



Surveillance Legislation (Confirmation of Application) Act 2024

No. 130, 2024

An Act to confirm the application of surveillance device and related legislation, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)

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Surveillance Legislation (Confirmation of Application) Act 2024

No. 130, 2024

An Act to confirm the application of surveillance device and related legislation, and for related purposes

[Assented to 10 December 2024]

The Parliament of Australia enacts:

1 Short title

This Act is the *Surveillance Legislation (Confirmation of Application) Act 2024*.

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2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	11 December 2024

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Objects

The object of this Act is to support public trust and confidence in the application of surveillance device and related legislation to newer technologies by:

- (a) confirming that information obtained under specified warrants issued under the *Surveillance Devices Act 2004* was not intercepted while passing over a telecommunications system; and
- (b) confirming that information obtained in reliance on specified warrants issued under the *Surveillance Devices Act 2004* or the *Crimes Act 1914* was obtained under a warrant issued under the relevant Act.

4 Definitions

In this Act:

Australian law has the same meaning as in the *Evidence Act 1995*.

do a thing includes:

- (a) make a decision (however described); and
- (b) exercise a power, perform a function, comply with an obligation or discharge a duty; and
- (c) do anything else;

and **purport to do a thing** has a corresponding meaning.

intercepting a communication passing over a telecommunications system has the same meaning as in the *Telecommunications (Interception and Access) Act 1979* and **intercepted while passing over a telecommunications system** has a corresponding meaning.

relevant warrant means:

- (a) one of the following warrants issued, or purportedly issued, under the *Surveillance Devices Act 2004* to a law enforcement officer of the Australian Federal Police:
 - (i) surveillance device warrant (Australian Federal Police reference SD7584) issued on 16 October 2018 and as extended from time to time;
 - (ii) surveillance device warrant (Australian Federal Police reference SD7611) issued on 24 October 2018 and as extended from time to time;
 - (iii) computer access warrant (Australian Federal Police reference SDC0003) issued on 5 April 2019 and as extended from time to time;
 - (iv) computer access warrant (Australian Federal Police reference SDC0019) issued on 17 March 2020;
 - (v) computer access warrant (Australian Federal Police reference SDC0020) issued on 17 March 2020 and as varied or extended from time to time;
 - (vi) computer access warrant (Australian Federal Police reference SDC0032) issued on 4 December 2020 and as extended from time to time;
 - (vii) computer access warrant (Australian Federal Police reference SDC0035) issued on 3 March 2021 and as varied or extended from time to time; or

- (b) one of the following warrants issued, or purportedly issued, under section 3E of the *Crimes Act 1914* to a constable of the Australian Federal Police:
 - (i) search warrant for search of a premises located at 6 National Circuit Barton ACT 2600 issued on 30 July 2021 at the ACT Magistrates Court;
 - (ii) search warrant (Downing Centre Local Court NSW reference 2021/1955) for search of a premises located at 48 Pirrama Road Pyrmont NSW 2009 issued on 5 August 2021;
 - (iii) search warrant (Downing Centre Local Court NSW reference 1978/2021) for search of a premises located at 48 Pirrama Road Pyrmont NSW 2009 issued on 10 August 2021;
 - (iv) search warrant (Downing Centre Local Court NSW reference 3133/2021) for search of a premises located at 2 Park Street Sydney NSW 2000 issued on 22 December 2021.

5 Confirmation information was not obtained by interception

- (1) Information, or a record obtained under, or purportedly under, a relevant warrant, is taken for all purposes:
 - (a) not to have been, and always not to have been, intercepted while passing over a telecommunications system; and
 - (b) not to have been, and always not to have been, information or a record obtained by intercepting a communication passing over a telecommunications system.
- (2) To avoid doubt, anything done, or anything purported to have been done, by a person that would have been wholly, or partly, invalid or unlawful except for subsection (1) is taken for all purposes to be valid and lawful and to have always been valid and lawful, despite any effect that may have on the accrued rights of any person.
- (3) Without limiting subsection (1) or (2), evidence that, except for subsection (1), would have been wholly, or partly, obtained:
 - (a) in contravention of an Australian law or in consequence of a contravention of an Australian law; or

- (b) improperly or in consequence of an impropriety;
is taken for all purposes not to have been, and always not to have been, obtained:
- (c) in contravention of an Australian law or in consequence of a contravention of an Australian law; or
- (d) improperly or in consequence of an impropriety.

6 Confirmation information was obtained under a warrant

- (1) Information, or a record, obtained in reliance, or purported reliance, on a relevant warrant is taken for all purposes to have been, and to always have been, obtained under:
 - (a) in the case of a relevant warrant referred to in subparagraph (a)(i) or (ii) of the definition of **relevant warrant** in section 4—a surveillance device warrant issued under Division 2 of Part 2 of the *Surveillance Devices Act 2004*; or
 - (b) in the case of a relevant warrant referred to in any other subparagraph of paragraph (a) of the definition of **relevant warrant** in section 4—a computer access warrant issued under section 27C of the *Surveillance Devices Act 2004*; or
 - (c) in the case of a relevant warrant referred to in paragraph (b) of the definition of **relevant warrant** in section 4—a search warrant issued under Part IAA of the *Crimes Act 1914*.
- (2) To avoid doubt, anything done, or anything purported to have been done, by a person that would have been wholly, or partly, invalid or unlawful except for subsection (1) is taken for all purposes to be valid and lawful and to have always been valid and lawful, despite any effect that may have on the accrued rights of any person.
- (3) Without limiting subsection (1) or (2), evidence that, except for subsection (1), would have been wholly, or partly, obtained:
 - (a) in contravention of an Australian law or in consequence of a contravention of an Australian law; or
 - (b) improperly or in consequence of an impropriety;is taken for all purposes not to have been, and always not to have been, obtained:

- (c) in contravention of an Australian law or in consequence of a contravention of an Australian law; or
- (d) improperly or in consequence of an impropriety.

7 Application of this Act to proceedings

For the purposes of applying this Act in relation to civil or criminal proceedings, this item applies in relation to:

- (a) civil and criminal proceedings instituted on or after the commencement of this Act; and
- (b) civil and criminal proceedings instituted before commencement, being proceedings that are concluded:
 - (i) before the commencement of this Act; or
 - (ii) on or after the commencement of this Act.

8 Compensation for acquisition of property

- (1) If:
 - (a) apart from this section, the operation of this Act would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph); and
 - (b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution;the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court of Australia or the Supreme Court of a State or Territory for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

*[Minister's second reading speech made in—
House of Representatives on 21 November 2024
Senate on 28 November 2024]*

(158/24)

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