

23 March 2011

Ministry of Transport
PO Box 3175
Wellington 6140

Also: Via E Mail [REDACTED]
For Attention: David Bowden – Legal Manager

[REDACTED]
**APPLICATION FOR AUTHORISATION UNDER SECTION 241
OF THE LAND TRANSPORT ACT 1998**

Application is hereby made for [REDACTED] to have access under section 241 of The Land Transport Act 1998 ("The Act") to the MVD.

This application is in two parts:-

- Part 1 – Information required as per letter dated 31 March 2010
- Part 2 - Background on [REDACTED]

Part 1 – Information Required

Questions that must be answered by applicants

- (a) What is your full name?
[REDACTED]
- (b) What is your physical address?
[REDACTED]
- (c) What is your postal address?
[REDACTED]
- (d) What is your email or other electronic address?
[REDACTED]
- (e) Do you currently use information from the register?
Yes
- (f) If you do, what do you use it for?
Primarily law enforcement and in the course of legitimate investigations.
- (g) What do you intend to use it for?
Law enforcement and in the course of legitimate investigations

- (h) What are your reasons for not doing one of the following?
- (i) Collecting the information directly from the individual concerned:
 - (ii) Collecting the information from a source other than the register:
 - (iii) Seeking confirmation from the Registrar under section 236(1)(b) Of the Land Transport Act 1998 that a specified person is registered in respect of a specified motor vehicle:
 - (iv) Asking for the information under the Official Information Act 1982?

In answer to all the above we state that:-

██████████ contracts to various major insurance companies and government departments whose requirements do not provide for the access of information from the individuals concerned without jeopardising their requirements.

The volume of work done and the expediency required would put pressure on alternative resources and delay outcomes considerably which would end up costing the government.

██████████ has a long standing history of utilisation and compliance with MVD (over 20 years without incident).

- (i) What physical and computer security systems do you have in place to ensure that information from the register—
- (i) is kept secure; and
 - (ii) is used only for the purpose or purposes specified in the authorisation?

Access to the MVD system will only be carried out by ██████████
██████████ Although we have agents throughout the country, they need to request and satisfy us that the request is reasonable and necessary for the matter we are investigating, as per the requirements of the Privacy Act.

All computers within the company are safeguarded by the latest antivirus and corporate security IT software and systems, including locked password screensavers which activate on a regular fixed time basis automatically.

The building housing ██████████ is owned by the principle Director ██████████ The building is fully secured, with external entrance locked, even during working hours and alarmed out of hours. Access to internal doors is through biometric fingerprint identification locks and external cameras and CCTV.

The ██████████ Offices are on the upper floor of the ██████████ building, which is part of a fenced and gated complex in a secure ██████████

Any information accessed from the register would form part of the client's report which is private and confidential and held as such at all times by the client.

The primary access information would at all times be held by [REDACTED] deleted or destroyed by our in house secure document destruction service.

- (j) How do you propose to tell the persons whose information has come from the register about the following:
- (i) the fact that the register was the source of the information; and
 - (ii) What you use the information for; and
 - (ii) The fact that the persons can notify the Registrar that they do not wish to have their names and addresses made available under an authorisation?

We regularly have similar requests in relation to our work, such as insurance investigations and ACC investigations, etc.

We have no issues with disclosure made properly and in accordance with the Privacy Act and our Managing Director, [REDACTED] is our dedicated Privacy officer.

- (k) Have you ever been found to have breached any of the information privacy principles in the Privacy Act 1993?

No

- (l) Have you ever been found, in proceedings of any kind, to have breached any confidentiality obligation?

No

- (m) Do you have a credit rating and, if so, what is it?

We have an [REDACTED]

- (n) For how long, up to 5 years, do you want the authorisation to last?

[REDACTED] requests the full 5 year term

- (o) If you employ staff or engage agents,—
- (i) How many of them are likely to have access to the information from the register?
 - (ii) What are the roles of those who are likely to have access?
What training will you give those who are likely to have access on the proper handling of the information from the register?
 - (iv) What controls do you have in place to ensure that those who are likely to have
access handle the information from the register properly?
 - (v) What sanctions do you have available for those who do not handle the information from the register properly?

