

## **Terms of reference for the statutory review of the Search & Surveillance Act 2012**

Section 357 of the Search and Surveillance Act 2012 (the Act) requires the Minister of Justice to refer a review of the operation of the Act to the Law Commission and the Ministry of Justice by 30 June 2016. The Law Commission and the Ministry of Justice must report jointly to the Minister of Justice within one year of that referral.

The terms of reference for the review are as follows.

1. As required by s 357 of the Act, the review will consider:
  - the operation of the provisions of the Act since 1 October 2012;
  - whether they should be retained or repealed; and
  - whether any amendments to the Act are necessary or desirable.
2. The review will identify and focus on core policy issues. Smaller or more technical matters will be worked through by the Ministry of Justice with the intention that they be implemented at the same time as any reforms made as a consequence of the review.
3. Without limiting the scope of the review, the Law Commission and the Ministry of Justice will consider whether any changes to the Act are required to ensure it enables effective law enforcement and maintains consistency with human rights laws, now and into the future, in light of:
  - developments in technology and their broader implications;
  - any significant case law on, or relevant to the review of, the Act since its enactment; and
  - international legislative developments relating to search and surveillance since the Act's enactment.
4. As suggested in the report of the First Independent Review of Intelligence and Security, the review will also consider whether the Act (or any related legislation) should be amended to enable broader use of the capabilities of the Government Communications Security Bureau and/or New Zealand Security Intelligence Service to support police investigations.
5. The process for the review will include:
  - inviting public submissions;
  - consultation with relevant government agencies and private sector organisations; and
  - establishing an expert advisory panel to provide technical expertise and advice representing a range of perspectives.