

House of Representatives

Supplementary Order Paper

Tuesday, 6 August 2013

Government Communications Security Bureau and Related Legislation Amendment Bill

Proposed amendments

Hon Peter Dunne, in Committee, to move the following amendments:

Clause 6: new section 8C

In *clause 6*, new section 8C(1)(c), delete “; and” (line 16 on page 8).

In *clause 6*, delete new section 8C(1)(d) (lines 17 to 23 on page 8).

Clause 9

After *clause 9(1)* (after line 27 on page 11), insert:

(1A) After section 12(3)(b), insert:

“(ba) if any interception warrants have been issued during the year to which the report relates, the number of warrants issued; and”.

After *clause 9(2)* (after line 28 on page 11), insert:

(3) After section 12(3)(c), insert:

“(ca) if any access authorisations have been issued during the year to which the report relates, the number of authorisations issued; and

“(cb) a statement as to whether the Bureau has, under its function specified in **section 8C(1)**, provided during the year to which the report relates any advice or assistance and, if so, the number of instances on which advice or assistance has been provided; and”.

Clause 18: new section 19

In *clause 18*, after new section 19(3) (after line 5 on page 19), insert:

“(4) As soon as practicable after information specified in **section 15D(2)(a)** is entered in the register, the Director must notify the Inspector-General of Intelligence and Security if the infor-

mation relates to a New Zealand citizen or a permanent resident of New Zealand.

Clause 38

In *clause 38* (after line 23 on page 31), insert as subclause (1):

- (1) After section 6(1)(a), insert:
- “(ab) without limiting paragraph (a), to conduct an annual financial review of the performance of an intelligence and security agency in the previous financial year after the responsible Minister has submitted a copy of the agency’s annual report to the Committee.”

New clause 39AA

After *clause 39* (after line 32 on page 32), insert:

39AA Section 12 amended (Conduct of proceedings)

After section 12(2), insert:

- “(2A) However, subsection (2) does not apply when the Committee is performing its function specified in **section 6(1)(ab)**.”

New clause 41

After *clause 40* (after line 4 on page 33), insert:

41 New sections 21 to 27 and cross-heading inserted

After section 20, insert:

“Periodic reviews

“21 Requirement to hold periodic reviews

A review of the intelligence and security agencies, the legislation governing them, and their oversight legislation must, in accordance with the terms of reference specified under **section 22(3)(a)**, be—

- “(a) commenced before 30 June 2015; and
“(b) afterwards, held at intervals not shorter than 5 years and not longer than 7 years.

“22 Appointment of reviewers and related matters

- “(1) A review under **section 21** must be conducted by 2 persons (**reviewers**) appointed by the Attorney-General.
“(2) The reviewers appointed under **subsection (1)** must have an appropriate security clearance.
“(3) The Attorney-General must also specify—
“(a) the terms of reference for the review, which may include any matter relevant to the functions, effectiveness, and efficiency of the intelligence and security agencies and their contribution to national security; and

- “(b) any matters that he or she considers that the reviewers should take into account in determining how to conduct the review; and
- “(c) the date by which the review is to be concluded.
- “(4) Before doing anything under this section, the Attorney-General must consult the Committee.
- “(5) The persons appointed as reviewers, the terms of reference of the review, any matters specified in relation to the conduct of the review, and the date by which the review must be concluded must be notified in the *Gazette* as soon as practicable after the appointment of the reviewers.

“23 **Provision of information**

To assist the reviewers to conduct their review,—

- “(a) the reviewers may ask the chief executive of an intelligence and security agency and the Inspector-General of Intelligence and Security to provide information; and
- “(b) the chief executive of an intelligence and security agency or the Inspector-General of Intelligence and Security may provide information to the reviewers, whether in response to a request under **paragraph (a)** or on his or her own initiative.

“24 **Report of reviewers**

- “(1) After completing a review, the reviewers must prepare a report containing the results of their review.
- “(2) The report must be provided to the Committee by the date specified for the completion of the review.
- “(3) After the Committee has considered the report, the Committee must present the report to the House of Representatives.
- “(4) For the purposes of **subsection (3)**, section 18 applies, with all necessary modifications, as if the report had been prepared by the Committee.

“25 **Remuneration of reviewers**

- “(1) A reviewer is entitled—
 - “(a) to receive remuneration not within **paragraph (b)** for services as a reviewer at a rate and of a kind determined by the Attorney-General in accordance with the fees framework; and
 - “(b) in accordance with the fees framework, to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a reviewer.
- “(2) For the purposes of **subsection (1)**, **fees framework** means the framework determined by the Government from time to

time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.

“26 Provision of administrative and other support

“(1) The Ministry of Justice is responsible for providing to the reviewers the administrative, secretarial, and other support necessary for the reviewers to conduct their review effectively and efficiently.

“(2) A person providing administrative, secretarial, or other support under **subsection (1)** must have an appropriate security clearance.

“27 Reviewers to determine own procedure

The reviewers may determine their own procedure subject to any matters specified under **section 22(3)(b)**.”

Explanatory note

This Supplementary Order Paper amends the Government Communications Security Bureau and Related Legislation Amendment Bill.

The amendments are as follows:

Part 1—Amendments to Government Communications Security Bureau Act 2003

- *clause 6: new section 8C: in new subsection (1), paragraph (d) is deleted. Under new section 8C, the Bureau can co-operate with, and provide advice and assistance to, specified agencies and any agency subsequently specified by Order in Council. The paragraph that provides authority to specify agencies subsequently by Order in Council is deleted. Specifying any additional agency would therefore need to be done by way of a subsequent amendment to the Act:*
- *clause 9: this clause amends the provisions relating to the Bureau’s annual report. The amendments require the annual report to contain the following additional information:*
 - the number of interception warrants and access authorisations issued during the year that the annual report relates to:
 - whether advice and assistance has been provided to other agencies during the year to which the annual report relates and, if so, the number of instances:
- *clause 18: new section 19: this section specifies the information that is to be entered in the new register of interception warrants and access authorisations. A new subsection (4) is inserted to require the Director to notify the Inspector-General of Intelligence and Security if information entered in the register relates to a New Zealand citizen or permanent resident of New Zealand:*

Part 3—Amendments to Intelligence and Security Committee Act 1996

- *clause 38*: this clause amends section 6, which specifies the functions of the Committee. The amendment inserts an additional function of conducting an annual financial review of the performance of an intelligence and security agency after the responsible Minister has submitted a copy of the agency's annual report to the Committee:
- *new clause 39AA*: this clause amends section 12, subsection (2) of which provides that proceedings of the Committee must be held in private unless the Committee unanimously resolves otherwise. The amendment inserts *new subsection (2A)*, which provides that subsection (2) does not apply when the Committee is considering an intelligence and security agency's annual report:
- *new clause 41*: this clause inserts *new sections 21 to 27*. These new sections provide for a review of the intelligence and security agencies, the legislation governing them, and their oversight legislation. The first review must be commenced before 30 June 2015 and, afterwards, reviews must be held at intervals not shorter than 5 years and not longer than 7 years.

The Attorney-General is to appoint the reviewers (being 2 persons) and specify the terms of reference, any procedural matters, and the report-back date.

After completing a review, the reviewers' report is to be provided to the Committee, which, after it has considered the report, must present the report to the House of Representatives.
