

Privacy Act 2020

The new Privacy Act 2020 came into force on 1 December 2020. The Privacy Commissioner has produced very useful [resources and guidance](#) to explain the changes and help educate the population. There is also an [e-learning site](#) – look for PRIVACY ACT 2020.

A summary of key changes is available [here](#). Because we've covered the subject previously, this article focusses on one very important aspect of the new law.

Disclosing information overseas

A major change is the addition of a new privacy principle 12 (IPP 12), to regulate the way personal information can be sent overseas. Under IPP 12, an organisation or business may only disclose personal information to an agency outside of New Zealand if the receiving agency is subject to similar safeguards to those in the Privacy Act 2020.

To do this, they must now be able to demonstrate that they have done necessary due diligence before sending personal information overseas.

One practical way for businesses and organisations to comply is to adopt contractual safeguards which make it clear to the recipient organisation overseas how it is expected to look after the personal information it is being entrusted with.

The Commissioner's office has created [model contract clauses](#) which can be inserted into a contract between the New Zealand party and the offshore partner. Model contract clauses are used in Europe under the General Data Protection Regulation (GDPR) and ensure privacy protections continue to apply to personal information when it is sent across national borders.

The Commissioner's model contract clauses are tailored to the requirements of the Privacy Act 2020 and are designed to make it easier to comply with IPP 12 – **particularly for small and medium-sized businesses**. Look for the pdf titled Principle 12 guidance – plain language and easy to read.

The clauses can be modified to suit, so long as the key privacy protections are retained.

Offshore cloud storage

IPP 12 will not apply to offshore cloud storage providers if these providers are not using the personal information for their own purposes, but simply holding it for their New Zealand client, or where the destination agency is independently subject to the New Zealand Privacy Act in their own right, for example by virtue of "carrying on business" in New Zealand.

This article is brought to you by the Window and Glass Association's free employment helpline 0800 692 384. If you have any questions or would like to discuss the article above, please call Philip or Anthony on the helpline.