

## Country File

# NEW ZEALAND



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<b>Region</b>	Asia and Pacific
<b>Legal system</b>	Common Law
<b>UNCAT Ratification/ Accession (a)/ Succession (d)</b>	10 December 1989
<b>Relevant Laws</b>	<ul style="list-style-type: none"><li>• Crimes of Torture Act of 1989 (Act No. 106, 12 November 1989)</li><li>• Children, Young Persons and their Families (Residential Care) Regulations of 5 December 1996</li></ul>
<b>Relevant Articles</b>	<ul style="list-style-type: none"><li>• <b>Prohibition of Torture:</b> Section 21 of the Children, Young Persons and their Families Regulations</li><li>• <b>Definition of Torture:</b> Section 2 of the Crimes of Torture Act</li><li>• <b>Penalties:</b> Section 3 of the Crimes of Torture Act</li><li>• <b>Others:</b><ol style="list-style-type: none"><li>1. <b>Jurisdiction:</b> Sections 4 and 14 of the Crimes of Torture Act</li><li>2. <b>Lawful Sanctions:</b> Section 2 of the Crimes of Torture Act</li><li>3. <b>Compensation and Reparation:</b> Section 5 of the Crimes of Torture Act</li><li>4. <b>Extradition:</b> Section 8 of the Crimes of Torture Act</li></ol></li></ul>
<b>Languages Available</b>	<ul style="list-style-type: none"><li>• English (official language)</li></ul>
<b>Other Relevant Information</b>	Texts of laws are available at <a href="http://www.legislation.govt.nz">http://www.legislation.govt.nz</a>

# Relevant Articles - NEW ZEALAND

## ENGLISH

### Crimes of Torture Act of 1989 (Act No. 106, 13 November 1989)

#### **Section 1 Short Title**

This Act may be cited as the Crimes of Torture Act 1989.

#### **Section 2 Interpretation**

(1) In this Act, unless the context otherwise requires,—

Act of torture means any act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person—

(a) For such purposes as—

(i) Obtaining from that person or some other person information or a confession; or

(ii) Punishing that person for any act or omission for which that person or some other person is responsible or is suspected of being responsible; or

(iii) Intimidating or coercing that person or some other person; or

(b) For any reason based on discrimination of any kind;—

but does not include any act or omission arising only from, or inherent in, or incidental to, any lawful sanctions that are not inconsistent with the Articles of the International Covenant on Civil and Political Rights The Convention means the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, adopted by the General Assembly of the United Nations on 10 December 1984, a copy of the English text of which is set out in Schedule 1

The Convention: this definition was amended, as from 5 December 2006, by section 5 Crimes of Torture Amendment Act 2006 (2006 No 68) by adding the words “, a copy of the English text of which is set out in Schedule 1”.

Conviction on indictment has the same meaning as in section 3 of the Crimes Act 1961 Fugitive Offenders Act 1881[Repealed]

Fugitive Offenders Act 1881: this definition was repealed, as from 1 September 1999, by section 111 Extradition Act 1999 (1999 No 55). [Repealed]

New Zealand includes all waters within the outer limits of the territorial sea of New Zealand (as defined by section 3 of the Territorial Sea and Exclusive Economic Zone Act 1977)

Public official means—

- (a) Any person in the service of Her Majesty in right of New Zealand, including—
- (i) A member of any of the Armed Forces of New Zealand; and
  - (ii) A judicial officer and a law enforcement officer within the meaning of Part 6 of the Crimes Act 1961; and
  - (iii) An officer within the meaning of the Corrections Act 2004; and
  - (iiia) A security officer within the meaning of the Corrections Act 2004; and
  - (iv) A member and an employee of any local authority or public body; and
- (b) Any person who may exercise any power, pursuant to any law in force in a foreign state, that would be exercised in New Zealand by any person described in paragraph (a) of this definition.

Public official: paragraph (a)(iii) of this definition was amended, as from 1 June 2005, by section 206 Corrections Act 2004 (2004 No 50) by substituting the expression “Corrections Act 2004” for the expression “Penal Institutions Act 1954”. See clause 2 Corrections Act Commencement Order 2005 (SR 2005/52).

