

Reprint
as at 1 October 2020



Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Order 2014

(LI 2014/184)

Privacy (Information Sharing Agreement between Inland Revenue and New Zealand Police) Order 2014: revoked, on 1 October 2020, by clause 21 of the Privacy (Information Sharing Agreement Between Inland Revenue, New Zealand Police, New Zealand Customs Service, and Serious Fraud Office) Order 2020 (LI 2020/196).

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 26th day of May 2014

Present:

His Excellency the Governor-General in Council

Pursuant to sections 96J and 96L of the Privacy Act 1993, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister of Revenue made in accordance with section 96N of that Act, makes the following order.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This order is administered by the Inland Revenue Department.

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Order

1 Title

This order is the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Order 2014.

2 Commencement

This order comes into force on 26 June 2014.

3 Interpretation

(1) In this order, unless the context otherwise requires,—

Act means the Privacy Act 1993

agreement means the information sharing agreement approved under clause 4

assets—

- (a) means any real or personal property or interest in real or personal property that is or was held by an individual, organisation, or entity; and
- (b) includes any cash, within the meaning of section 2(1) of the Financial Transactions Reporting Act 1996, in bank accounts, accounts in financial institutions, shareholdings, and beneficial interests in trust

associates means individuals with whom an identifiable individual is or was connected in an act, enterprise, or business

domestic relationship means a current or previous relationship between an identifiable individual and another person who is or was—

- (a) the individual's spouse or partner; or
- (b) a family member of the individual; or
- (c) another individual who ordinarily shares or shared a household with the individual

domestic relationship information means information about a current or previous domestic relationship and includes—

- (a) the current and previous names, aliases, and contact details of individuals with whom an identifiable individual has or had a domestic relationship and the dates of birth of those individuals; and
- (b) information about the assets and liabilities of those individuals; and
- (c) employment information, social assistance information, financial transaction information, and tax information about those individuals

employment information includes—

- (a) information about an identifiable individual's current or previous engagement in a contract of service or a contract for service; and
- (b) information about the parties to that contract and the terms of the contract; and
- (c) any other personal information that is relevant to the engagement

financial relationship means—

- (a) an identifiable individual's current or previous business or financial relationship with, interest in, or other linkage to 1 or more individuals, organisations, or entities;
- (b) the connection between an identifiable individual and—
 - (i) a company of which that individual is or was either a director or a shareholder, or both;
 - (ii) a trust of which that individual is or was any 1 or more of the following:
 - (A) a beneficiary:

- (B) a trustee:
- (C) a settlor:
- (iii) a partnership in which that individual is or was a partner:
- (iv) a bank account number nominated for the individual's tax purposes

financial relationship information means information about a current or previous financial relationship and includes—

- (a) the current and previous names, aliases, and contact details of individuals with whom an identifiable individual has or had a financial relationship, and the dates of birth of those individuals; and
- (b) information about the assets and liabilities of those individuals; and
- (c) employment information, financial transaction information, and tax information about those individuals; and
- (d) information about the assets of, and financial transaction information regarding, organisations and entities with which an identifiable individual has or had a financial relationship, but only to the extent that that information is also personal information

financial transaction information means information about a movement of assets and liabilities or an agreement to move assets and liabilities

Inland Revenue means the Inland Revenue Department

liabilities means current and previous liabilities

person record means a record of an individual's current and previous names, aliases, trade names, and contact details and the date of birth of that individual

personal information has the meaning in section 2(1) of the Act

serious crime means an offence that is punishable by a term of imprisonment of 4 years or more

social assistance means child support, student loan, or Working for Families

social assistance information means information about an individual's current and previous social assistance status, entitlement, debt, liability, payments, and balance

tax information includes information about the current and previous tax affairs, tax class, income, tax paid, tax refunds, tax adjustments, liabilities, and expenditure of an individual taxpayer.

- (2) Any term that is used but not defined in this order has the same meaning as in Part 9A of the Act.

