unique identifier is to be used by A for statistical or research purposes and no other purpose.
- (3) To avoid doubt, A does not assign a unique identifier to an individual under subclause (1) by simply recording a unique identifier assigned to the individual by B for the sole purpose of communicating with B about the individual.
- (4) A must take any steps that are, in the circumstances, reasonable to ensure that—
  - (a) a unique identifier is assigned only to an individual whose identity is clearly established; and
  - (b) the risk of misuse of a unique identifier by any person is minimised (for example, by showing truncated account numbers on receipts or in correspondence).
- (5) An agency may not require an individual to disclose any unique identifier assigned to that individual unless the disclosure is for one of the purposes in connection with which that unique identifier was assigned or is for a purpose that is directly related to one of those purposes.

Compare: 1993 No 28 s 6