Public official: paragraph (a)(iiia) of this definition was inserted, as from 1 March 1995, by section 31 Penal Institutions Amendment Act 1994 (1994 No 120). See regulation 3(1) Penal Institutions Amendment Act Commencement Order 1995 (SR 1995/3).

Public official: paragraph (a)(iiia) of this definition was amended, as from 1 June 2005, by section 206 Corrections Act 2004 (2004 No 50) by substituting the expression “Corrections Act 2004” for the expression “Penal Institutions Act 1954”. See clause 2 Corrections Act Commencement Order 2005 (SR 2005/52).

(2) Unless the context otherwise requires, an expression that is used both in this Act and in the Convention has, in this Act, the same meaning as it has in the Convention.

## **Part 1**

### **Prosecution of Crimes of Torture**

This heading was inserted, as from 5 December 2006, by section 6 Crimes of Torture Amendment Act 2006 (2006 No 68).

#### ***Section 2A Purpose of this Part***

The purpose of this Part is to enable New Zealand to meet its international obligations under the Convention.

Section 2A was inserted, as from 5 December 2006, by section 6 Crimes of Torture Amendment Act 2006 (2006 No 68).

#### ***Section 3 Acts of torture***

(1) Every person is liable upon conviction on indictment to imprisonment for a term not exceeding 14 years who, being a person to whom this section

applies or acting at the instigation or with the consent or acquiescence of such a person, whether in or outside New Zealand,—

- (a) Commits an act of torture; or
  - (b) Does or omits an act for the purpose of aiding any person to commit an act of torture; or
  - (c) Abets any person in the commission of an act of torture; or
  - (d) Incites, counsels, or procures any person to commit an act of torture.
- (2) Every person is liable upon conviction on indictment to imprisonment for a term not exceeding 10 years who, being a person to whom this section applies or acting at the instigation or with the consent or acquiescence of such a person, whether in or outside New Zealand,—
- (a) Attempts to commit an act of torture; or
  - (b) Conspires with any other person to commit an act of torture; or
  - (c) Is an accessory after the fact to an act of torture.
- (3) This section applies to any person who is a public official or who is acting in an official capacity.

#### ***Section 4 Jurisdiction in respect of acts of torture***

No proceedings for an offence against any of the provisions of section 3 of this Act shall be brought unless—

- (a) The person to be charged is a New Zealand citizen; or
- (b) The person to be charged is present in New Zealand; or
- (c) The act or omission constituting the offence charged is alleged to have occurred in New Zealand or on board a ship or an aircraft that is registered in New Zealand.

#### ***Section 5 AttorneyGeneral to consider question of compensation***

- (1) Where any person is convicted of an offence against section 3 of this Act, the AttorneyGeneral shall consider whether it would be appropriate in all the circumstances for the Crown to pay compensation to the person against whom the offence was committed or (if that person dies as a result of the offence) to that person's family.
- (2) Nothing in subsection (1) of this section shall limit or affect any right to compensation that any such person may have under any other enactment.

#### ***Section 6 Extradition Act 1965 amended***

[Repealed]

Sections 6 and 7 were repealed, as from 1 September 1999, by section 111 Extradition Act 1999 (1999 No 55).

#### ***Section 7 Fugitive Offenders Act 1881 amended***

[Repealed]

Sections 6 and 7 were repealed, as from 1 September 1999, by section 111 Extradition Act 1999 (1999 No 55).

#### ***Section 8 Crimes deemed to be included in extradition treaties***

- (1) For the purposes of the Extradition Act 1999 and any Order in Council in force under section 15 or section 104 of that Act, each crime described in

subsection (1) or subsection (2) of section 3, if not already described in the treaty, is deemed to be an offence described in any extradition treaty concluded before 13 November 1989 and for the time being in force between New Zealand and any country that is a party to the Convention.

- (2) If under subsection (1) a crime is deemed to be an offence described in an extradition treaty, no person may be surrendered for that crime in accordance with the provisions of the Extradition Act 1999 if the alleged act or omission occurred before 13 November 1989.
- (3) For the purposes of this section, country includes any territory for whose international relations the government of a country is responsible and to which the extradition treaty and the Convention extend.

