



Telecommunications (Interception and Access) Regulations 1987

Statutory Rules 1987 No. 329 as amended

made under the

Telecommunications (Interception and Access) Act 1979

This compilation was prepared on 18 November 2006
taking into account amendments up to SLI 2006 No. 293

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1 Name of Regulations [see Note 1]

These Regulations are the *Telecommunications (Interception and Access) Regulations 1987*.

2 Definition

In these Regulations:

Act means the *Telecommunications (Interception and Access) Act 1979*.

2A Proceeding for confiscation or forfeiture or for pecuniary penalty — prescribed Acts

For paragraph 6K (c) of the Act, an Act mentioned in column 2 of an item in Schedule 1 is a prescribed Act.

3 Warrants authorising agencies to intercept telecommunications — prescribed forms

For subsection 49 (1) of the Act, the following forms are prescribed:

- (a) for a warrant issued under section 46 of the Act — form 3 in Schedule 3;
- (b) for a warrant issued under section 46A of the Act — form 4 in Schedule 3;
- (c) for a warrant issued under section 48 of the Act — form 5 in Schedule 3.

4 Stored communications warrant — prescribed form

For paragraph 118 (1) (a) of the Act, form 6 in Schedule 3 is prescribed.

**Schedule 1 Proceeding for confiscation or
forfeiture or for pecuniary
penalty — prescribed Acts**
(regulation 2A)

Item Act

-
- 1 *Proceeds of Crime Act 2002*
 - 2 *Confiscation of Proceeds of Crime Act 1989 (NSW)*
 - 3 *Criminal Assets Recovery Act 1990 (NSW)*
 - 4 **Confiscation Act 1997 (Vic)**
 - 5 *Criminal Proceeds Confiscation Act 2002 (Qld)*
 - 6 *Criminal Property Confiscation Act 2000 (WA)*
 - 7 *Criminal Assets Confiscation Act 1996 (SA)*
 - 8 *Criminal Assets Confiscation Act 2005 (SA)*
 - 9 *Crime (Confiscation of Profits) Act 1993 (Tas)*
 - 10 *Confiscation of Criminal Assets Act 2003 (ACT)*
 - 11 *Criminal Property Forfeiture Act 2002 (NT)*
-

4 *Telecommunications (Interception and Access)
Regulations 1987*

Schedule 3 Forms

(regulations 3 and 4)

Form 3 Telecommunications service warrant

Commonwealth of Australia

Telecommunications (Interception and Access) Act 1979

TELECOMMUNICATIONS SERVICE WARRANT

Telecommunications service [*unique number assigned to the service; any other known unique identifying factors*]

Particular person [*full known name, other known names, other known identifying information (eg date of birth)*]

Applicant agency [*name*]

1 Authorisation

- (1) I, [*name*], *an eligible Judge/*a nominated AAT member within the meaning of the *Telecommunications (Interception and Access) Act 1979* (the *Act*), acting under section 46 of the Act, authorise interceptions of communications made to or from the telecommunications service mentioned above.
- (2) I am satisfied, on the basis of the information given to me by the applicant agency, that:
- (a) Division 3 of Part 2-5 of the Act has been complied with in relation to the application for this warrant; and
 - * (b) because of urgent circumstances, it was necessary to make the application by telephone; and
 - (c) there are reasonable grounds for suspecting that the particular person mentioned above is using, or is likely to use, the service; and

[Complete subclause (3) in a case in which subparagraph 46 (1) (d) (ii) of the Act applies]

2 Persons who may exercise this authority

Under subsection 55 (1) of the Act, the authority conferred by this warrant may be exercised by an officer or staff member of the applicant agency, or another agency, in relation to whom an approval under subsection 55 (3) of the Act is in force in relation to the warrant, or to the class of warrants to which it belongs.

3 Period for which warrant is in force

(1) Under section 54 of the Act, this warrant comes into force when it is issued.

(2) This warrant is in force until [specify date].

[Specify a date that is:

(a) if subparagraph 46 (1) (d) (ii) of the Act applies — not more than 45 days away; or

(b) otherwise — not more than 90 days away]

***4 Conditions**

Interceptions under this warrant are subject to the following conditions:
[details of conditions].

***5 Restrictions**

Interceptions under this warrant are subject to the following restrictions:
[details of restrictions].

Dated

.....
*Judge/*nominated AAT member

* Omit if not applicable

Form 4 Named person warrant

Commonwealth of Australia

Telecommunications (Interception and Access) Act 1979

NAMED PERSON WARRANT

*Particular telecommunications device	[<i>unique number assigned to the device; and other known unique identifying factors</i>]
Particular person (named person)	[<i>full known name, other known names, other known identifying information (eg date of birth)</i>]
Applicant agency	[<i>name</i>]

1 Authorisation

(1) I, [*name*], *an eligible Judge/*a nominated AAT member within the meaning of the *Telecommunications (Interception and Access) Act 1979* (the *Act*), acting under section 46A of the Act, authorise interceptions of communications made to or from any telecommunications service that the named person is using, or is likely to use.

