

Cover and assumed identity arrangements



DEPARTMENT of the
PRIME MINISTER and CABINET

Te Tari o Te Pirimia me Te Komiti Matua

Ensuring identities are kept secret

The Intelligence and Security Act 2017

FACT SHEET NO. 11

What the Act does

- Consolidates existing measures enabling the New Zealand Security Intelligence Service (NZSIS) and the Government Communications Security Bureau (GCSB) to acquire, use and maintain 'assumed identities' and create and maintain legal entities.
- Explicitly permits other entities to issue alias documents to NZSIS and GCSB to support an assumed identity, and permits NZSIS and GCSB to create some forms of supporting documentation (such as fake business cards).
- Explicitly permits employees of NZSIS and GCSB to make misleading or false statements about their employment in order to do their job and keep themselves safe.
- Clarifies immunity from civil and criminal liability for those assisting in, and using, assumed identities, conditional on their acting in good faith, with care, and in accordance with the law.

What is cover?

The ability of NZSIS and GCSB employees to acquire, use and maintain any identity information necessary to maintain the covert nature of their work. Cover also keeps the identity of their employer confidential.

Why is secrecy necessary?

Intelligence investigations generally focus on detecting the intentions and activities of those who would harm New Zealand's interests, for example through espionage, violent extremism, transnational crime and sabotage.

One important type of intelligence collection is human intelligence which involves agency employees speaking confidentially to members of the public who may be able to provide confidential information or facilitate access to certain people or places. Keeping the identity of employees secret is vital to keep these people safe.

Employees could also become targets for those who wish to access classified information if their involvement with NZSIS or GCSB becomes known.

How cover works

Acting under real identity

The Act explicitly allows employees to make misleading and false statements about where they work, but only for the purpose of maintaining secrecy about a person's involvement with NZSIS and GCSB.

Acting under an alias

The Act explicitly allows employees and people assisting them to acquire, use and maintain 'assumed identity information' (to support an alias), but only for the purpose of maintaining secrecy about NZSIS and GCSB's activities and capabilities.

Alias documents

The Act explicitly provides for both NZSIS and GCSB to ask other entities to create identity documents when necessary.

These could include:

- Citizenship certificates
- New Zealand Passports
- IRD numbers
- Certificates of incorporation
- Drivers licences.

The Act also allows NZSIS and GCSB to create some documentation to support an assumed identity (such as a business card or utility bill).

Safeguards

Under the Act, use of aliases and providing misleading or false statements about where a person works must be consistent with the conditions of relevant Ministerial Policy Statements (the Act requires the Minister responsible for an intelligence and security agency to issue a Ministerial Policy Statement on acquiring, using and maintaining an assumed identity and creating and maintaining a legal entity).

The Inspector-General of Intelligence and Security (IGIS) also has jurisdiction to inquire into the propriety and legality of any activities involving the creation, use and maintenance of an assumed identity. To assist the IGIS to carry out regular and thorough reviews of the use of assumed identities the Act also includes a requirement for the agencies to maintain registers of assumed identities and legal entities created.