Section 8 was substituted, as from 1 September 1999, by section 111 Extradition Act 1999 (1999 No 55).

### ***Section 9 Surrender of offenders***

[Repealed]

Sections 9 and 10 were repealed, as from 1 September 1999, by section 111 Extradition Act 1999 (1999 No 55).

### ***Section 10 Restrictions on surrender of offenders***

[Repealed]

Sections 9 and 10 were repealed, as from 1 September 1999, by section 111 Extradition Act 1999 (1999 No 55).

### ***Section 11 Restrictions on surrender***

- (1) Without limiting the grounds on which surrender must or may be refused under the Extradition Act 1999, a Court in New Zealand must not order the surrender, or the detention for the purposes of surrender, of a person to another country in respect of an act or omission that amounts to a crime against subsection (1) or subsection (2) of section 3 if the AttorneyGeneral certifies that the case is being or is about to be considered to determine whether or not proceedings should be brought in New Zealand against that person in respect of the act or omission.
- (2) If, in any case to which subsection (2) applies, it is subsequently determined that proceedings should not be brought in New Zealand against the person in respect of the act or omission, the AttorneyGeneral must advise the Court accordingly, and the Court must proceed with the matter as if the AttorneyGeneral's certificate had never been given.

Section 11 was substituted, as from 1 September 1999, by section 111 Extradition Act 1999 (1999 No 55).

### ***Section 12 AttorneyGeneral's consent required to prosecutions***

- (1) Subject to subsection (2) of this section, no proceedings for the trial and punishment of any person charged with a crime described in subsection (1) or subsection (2) of section 3 of this Act shall be instituted in any Court except with the consent of the AttorneyGeneral.

- (2) A person charged with a crime against any of those provisions may be arrested, or a warrant for his or her arrest may be issued and executed, and that person may be remanded in custody or on bail, notwithstanding that the consent of the Attorney General to the institution of a prosecution for the crime has not been obtained, but no further proceedings shall be taken until that consent has been obtained.

### **Section 13 Evidence**

For any purpose in connection with this Act, a certificate, given by the Secretary of Foreign Affairs and Trade or any Deputy Secretary of Foreign Affairs and Trade, certifying—

- (a) That any country is or is not, or was or was not at any material time, a party to the Convention; or
- (b) That the Government of any country is or is not, or was or was not at any material time, responsible for the international relations of any territory,—

shall be sufficient evidence of that fact.

The words “Secretary of Foreign Affairs and Trade” and “Deputy Secretary of Foreign Affairs and Trade” were substituted, as from 1 July 1993, for the words “Secretary for External Relations and Trade” and “Deputy Secretary of External Relations and Trade” respectively, pursuant to section 9(4) Foreign Affairs Amendment Act 1993 (1993 No 48).

### **Section 14 Application of certain provisions of Crimes Act 1961**

- (1) Nothing in section 8 of the Crimes Act 1961 (which relates to jurisdiction in respect of crimes on ships or aircraft beyond New Zealand) or in section 400 of that Act (which requires the consent of the Attorney General to proceedings in certain cases for offences on ships or aircraft) shall apply with respect to any proceedings brought under section 3 of this Act.
- (2) Except as provided in subsection (1) of this section, nothing in this Act shall limit or affect any of the provisions of the Crimes Act 1961.

## **Part 2**

### **Prevention of Crimes of Torture**

#### **Preliminary provisions**

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

#### **Section 15 Purpose of this Part**

The purpose of this Part is to enable New Zealand to meet its international obligations under the Optional Protocol.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

#### **Section 16 Interpretation**

In this Part, unless the context otherwise requires,—

Central National Preventive Mechanism means any person, body, or agency for the time being designated under section 31 as the Central National Preventive Mechanism deprived of liberty means any form of detention or

imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order or agreement of any judicial, administrative, or other authority detainee means a person in a place of detention who is deprived of his or her liberty Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act National Preventive Mechanism means 1 or more of the following that may, for the time being, be designated under section 26 as a National Preventive Mechanism