We do employ staff and agents, but have a system in place that they have to firstly request to our Head Office the number they wish checked and that we have the necessary Informed Consent or that the information is able to be accessed in accordance with the Privacy Act, and/or the Official Information Act if we are working for a government department.

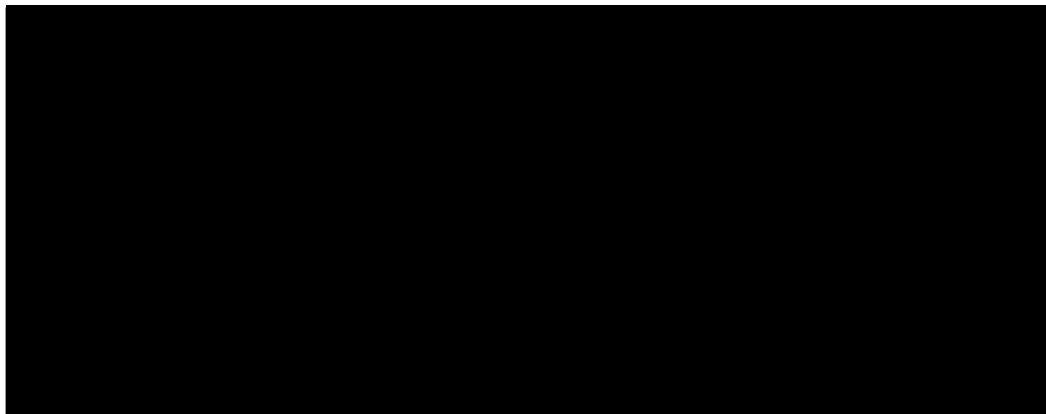
Once we are satisfied the request is proper and able to be lawfully made, this is performed by [REDACTED]

We avoid having sanctions by ensuring that the process is robust and only our Company Principle can make the enquiry. The reasons quite simply are that we are a highly confidential agency and we take such enquiries seriously.

- (p) If you are in business,—
- (i) What is the nature of the business?

Private Investigations & Security

**Appointed agents and/or have contracts with [REDACTED]
[REDACTED] such as:**



(ii) What locations does the business operate from?

[REDACTED]

(iii) How long has the business existed?

[REDACTED]

Part 2 - Background on [REDACTED]

[REDACTED]

2. Case Studies

It is understood that other applications have included case studies as part of the motivation.

[REDACTED] has of course a wide range of case studies available if required demonstrating the critical need for and urgent use of MVR access to influence the outcomes of various investigations on behalf of [REDACTED] and private clients who would otherwise be burdening the police and alternative state resources who have MVR access.

The success of every case study which can be demonstrated on request was dependant on Motochek access.

We address the key points raised by The Chief Ombudsman and The Privacy Commissioner as follows:-

Concerns about

Potential for Abuse:-

There may be a concern that clients of [REDACTED] may or may not be well intentioned and that access to the MVR information may be abused simply through purchase power.

[REDACTED] is a Professional agency who is fully aligned with the aims and intentions of any clients needs. New clients are vetted for their bona fides and intentions before we undertake any action on their behalf.

[REDACTED]

The experience, integrity and commitment of [REDACTED] means that any attempts by clients or new clients to obtain information for any reason other than legitimate as part of an approved investigation is quickly recognised and neutralised. In the vast majority of investigations where MVR information is used, this information would not be shared directly with the client but used to conduct the investigation.

[REDACTED] are acutely aware of the necessity to ensure that private information is only used for legitimate purposes and would not in any circumstances make information available to any third parties who would use it for ulterior motives or display nefarious intentions.

[REDACTED] are also fully aware of the consequences of abuse of the privilege of access and recognise that if there was any abuse of authorisation [REDACTED] would stand to not only lose his authority but also his licence to practise and his reputation.

[REDACTED] not only has a duty to comply with the strict Code of Ethics but to be absolutely in compliance at all times. Any person can complain to the Institute and all complaints are investigated by the Ethics Committee. Any breach of the code of ethics could result in expulsion from The Institute.

As the Principal [REDACTED] is the only person who would be given access to the MVR information in accordance with Section 241. [REDACTED] confirms that if authorised to access MVR information – this would only be available from one computer which is password protected and stored in a locked and alarmed building.