Clause 3 **assets**: replaced, on 1 May 2015, by clause 4(1) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 3 **associates**: amended, on 1 May 2015, by clause 4(2) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 3 **domestic relationship**: amended, on 1 May 2015, by clause 4(3)(a) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 3 **domestic relationship** paragraph (c): amended, on 1 May 2015, by clause 4(3)(b) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 3 **domestic relationship information**: replaced, on 1 May 2015, by clause 4(4) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 3 **employment information**: amended, on 1 May 2015, by clause 4(5)(a) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 3 **employment information** paragraph (a): amended, on 1 May 2015, by clause 4(5)(b) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 3 **employment information** paragraph (c): amended, on 1 May 2015, by clause 4(5)(c) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 3 **financial relationship**: replaced, on 1 May 2015, by clause 4(6) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 3 **financial relationship information**: replaced, on 1 May 2015, by clause 4(7) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 3 **financial transaction information**: amended, on 1 May 2015, by clause 4(8) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 3 **liabilities**: inserted, on 1 May 2015, by clause 4(9) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 3 **person record**: replaced, on 1 May 2015, by clause 4(10) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 3 **social assistance information**: amended, on 1 May 2015, by clause 4(11) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 3 **tax information**: replaced, on 1 May 2015, by clause 4(12) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

4 Information sharing agreement as amended on 16 March 2015 approved

The information sharing agreement made between Inland Revenue and the New Zealand Police on 2 July 2014, entitled ‘Information Sharing Agreement Between Inland Revenue and New Zealand Police relating to disclosure of personal information to New Zealand Police for the purpose of prevention, detection, investigation or providing evidence of serious crime pursuant to Part 9A of the Privacy Act 1993 and section 81A of the Tax Administration Act 1994, July 2014, as amended 16 March 2015’, is approved.

Clause 4: replaced, on 1 May 2015, by clause 5 of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

5 Parties to agreement and designation of lead agency

- (1) The parties to the agreement are Inland Revenue and the New Zealand Police.
- (2) The lead agency is Inland Revenue.

*Nature of exemptions***6 Exemption from information privacy principle 2 (source of personal information)**

Inland Revenue and the New Zealand Police are exempted from information privacy principle 2 in relation to personal information collected by Inland Revenue and the New Zealand Police under the agreement.

7 Exemption from information privacy principle 11 (limits on disclosure of personal information)

- (1) Inland Revenue and the New Zealand Police are exempted from information privacy principle 11 in relation to personal information that is disclosed under the agreement.
- (2) The exemption is subject to the condition that Inland Revenue and the New Zealand Police comply with clause 9(2).

Clause 7(2): amended, on 1 May 2015, by clause 6 of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

*Public services that agreement facilitates***8 Public services that agreement intended to facilitate**

The agreement is intended to facilitate the provision of the following public services:

- (a) the maintenance of public safety;
- (b) law enforcement and crime prevention, in particular,—
 - (i) the prevention, detection, and investigation of serious crime; and
 - (ii) the provision of evidence of serious crime.

*Description of personal information shared under agreement***9 Personal information that may be shared under agreement**

- (1) This clause describes, for each party to the agreement, the personal information and types of personal information that the party may share with the other party under the agreement.
- (2) The information described may be shared only if the test for sharing set out in the agreement is met (*see* subclause (6)).

Information Inland Revenue may share at the request of New Zealand Police

- (3) Inland Revenue may share the following, at the request of the New Zealand Police:
- (a) tax information:
 - (b) financial transaction information:
 - (c) financial relationship information:
 - (d) domestic relationship information:
 - (e) information about assets:
 - (f) employment information:
 - (g) person records:
 - (h) social assistance information:
 - (i) personal information about an identifiable individual's associates.

Information Inland Revenue may share on its own initiative

- (4) Inland Revenue may share the following on its own initiative:
- (a) personal information described in subclause (3); and
 - (b) any other personal information that Inland Revenue discovers, however it does so, in the course of performing its usual functions and duties.

Information Police may share with Inland Revenue

- (5) The New Zealand Police may share personal information (for example, identity details) that may, in any particular case, be required to enable Inland Revenue to do either or both of the following:
- (a) process the request of the New Zealand Police:
 - (b) assess whether the test for sharing is met.

