

# Update

# Privacy Law and Practice

## Service 119 — September 2022

### UPDATED MATERIAL IN SERVICE 119 INCLUDES:

#### Commentary

#### Privacy Act 2020

Changes have been made to the commentary on the Privacy Act 2020 in the following sections:

- PA13.5 Office holders
- PA13.10 Considerations for appointment
- PA17.11 Section 17(1)(f) To cooperate with others
- PA17.14 Section 17(1)(i) Inquiries
- PA17.20 Section 17(1)(o) To report to the Prime Minister
- PA21.8 Section 21(c) Cultural perspectives
- PA21.10 Section 21(e) The IPPs
- PA22.139 Information privacy principle 11(1)(f): disclosure “necessary to prevent or lessen a serious threat”
- PA32.17 Section 32(4)(d) Reviews of codes
- PA38.4 Transitional provisions
- PA38.5 Case example involving Health Information Privacy Code
- PA53.10 Section 53(b): Cases on “unwarranted disclosure” of another’s affairs
- PA53.12 The applicability of s 53(c): maintenance of the law “by any public agency”
- PA69.16 Section 69(4)(b): “undue delay”
- PA70.6 Complaints by a discloser under the Protected Disclosures (Protection of Whistleblowers) Act 2022
- PA70.7 Complaints arising from other enactments
- PA74.15 Route to Tribunal: sections 77 and 98
- PA74.16 Tribunal will not review exercise of s 74 discretion
- PA74.17A s 74 decision not to investigate a complaint does not on its own provide a platform for an aggrieved individual to commence proceedings
- PA75.5 Office of the Privacy Commissioner Procedures Manual
- PA77.6 Use of mediation by the Office of the Privacy Commissioner
- PA79.4 Investigations arising from other enactments
- PA80.5 Identity of person alleged to be aggrieved part of details of the complaint
- PA81.9 Certificate of Investigation
- PA91.3 Procedure for access complaints
- PA91.8 Certificate of Investigation
- PA92.7 Privacy Commissioner guidance
- PA94.8 Certificate of Investigation

PA95.7 Rules for intelligence and security information in complaints arising from Protected Disclosures (Protection of Whistleblowers) Act 2022  
 PA96.4 Other tools for addressing non-compliance  
 PA102.3 Section 102(2)(a): Declaration  
 PA102.6 Section 102(2)(d): order that defendant remedy the interference or redress any loss or damage  
 PA102.8 Section 102(3): Relevance of the defendant's conduct  
 PA103.6 Section 103(1)(c): Damages for loss of a benefit  
 PA103.11 Section 103(1)(d) damages for breach of information privacy principle 6  
 PA113.4 Assessment process  
 PA113.5 Consideration (a): post-breach action to reduce risk  
 PA113.6 Consideration (b): sensitivity of personal information  
 PA114.2A "Agency"  
 PA123.11 S 123(1)(c): "A breach of . . . a code of conduct (or similar) issued under another Act (if a complaint about a breach of the code can be the subject of a complaint under Part 5 of this Act)"  
 PA123.12 S 123(3): A compliance notice may be issued concurrently with the use of any other means for dealing with breach  
 PA201.11 Protected disclosures (Whistleblower Protection)  
 PA201.12 Privacy Officer's responsibilities under s 201(1)  
 PA208.3 Comparable discretions for other statutory officers

## Legislation

### Education and Training Act 2020

The Education and Training Act 2020 has been amended by the Education and Training Amendment Act 2022, 2022 No 38.

### Health Act 1956

The Health Act 1956 has been amended by the Pae Ora (Healthy Futures) Act 2022, 2022 No 30.

### Health Practitioners Competence Assurance Act 2003

The Health Practitioners Competence Assurance Act 2003 has been amended by the Pae Ora (Healthy Futures) Act 2022, 2022 No 30.

### Health (Retention of Health Information) Regulations 1996

The Health (Retention of Health Information) Regulations 1996 has been amended by the Pae Ora (Healthy Futures) Act 2022, 2022 No 30.

### Privacy Act 2020

The Privacy Act 2020 has been amended by the Privacy Act (Schedule 2) Order 2022, SL 2022/142; the Pae Ora (Healthy Futures) Act 2022, 2022 No 30.

### Ombudsmen Act 1975

The Ombudsmen Act 1975 has been amended by the Protected Disclosures (Protection of Whistleblowers) Act 2022, 2022 No 20; the Ombudsmen (Ministry for Disabled People) Order 2022, SL 2022/140; the Reserve Bank of New Zealand Act 2021, 2021 No 31; the Ombudsmen (Te Kāhui Whakamana Rua Tekau mā Iwa — Pike River Recovery Agency Disestablishment) Order 2022, SL 2022/152; the Pae Ora (Healthy

Futures) Act 2022, 2022 No 30; the Ombudsmen (Climate Change Chief Executives Board) Order 2022, SL 2022/205; and the Education and Training Amendment Act 2022, 2022 No 38.