Law Enforcement

██████ is not a law enforcement agency, however to reiterate an earlier point raised, ██████ is an appointed and a contracted agent for ██████ in New Zealand and assigned to uphold legislation accordingly.

██████ has a significant history of successful and conclusive partnership with the ██████ ██████

It is proposed that it is in the public interest for ██████ to be granted access to MVR to conduct its law enforcement activities and duties. Whilst it may be such that not every investigation in which ██████ Investigations is involved is actually or potentially related to law enforcement, however a large portion of ██████ work is directly law enforcement or legislation support related. Should it be deemed necessary for special conditions to be applied to other investigations, ██████ is prepared to agree reasonable conditions and meet it's obligations responsibly and to ensure that any concerns raised by The Chief Ombudsman are addressed – at all times.

Access Related to the Use of Vehicles

The principal purpose of access to the register by ██████ will at all times be consistent with the legislative intent in preventing public access to the register and to ensure the integrity of the information contained therein at all times.

Examples for the necessity for access which can be provided as case studies will reveal that ██████ work relates primarily to the Use to which individuals put their vehicles. Vehicle information has been critical in assisting with identifying those responsible for insurance fraud, theft, credit card/petrol fraud and illegal drug activities. In each of these cases that can be presented, the offenders and their associates/fellow travellers used their vehicles to commit or perpetuate their crimes.

As detailed in earlier explanation, ██████ work is largely related to Law Enforcement or legislation support for Government agencies or departments. In the course of normal operations, it would rarely be the case that ██████ would have any necessity to access MVR information in respect of vehicles owned by legitimate law abiding citizens.

An important point to note may be, that [REDACTED] past access to Motochek, has been limited to functionality suitable to provide the information required. [REDACTED] has had the ability to verify the details held in relation to a specific number plate. [REDACTED] cannot search for all vehicles in which an individual has an interest like the police or other government departments or Law Enforcement Agencies, although this would certainly have been to the advantage of the Law Enforcement and Government agencies for which we act as an appointed and contracted agent.

Access for payment, Anti Social or Harassment

Concern has been expressed by the privacy commissioner that access under Section 241 may be used to provide access to information by "third parties for payment", that is information which may otherwise be unavailable to the public. There is a concern that The Privacy Commissioner has raised that a "high risk" exists that individuals could circumvent the policy and spirit of the legislation by simply paying a fee to a Private Investigator and that there is also a "reasonably high potential" for third parties to "obtain information for harassment or anti social purposes". Paragon would not permit this or allow circumstances which may permit or facilitate this.

The scope and nature of [REDACTED] work and duties preclude any reason or justification for this to be done. [REDACTED] is the premier flagship of Private / Public Partnership Investigations in New Zealand and publicly revered as such and acknowledged by its various Government, Law Enforcement and State Department appointments and contracts notwithstanding contracts and preferred service provider appointments from leading insurance companies such as [REDACTED]

There is no risk that individuals would be able to access otherwise restricted information or material by simply paying a fee to [REDACTED]

There is no potential for a third party to use MVD information available to [REDACTED] for harassment or anti social purposes.

Any information obtained by [REDACTED] would be used only for approved (MD) and legitimate investigation purposes.

Informing Individuals That Their Information Have Been Obtained From the Register

Instructing an individual or subject during the course of an investigation that a check has been carried out may be prejudicial to the whole investigation and may cause inconclusive outcomes for the investigation which could fail as a result. If required, this could be done after the investigation/enquiry is concluded.

Reference to conditions which could be imposed

██████████ will agree to any reasonable conditions being imposed or stipulated on its access to MVR information. These conditions could include all information retrieved or accessed being securely retained on ██████████ file along with the specific reasons for the information being accessed. Paragon could also be subject to an audit process as required.

██████████ would be fully participatory and involved in any process development which would alleviate any concerns by The Chief Ombudsman or The Privacy Commissioner.

In Conclusion:-

It is submitted that ██████████ be granted access to MVR information in order that it may conduct its legitimate investigation business and fulfil its duties and obligations as a contracted agent to various Law Enforcement Agencies and legislation support bodies.

That, subject to approval, the security of MVR information will be considered paramount.

That the record and history of ██████████ access to and use of MVR information has always been in accordance with the letter and spirit of the law and legislative policies at all times.