- (a) an Ombudsman holding office under the Ombudsmen Act 1975:
- (b) the Independent Police Conduct Authority:
- (c) the Children's Commissioner:
- (d) the Registrar of the Court Martial of New Zealand appointed under section 79 of the Court Martial Act 2007:
- (e) any other person, body or agency that is designated a National Preventive Mechanism

Optional Protocol means the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly of the United Nations on 18 December 2002, a copy of the English text of which is set out in Schedule 2

place of detention means any place in New Zealand where persons are or may be deprived of liberty, including, for example, detention or custody in—

- (a) a prison:
- (b) a police cell:
- (c) a court cell:
- (d) a hospital:
- (e) a secure facility as defined in section 9(2) of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003:
- (f) a residence established under section 364 of the Children, Young Persons, and Their Families Act 1989:
- (g) premises approved under the Immigration Act 1987:
- (h) a service penal establishment as defined in section 2 of the Armed Forces Discipline Act 1971

Subcommittee means the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture, established in accordance with Part II of the Optional Protocol.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

Section 16 National Preventive Mechanism paragraph (b): amended, on 29 November 2007, by section 26 of the Independent Police Conduct Authority Amendment Act 2007 (2007 No 38).

## **Visits by Subcommittee**

### ***Section 17 Purpose of sections 18 to 20***

The purpose of sections 18 to 20 is to enable the Subcommittee to fulfil its mandate set out in Article 11 of the Optional Protocol.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

### ***Section 18 Subcommittee's access to information***

Every person must permit the Subcommittee to have unrestricted access to the following information in relation to places of detention in New Zealand:

- (a) the number of places of detention:
- (b) the location of places of detention:
- (c) the number of detainees:
- (d) the treatment of detainees:
- (e) the conditions of detention applying to detainees.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

### ***Section 9 Subcommittee's access to places of detention and persons detained***

Every person must permit the Subcommittee to have unrestricted access to—

- (a) any place of detention in New Zealand and to every part of that place:
- (b) any person in a place of detention.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

### ***Section 20 Subcommittee may conduct interviews***

(1) Every person must permit the Subcommittee to interview, without witnesses, either personally or through an interpreter,—

- (a) any person in a place of detention:
- (b) any other person who the Subcommittee believes may be able to provide relevant information.

(2) No person or agency who has provided information in good faith to the Subcommittee may, in respect of the provision of that information, be subject to any—

- (a) criminal liability:
- (b) civil liability:
- (c) disciplinary process:
- (d) change in detention conditions:
- (e) other disadvantage or prejudice of any kind.

(3) Subsection (2) applies regardless of whether the information provided to the Subcommittee was true.

(4) If requested by the Subcommittee, the person in charge of a place of detention must provide a safe and secure environment for the Subcommittee to conduct an interview with any detainee who is considered likely to behave in a manner that is—

- (a) offensive, threatening, abusive, or intimidating to any person; or
- (b) threatening or disruptive to the security and order of the place of detention.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

### ***Section 21 Experts may accompany Subcommittee***

If the Subcommittee requires it, 1 or more experts selected in accordance with paragraph 3 of Article 13 of the Optional Protocol may accompany the Subcommittee on any visit to a place of detention.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

### ***Section 22 Objection to visit by Subcommittee***

(1) The Minister may, by notice in writing to the Subcommittee, object to the Subcommittee having access to any place of detention for a temporary period if the Minister believes—

(a) there is an urgent and compelling reason on 1 of the following grounds:

- (i) national defence; or
- (ii) public safety; or
- (iii) natural disaster; or
- (iv) serious disorder in the place of detention; and

(b) that ground temporarily prevents access to the place of detention.

