

Reprint
as at 1 August 2020



**Privacy (Information Sharing Agreement between
Ministry of Social Development and New Zealand
Customs Service) Order 2019**
(LI 2019/75)

Patsy Reddy, Governor-General

Order in Council

At Wellington this 15th day of April 2019

Present:

Her Excellency the Governor-General in Council

This order is made under sections 96J to 96L of the Privacy Act 1993—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Social Development made in accordance with section 96N of that Act.

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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 Ministry of Social Development.

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Order

1 Title

This order is the Privacy (Information Sharing Agreement between Ministry of Social Development and New Zealand Customs Service) Order 2019.

2 Commencement

This order comes into force on 20 May 2019.

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

beneficiary means a person who has been granted a benefit

benefit has the same meaning as in Schedule 2 of the Social Security Act 2018 and also includes—

- (a) a student allowance; and
- (b) special assistance granted under a programme approved under section 100 or 101 of the Social Security Act 2018

information privacy principle means an information privacy principle in section 6 of the Act

MSD means the Ministry of Social Development

New Zealand superannuation has the same meaning as in Schedule 2 of the Social Security Act 2018

New Zealand travel document has the same meaning as in section 2 of the Passports Act 1992

NZ Customs means the New Zealand Customs Service

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

student allowance means an allowance paid under regulations made under section 645 of the Education and Training Act 2020

veteran's pension has the same meaning as in Schedule 2 of the Social Security Act 2018.

- (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(1) **student allowance**: amended, on 1 August 2020, by section 668 of the Education and Training Act 2020 (2020 No 38).

4 Information sharing agreement approved

- (1) The information sharing agreement described in subclause (2) is approved.
- (2) The information sharing agreement is the Information Sharing Agreement between the Ministry of Social Development and the New Zealand Customs Service made on 1 April 2019.
- (3) The agreement comes into force on the day on which this order comes into force.

Parties and lead agency

5 Parties to agreement and designation of lead agency

- (1) The parties to the agreement are—
 - (a) MSD; and
 - (b) NZ Customs.
- (2) The lead agency is MSD.

Purposes for which information may be shared

6 Purposes for which information may be shared

The agreement authorises the sharing of personal information for the following purposes:

- (a) to verify the entitlement or eligibility of any beneficiary travelling overseas to receive a benefit:
- (b) to verify the amount of any benefit that—
 - (i) a beneficiary travelling overseas is entitled or eligible to receive; or
 - (ii) a beneficiary who has travelled overseas was entitled or eligible to receive:
- (c) to avoid the overpayment of benefits and debts to the Crown being incurred by beneficiaries travelling overseas:
- (d) to enable the recovery of any debt due to the Crown by a beneficiary.

Public services that agreement facilitates

7 Public services that agreement is intended to facilitate

The public services that the agreement is intended to facilitate are—

- (a) the accurate and efficient assessment of the entitlement or eligibility of any beneficiary travelling overseas to receive a benefit:
- (b) the reduction in the amount of money owed by beneficiaries to the Crown.

Personal information that may be shared

8 Personal information that may be shared under agreement

The personal information about an individual that NZ Customs may share with MSD is the following information that NZ Customs collects from individuals departing from or arriving in New Zealand:

- (a) the individual's full name:
- (b) the individual's date of birth:
- (c) the individual's gender:
- (d) the individual's nationality:
- (e) the individual's citizenship:
- (f) the number of the individual's New Zealand travel document:
- (g) the individual's flight or craft details:
- (h) the port where the individual boarded their plane or craft:
- (i) the port where the individual disembarked from their plane or craft:

- (j) the unique number generated for the individual's movement by the NZ Customs' computer systems:
- (k) the time, date, and place of the individual's—
 - (i) departure from New Zealand; or
 - (ii) arrival in New Zealand.

How personal information shared under agreement may be used

9 How MSD may use personal information

MSD may use the personal information described in clause 8 for 1 or more of the purposes stated in clause 6.

Exemptions from information privacy principles

10 Exemption from information privacy principle 2 (source of personal information)

- (1) Subclause (2) exempts MSD from information privacy principle 2.
- (2) It is not a breach of information privacy principle 2 if—
 - (a) personal information is collected by MSD from NZ Customs; and
 - (b) the collection of that information is—
 - (i) in accordance with the agreement; and
 - (ii) for any of the purposes stated in clause 6.

