

Strengthening oversight of NZSIS and GCSB



DEPARTMENT of the
PRIME MINISTER and CABINET

Te Tari o Te Pirimia me Te Komiti Matua

Ensuring the agencies operate legally and properly and are held to account

The Intelligence and Security Act 2017

FACT SHEET NO. 9

What the Act does

- Increases the membership of the Parliamentary Intelligence and Security Committee (ISC) to between five and seven members.
- Requires the Prime Minister to consult with the Leader of the Opposition before nominating members to the ISC, and requires the Prime Minister and Leader of the Opposition to have regard to the proportional representation of political parties in the House of Representatives when nominating members.
- Allows the ISC to request that the Inspector-General of Intelligence and Security (IGIS) inquire into any matter about the intelligence and security agencies' compliance with the law and propriety of their activities.
- Preserves the independence of the IGIS from the New Zealand Security Intelligence Service (NZSIS), Government Communications Security Bureau (GCSB) and the responsible Minister/s and the Prime Minister in legislation.
- Clarifies that the IGIS may review the propriety and implementation of all warrants. This means oversight occurs before, during and after any activity.
- Permits the IGIS to generally inquire into operationally sensitive matters.

The importance of oversight

Intelligence and security agencies are essential in a modern democracy to protect against security threats and to advance the interests of the nation as a whole.

However, the inherently secret nature of the agencies, along with their intrusive nature and abilities, means it is essential robust and independent oversight exists to ensure they act legally, properly and in a manner consistent with New Zealand's democratic values.

Through independent oversight, a balance is struck between the secrecy necessary for the agencies to operate effectively and the public's expectations of accountability and transparency.

For more information on why secrecy is necessary, see Factsheet 11.

Oversight bodies

In New Zealand, the main oversight bodies of the intelligence and security agencies are the IGIS and the Parliamentary ISC. The Act strengthens their existing oversight roles.

The ISC is the Parliamentary oversight committee for the intelligence and security agencies. It examines issues of effectiveness and efficiency, budgetary matters and policy settings.

The IGIS is a statutory officer providing independent external oversight and review of the intelligence and security agencies. The IGIS is responsible for reviewing issues of legality and propriety, which includes the agencies' compliance with human rights and privacy obligations.

Executive/Ministerial

- The Minister Responsible for the GCSB and Minister in Charge of the NZSIS oversee day-to-day business and approve warrant applications made by the respective agency.
- The Minister for National Security and Intelligence (Prime Minister) oversees the national security system and the National Security Committee of Cabinet provides Cabinet oversight.
- State Services Commissioner, as employer of the Directors-General and who provides leadership and oversight of the State sector.

Parliamentary

- The Intelligence and Security Committee (ISC).
- The agencies are required to brief the Leader of the Opposition.
- Legislative requirement to review the intelligence agencies every five to seven years.

How the oversight regime fits together

NZSIS and GCSB will operate within a strengthened oversight and accountability framework.

Judicial

- The participation of a panel of Commissioners of Intelligence Warrants in the warranting process.
- The Courts.

Independent authorities

- Inspector-General of Intelligence and Security (IGIS), and the advisory panel to the IGIS.
- Privacy Commissioner.
- Ombudsman.
- Auditor-General.
- Human Rights Commission.