Test for sharing

- (6) The test for sharing set out in the agreement is—
- (a) that the New Zealand Police (if requesting) or Inland Revenue (if proactively sharing) has reasonable grounds to suspect that a serious crime has been, is being, or will be committed; and
 - (b) that the New Zealand Police (if requesting) or Inland Revenue (if proactively sharing) has reasonable grounds to suspect that the personal information is—
 - (i) relevant to preventing, detecting, or investigating the crime; or
 - (ii) evidence of the crime; and
 - (c) Inland Revenue—
 - (i) has determined that the information is readily available within Inland Revenue; and

- (ii) is satisfied that it is reasonable, practicable, and in the public interest to provide the information to the New Zealand Police.

Clause 9: replaced, on 1 May 2015, by clause 7 of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

How personal information shared under agreement may be used

10 How personal information may be used

- (1) The New Zealand Police may use the personal information referred to in clause 9(3) and (4)—
- (a) for the purpose of the prevention, detection, or investigation of a serious crime, or as evidence of a serious crime; or
 - (b) for the purpose of producing police data on crime trends, but only after the personal information has been anonymised.
- (2) Inland Revenue may use the personal information referred to in clause 9(5) for the following purposes:
- (a) processing the request of the New Zealand Police:
 - (b) assessing whether the test for sharing is met.

Clause 10(1): amended, on 1 May 2015, by clause 8(1) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 10(2): inserted, on 1 May 2015, by clause 8(2) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Adverse action

11 Adverse action

- (1) This clause states the adverse action that each party to the agreement can be reasonably expected to take as a result of sharing personal information under the agreement.
- (2) The New Zealand Police can be expected to take law enforcement action in relation to the commission or suspected commission of a serious crime, and such action may, without limitation, include the investigation, arrest, or prosecution of an identifiable individual.
- (3) Inland Revenue can be expected to take no action, other than to the extent that using personal information that it receives from the New Zealand Police to locate personal information that it holds, or sharing personal information with the New Zealand Police, may be considered an adverse action.

Clause 11(1): amended, on 1 May 2015, by clause 9(1)(a) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 11(1): amended, on 1 May 2015, by clause 9(1)(b) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Clause 11(3): inserted, on 1 May 2015, by clause 9(2) of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

12 Procedure before adverse action taken

- (1) Before taking any adverse action against an individual as a result of sharing personal information under the agreement, the New Zealand Police must comply with all applicable New Zealand Police policies and guidelines and the Solicitor General's Prosecution Guidelines (as applicable).
- (2) To avoid doubt, section 96Q of the Act does not apply because the agreement provides that—
 - (a) the New Zealand Police will dispense with the giving of notice under that section; and
 - (b) to the extent that Inland Revenue's actions may be considered adverse actions, Inland Revenue will dispense with the giving of notice under that section.

Clause 12(2): replaced, on 1 May 2015, by clause 10 of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

Miscellaneous

13 How to access agreement

- (1) A copy of the agreement is available online at <http://www.ird.govt.nz>
- (2) A copy of the agreement is also available at Inland Revenue, Asteron Centre, Level 5, 55 Featherston Street, Wellington.

Clause 13(2): replaced, on 1 May 2015, by clause 11 of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62).

14 Schedule 2A of Privacy Act 1993 amended

- (1) This clause amends the Privacy Act 1993.
- (2) In Schedule 2A, after the item relating to the supply of adult passport information, insert the item set out in the Schedule of this order.

Schedule
Amendment to Schedule 2A of Privacy Act 1993

cl 14

Inland Revenue– New Zealand Police Serious Crimes Information Sharing Agreement	The maintenance of public safety. Law enforce- ment and crime prevention, in particular, the prevention, detection, and investigation of serious crime and the provision of evidence of serious crime.	http://www. ird.govt.nz	Inland Revenue	(a) (b) (c) (d) (e) (f) (g) (h) (i)	tax information: financial transaction information: financial relationship information: domestic relationship information: information about assets: employment information: person records: social assistance information: personal information about an identifiable individual’s associates.
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Michael Webster,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 29 May 2014.

Reprints notes

1 *General*

This is a reprint of the Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Order 2014 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Privacy (Information Sharing Agreement Between Inland Revenue, New Zealand Police, New Zealand Customs Service, and Serious Fraud Office) Order 2020 (LI 2020/196): clause 21

Privacy (Information Sharing Agreement Between Inland Revenue and New Zealand Police) Amendment Order 2015 (LI 2015/62)