11 Exemption from information privacy principle 10 (limits on use of personal information)

- (1) Subclause (2) exempts MSD from information privacy principle 10.
- (2) It is not a breach of information privacy principle 10 if—
 - (a) personal information that is collected by MSD from NZ Customs is used by MSD; and
 - (b) the use of that information is—
 - (i) in accordance with the agreement; and
 - (ii) in accordance with clause 9.

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

- (1) Subclause (2) exempts NZ Customs and MSD from information privacy principle 11.
- (2) It is not a breach of information privacy principle 11 if—
 - (a) personal information is disclosed by NZ Customs to MSD; and
 - (b) the disclosure of the information is—

- (i) in accordance with the agreement; and
- (ii) for any of the purposes stated in clause 6.

Adverse actions

13 Adverse actions

- (1) NZ Customs will not take any adverse action as a result of the sharing of personal information under the agreement.
- (2) The adverse actions that MSD can reasonably be expected to take in relation to any beneficiary as a result of the sharing of personal information under the agreement are—
 - (a) to investigate the beneficiary's entitlement or eligibility to receive a benefit:
 - (b) to assess whether the beneficiary's obligations in relation to the receipt of any benefit have been met:
 - (c) to suspend the beneficiary's benefit:
 - (d) to recover from the beneficiary any benefit payment that the beneficiary is not entitled or eligible to receive.

14 Procedure before adverse action taken

- (1) Before MSD takes any adverse action as a result of the sharing of personal information under the agreement, MSD must take reasonable steps to confirm the accuracy of the information.
- (2) The agreement provides that (in reliance on section 96R(a)(ii) of the Act) MSD may, in the following circumstances, take any adverse action described in clause 13(2)(a) to (c) against a beneficiary without giving written notice to the beneficiary as required by section 96Q of the Act:
 - (a) the adverse action relates to the beneficiary's entitlement or eligibility to receive a benefit other than—
 - (i) New Zealand superannuation; or
 - (ii) a veteran's pension; or
 - (iii) a student allowance; and
 - (b) immediately after any decision is made to suspend the payment of a benefit to the beneficiary, MSD gives written notice to the beneficiary of—
 - (i) details of the personal information about the beneficiary on which the decision to take the adverse action was based; and
 - (ii) the right to apply for a review of the decision.

- (3) The agreement provides that, in any other circumstances, MSD must give written notice to a beneficiary in accordance with section 96Q of the Act before taking any of the adverse actions described in clause 13.

Miscellaneous

15 How to access agreement

- (1) A copy of the agreement is available online at <http://www.msd.govt.nz> and <http://www.customs.govt.nz>
- (2) A copy of the agreement is also available at MSD, 56 The Terrace, Wellington 6011.

16 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 information sharing agreement between the New Zealand Gang Intelligence Centre Agencies, insert the item set out in the Schedule of this order.

Schedule
Amendment to Schedule 2A of Privacy Act 1993

cl 16

Information Sharing Agreement between Ministry of Social Development and New Zealand Customs made on 1 April 2019	(a)	the accurate and efficient assessment of the entitlement to, or the eligibility for, any benefit:	http://www.msd.govt.nz http://www.customs.govt.nz	Ministry of Social Development	(a)	the individual's full name:
	(b)	the reduction in the amount of money owed by beneficiaries to the Crown.			(b)	the individual's date of birth:
					(c)	the individual's gender:
					(d)	the individual's nationality:
					(e)	the individual's citizenship:
					(f)	the number of the individual's New Zealand travel document:
					(g)	the individual's flight or craft details:
					(h)	the port where the individual boarded their plane or craft:
					(i)	the port where the individual disembarked from their plane or craft:
					(j)	the unique number generated for the individual's movement by the NZ Customs' computer systems:
					(k)	the time, date, and place of the individual's—
					(i)	departure from New Zealand; or
					(ii)	arrival in New Zealand.

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1 August 2020

**Privacy (Information Sharing Agreement between
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Customs Service) Order 2019**

Schedule

Michael Webster,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 18 April 2019.

Reprints notes

1 *General*

This is a reprint of the Privacy (Information Sharing Agreement between Ministry of Social Development and New Zealand Customs Service) Order 2019 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*

Education and Training Act 2020 (2020 No 38): section 668