(2) On receiving a notice under subsection (1), the Subcommittee must delay its visit to the place of detention to a later date.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

### ***Section 23 Appointment of New Zealand officials***

The Minister may appoint 1 or more persons to accompany or assist the Subcommittee during visits to places of detention in New Zealand.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

### ***Section 24 Identification certificates***

The Minister may issue a certificate identifying—

- (a) any member of the Subcommittee;
- (b) any expert accompanying the Subcommittee;
- (c) other persons appointed under section 23 to accompany

or assist the Subcommittee during visits to places of detention in New Zealand.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

### **Section 25 Ministerial directions**

- (1) The Minister may, by notice in writing, issue directions to any person in charge of a place of detention for the purpose of facilitating any visit to a place of detention in New Zealand by the Subcommittee.
- (2) A person in charge of a place of detention must comply with any directions given by the Minister under this section.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

## **National Preventive Mechanisms**

### **Section 26 Designation of National Preventive Mechanisms**

- (1) In accordance with Article 17 of the Optional Protocol, the Minister must, not later than 1 year after the Optional Protocol is ratified by New Zealand, designate by notice in the Gazette the number of National Preventive Mechanisms the Minister considers necessary.
- (2) In designating a National Preventive Mechanism the Minister must have regard to the matters set out in Article 18 of the Optional Protocol.
- (3) A National Preventive Mechanism may be designated—
  - (a) in respect of such places of detention as may be specified in the notice; and
  - (b) on any terms and conditions specified in the notice.
- (4) After designating 1 or more National Preventive Mechanisms under subsection (1), the Minister may, at any time, by notice in the Gazette—
  - (a) revoke the designation of a National Preventive Mechanism:
  - (b) designate 1 or more other National Preventive Mechanisms:
  - (c) vary the designation of a National Preventive Mechanism to include or exclude such other places of detention as may be specified in the notice:
  - (d) vary or revoke the terms or conditions to which the designation of a National Preventive Mechanism is subject, or revoke those terms and conditions and impose new terms and conditions.

### **Section 27 Functions of National Preventive Mechanism**

A National Preventive Mechanism has the following functions under this Act in respect of the places of detention for which it is designated:

- (a) to examine, at regular intervals and at any other times the National Preventive Mechanism may decide,—
  - (i) the conditions of detention applying to detainees; and
  - (ii) the treatment of detainees:
- (b) to make any recommendations it considers appropriate to the person in charge of a place of detention—
  - (i) for improving the conditions of detention applying to detainees:
  - (ii) for improving the treatment of detainees:
  - (iii) for preventing torture and other cruel, inhuman or degrading treatment or punishment in places of detention:

- (c) to prepare at least 1 written report each year on the exercise of its functions under the Act during the year to which the report relates and provide that report to—
  - (i) the House of Representatives, if the National Preventive Mechanism is an Officer of Parliament; or
  - (ii) the Minister, if the National Preventive Mechanism is not an Officer of Parliament;
- (d) to provide a copy of each report referred to in paragraph (c) to the Central National Preventive Mechanism (if designated).

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

***Section 28 National Preventive Mechanism’s access to information***

For the purposes of this Act, every person must permit a National Preventive Mechanism to have unrestricted access to the following information:

- (a) the number of detainees in the places of detention for which it is designated;
- (b) the treatment of detainees in those places of detention;
- (c) the conditions of detention applying to detainees in those places of detention.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

***Section 29 National Preventive Mechanism’s access to places of detention and persons detained***

For the purposes of this Act, every person must permit a National Preventive Mechanism to have unrestricted access to—

- (a) any place of detention for which it is designated, and to every part of that place;
- (b) any person in a place of detention for which it is designated.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

***Section 30 National Preventive Mechanism may conduct interviews***

- (1) For the purposes of this Act, every person must permit a National Preventive Mechanism to interview, without witnesses, either personally or through an interpreter,—
  - (a) any person in a place of detention for which it is designated;
  - (b) any other person who the National Preventive Mechanism believes may be able to provide relevant information.
- (2) No person or agency who has provided information in good faith to a National Preventive Mechanism may, in respect of the provision of that information, be subject to any—
  - (a) criminal liability;
  - (b) civil liability;
  - (c) disciplinary process:

- (d) change in detention conditions:
- (e) other disadvantage or prejudice of any kind.
- (3) Subsection (2) applies regardless of whether the information provided to the National Preventive Mechanism was true.
- (4) If requested by the National Preventive Mechanism, the person in charge of a place of detention must provide a safe and secure environment for the National Preventive Mechanism to conduct an interview with any detainee who is considered likely to behave in a manner that is—
  - (a) offensive, threatening, abusive, or intimidating to any person; or
  - (b) threatening or disruptive to the security and order of the place of detention.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

