



LAW COMMISSION TE AKA MATUA O TE TURE

MEDIA RELEASE

Law Commission begins joint review of the Search and Surveillance Act 2012

28 June 2016

The Minister of Justice has requested that the Law Commission and the Ministry of Justice review the operation of the Search and Surveillance Act 2012 and whether any amendment should be made to it.

That Act controls how police and some other government agencies search people or property or use surveillance devices for the purpose of investigating crime.

Law Commissioner, Associate Professor Donna Buckingham said:

“The Search and Surveillance Act 2012 created greater consistency and transparency in the way in which such search, seizure and surveillance powers were carried out, not only by police but also by other enforcement agencies. Now, four years later, it is time to review the Act’s operation and whether it remains fit for purpose.

“For example, the Act was drafted before cloud-based storage of data was commonplace. In the light of these and other developments, the Commission will be examining whether the investigative powers in the Act are sufficient for law enforcement purposes. We will also consider whether the safeguards that surround those processes are adequate.”

The Commission and Ministry of Justice will be calling for public submissions later this year and will report to the Minister of Justice by the end of June 2017.

Updates on the project can be found at the Commission’s website at <http://www.lawcom.govt.nz/our-projects/search-surveillance-act-2012>.

ENDS

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Attached: Terms of Reference – Review of the Search and Surveillance Act 2012

Questions and Answers

Why is this review being carried out?

The Search and Surveillance Act was enacted in 2012. It brought together all the law relating to search and surveillance and introduced some new powers for law enforcement agencies.

A section in the Act requires the Law Commission and the Ministry of Justice to jointly review how the Act has been operating after four years. The review provision was included to ensure the Act is effectively protecting the rights of individuals as well as meeting the operational needs of law enforcement agencies.

When will the review be completed?

The Law Commission and the Ministry of Justice must report jointly to the Minister of Justice by 30 June 2017, within the one-year deadline imposed by the Act.

How can people have their say?

The Law Commission and the Ministry of Justice will seek public submissions toward the end of this year (2016). Details will be published on their websites and announced publicly closer to the time.

What is the Minister of Justice's role in the review?

The Search and Surveillance Act requires the Minister to refer the review to the Law Commission and the Ministry of Justice. Once the review is complete, the joint report will be provided to the Minister, who will table it in Parliament. As the Ministry of Justice administers the Search and Surveillance Act, it is likely that the Minister will lead the Government's response to the review.

What does the Search and Surveillance Act 2012 do?

The Act controls how police and some other government agencies search people or property or use surveillance devices for the purpose of investigating crime. It also outlines what authorities can and cannot do when exercising those powers, including what they must do to protect people's human rights and privacy.

Will the impact of new technology be considered in the review?

Yes. For example, since the Act was enacted in 2012 there has been a significant increase in the use of smart phones and "the cloud" to store information. Also, technology presents Police and enforcement officers with new ways to investigate crime that were not envisaged in 2012. The review will examine whether the provisions of the Act provide adequate powers and protections in light of these changes.

What will happen after the review?

The Law Commission and the Ministry of Justice's report will recommend whether or not amendments should be made to the Act. The government will then consider those recommendations and decide whether to implement them. If it decides to implement them, it will draft an amendment Bill. When that Bill is referred by Parliament to a Select Committee, the public will have another opportunity to have a say on the proposed amendments.