

New Zealand Travelers Refusing to Give Passwords for Phone and Computer Searches Are Subject to a Fine Up to \$5,000 NZ (\$3,306 US)

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New Zealand: Travelers who refuse to hand over their phone or laptop passwords to Customs officials can now be slapped with a \$5,000 NZ (\$3,306 US) fine, and the device may be seized and forensically searched. Customs can carry out “digital strip-searches” in a file-by-file search on your phone. The law requires officials to have a reasonable suspicion of wrongdoing to conduct a search, but no one has defined “reasonable”. Border officials searched roughly 540 electronic devices at New Zealand airports in 2017 and do not expect the number of searches to increase – however, it’s entirely up to them. -GEG The Customs and Excise Act 2018 – which comes into effect today – sets guidelines around how Customs can carry out “digital strip-searches”.

Previously, Customs could stop anyone at the border and demand to see their electronic devices. However, the law did not specify that people had to also provide a password.

The updated law makes clear that travellers must provide access – whether that be a

password, pin-code or fingerprint – but officials would need to have a reasonable suspicion of wrongdoing.

“It is a file-by-file [search] on your phone. We’re not going into ‘the cloud’. We’ll examine your phone while it’s on flight mode,” Customs spokesperson Terry Brown said.

If people refused to comply, they could be fined up to \$5000 and their device would be seized and forensically searched.

Mr Brown said the law struck the “delicate balance” between a person’s right to privacy and Customs’ law enforcement responsibilities.

“I personally have an e-device and it maintains all my records – banking data, et cetera, et cetera – so we understand the importance and significance of it.”

Council for Civil Liberties spokesperson Thomas Beagle said the law was an unjustified invasion of privacy.

“Nowadays we’ve got everything on our phones; we’ve got all our personal life, all our doctors’ records, our emails, absolutely everything on it, and customs can take that and keep it.”

The new requirement for reasonable suspicion did not rein in the law at all, Mr Beagle said.

“They don’t have to tell you what the cause of that suspicion is, there’s no way to challenge it.”

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