## **Central National Preventive Mechanism**

### ***Section 31 Designation of Central National Preventive Mechanism***

The Minister may, at any time, by notice in the Gazette, designate a Central National Preventive Mechanism.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

### ***Section 32 Functions of Central National Preventive Mechanism***

- (1) The functions of the Central National Preventive Mechanism, in relation to this Act, are to—
  - (a) coordinate the activities of the National Preventive Mechanisms; and
  - (b) maintain effective liaison with the Subcommittee.
- (2) In carrying out its functions, the Central National Preventive Mechanism is to—
  - (a) consult and liaise with the National Preventive Mechanisms:
  - (b) review the reports prepared by the National Preventive Mechanisms under section 27(c) and advise the National Preventive Mechanisms of any systemic issues arising from those reports:
  - (c) coordinate the submission of the reports prepared by the National Preventive Mechanisms under section 27(c) to the Subcommittee:
  - (d) make, in consultation with all relevant National Preventive Mechanisms, any recommendations to the Government that it considers appropriate on any matter relating to the prevention of torture and other cruel, inhuman or degrading treatment or punishment in places of detention in New Zealand.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

## Miscellaneous provisions

### **Section 33 Confidentiality of information**

- (1) Every person must keep confidential any information that is given to him or her in the exercise of that person's functions or duties under this Act.
- (2) Despite anything in subsection (1), such information may be disclosed for the purpose of—
  - (a) enabling New Zealand to fulfil its obligations under the Optional Protocol;
  - (b) giving effect to this Act.
- (3) Nothing in this Act prevents a National Preventive Mechanism or the Central National Preventive Mechanism from making public statements in relation to any matter contained in a report presented to the House of Representatives under section 27(c)(i) or section 36(1) that the National Preventive Mechanism or the Central National Preventive Mechanism considers is in the public interest.
- (4) No information disclosed under subsection (2) or public statement made under subsection (3) may include information about an identifiable individual without that individual's consent.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

34 Powers of National Preventive Mechanism Where a National Preventive Mechanism has powers in relation to the exercise of any functions under any other Act, the National Preventive Mechanism has, in relation to the exercise of its functions under this Part, the same powers.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

35 Protections, privileges, and immunities Where a National Preventive Mechanism has protections, privileges, and immunities in relation to the exercise of any powers and functions under any other Act, the National Preventive Mechanism has, in relation to the exercise of its functions under this Part, the same protections, privileges, and immunities.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

### **Section 36 Publication of National Preventive Mechanism report**

- (1) As soon as practicable after receiving a report under section 27(c)(ii) the Minister must present a copy of that report to the House of Representatives.
- (2) As soon as practicable after a report of a National Preventive Mechanism has been presented to the House of Representatives under subsection (1) or section 27(c)(i), the National Preventive Mechanism must—
  - (a) publicly notify where copies of the report may be inspected and purchased; and

- (b) make copies of the report available to the public at the place set out in the public notification, on request, for inspection free of charge and for purchase at a reasonable cost.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

***Section 37 This Part not limited by other Acts***

Where an agency or person (including a National Preventive Mechanism) has investigative functions under any other Act not amended by Part 2 of the Crimes of Torture Amendment Act 2006, that other Act does not limit the operation of this Part.

Part 2 (comprising sections 15 to 37) was inserted, as from 5 December 2006, by section 7 Crimes of Torture Amendment Act 2006 (2006 No 68).

**Children, Young Persons, and Their Families (Residential Care) Regulations of 5 December 1996**

***Section 21 Torture, cruelty, and inhuman, humiliating, or degrading discipline and treatment prohibited***

No member of staff of a residence shall discipline or treat or speak to any child or young person in the residence in a manner which—

- (a) Inflicts on the child or young person any torture or cruelty, or is inhuman; or  
(b) Degrades or humiliates that child or young person; or  
(c) Is likely to induce an unreasonable amount of fear or anxiety in that child or young person.