*and communications made by means of the particular telecommunications device mentioned above that a person is using, or is likely to use.

(2) I am satisfied, on the basis of the information given to me by the applicant agency, that:

- (a) Division 3 of Part 2-5 of the Act has been complied with in relation to the application for this warrant; and
- * (b) because of urgent circumstances, it was necessary to make the application by telephone; and
- (c) there are reasonable grounds for suspecting that the named person is using, or is likely to use, more than 1 telecommunications service; and
- (d) information that would be likely to be obtained by intercepting, under a warrant, communications made to or from any telecommunications service that the named person is using, or is likely to use,

*and communications made by means of the particular telecommunications device that a person is using, or is likely to use, would be likely to assist in connection with the investigation by the agency of the following *serious offence/*serious offences, in which the named person is involved:

[*short particulars of the serious offence or serious offences*]; and

- (e) the warrant should be issued having regard to the following matters only:
- (i) how much the privacy of any person or persons would be likely to be interfered with by intercepting under a warrant:
 - (A) communications made to or from any telecommunications service used, or likely to be used, by the named person; or
 - (B) communications made by means of the particular telecommunications device used, or likely to be used, by the named person; and
 - (ii) the gravity of the conduct constituting the *offence/*offences being investigated; and
 - (iii) how much the information referred to in paragraph (d) would be likely to assist in connection with the investigation by the applicant agency of the *offence/*offences; and
 - (iv) to what extent methods (including the use of a warrant issued under section 46 of the Act) of investigating the *offence/*offences that do not involve the use of a warrant issued under section 46A of the Act in relation to the named person have been used by, or are available to, the applicant agency; and
 - (v) how much the use of such methods would be likely to assist in connection with the investigation by the applicant agency of the *offence/*offences; and
 - (vi) how much the use of such methods would be likely to prejudice the investigation by the applicant agency of the *offence/*offences, whether because of delay or for any other reason.

- (a) entry on the premises mentioned above in order to install, maintain, use or recover equipment or a line used in the interception of communications being made to or from the telecommunications service mentioned above; and
 - (b) interceptions of such communications by the use of that equipment or line.
- (2) This warrant authorises:
- (a) entry on the premises:
 - (i) *at any time of the day or night/*during the hours of [*specify hours during which entry on the premises is authorised*], for the purposes mentioned in paragraph (1) (a); and
 - **(ii)* without permission first being sought or demand first being made; and
 - **(b)* the following measures, that I am satisfied are necessary and reasonable for those purposes:
[specify measures authorised to be taken].
- (3) I am satisfied:
- (a) that subsection 48 (2) of the Act has been complied with in relation to the application for this warrant; and
 - (b) on the basis of the information given to me by the applicant agency, that:
 - (i) section 46 of the Act would empower me to issue a warrant if the application had been made under that section; and
 - (ii) Division 3 of Part 2-5 of the Act has been complied with in relation to this application; and
 - (iii) information that would be likely to be obtained by intercepting, under a warrant, communications made to or from the service, would be likely to assist in connection with the investigation by the applicant agency of the following *serious offence/*serious offences, in which
 - *the particular person mentioned above is involved:
 - *another person is involved, with whom the particular person mentioned above is likely to communicate using the service:
[short particulars of the serious offence or serious offences];
- and

- (c) on the basis of the information given to me by the applicant agency, that it would be impracticable or inappropriate to intercept communications under a warrant in respect of the service otherwise than by the use of equipment or a line installed on those premises:

*for technical reasons connected with the nature or operation of the service or of a telecommunications system of which the service forms a part.

*because, if the warrant were issued under section 46, communications to or from the telecommunications service would be intercepted while passing over a telecommunications system and execution of the warrant as a result of action taken by employees of that carrier might jeopardise the security of the investigation, by the applicant agency, of a serious offence in which a person to whom the application relates is involved.

2 Persons who may exercise this authority

Under subsection 55 (1) of the Act, the authority conferred by this warrant applies to an officer or staff member of the applicant agency, or another agency, in relation to whom an approval under subsection 55 (3) of the Act is in force in relation to the warrant, or to the class of warrants to which it belongs.

3 Period for which warrant is in force

- (1) Under section 54 of the Act, this warrant comes into force when it is issued.

- (2) This warrant is in force until [*specify date*].

[*specify a date that is:*

- (a) *if subparagraph 46 (1) (d) (ii) of the Act would apply if the application had been made under section 46 of the Act — not more than 45 days away; or*
(b) *otherwise — not more than 90 days away]*

***4 Conditions**

Interceptions under this warrant are subject to the following conditions:

[*details of conditions*].

***5 Restrictions**

Interceptions under this warrant are subject to the following restrictions:
[*details of restrictions*].

Dated

.....
*Judge/*nominated AAT member

* Omit if not applicable

Form 6 Stored communications warrant

Commonwealth of Australia

Telecommunications (Interception and Access) Act 1979

STORED COMMUNICATIONS WARRANT

Person in respect of whom warrant is issued [full known name, other known names, other known identifying information (eg date of birth)]

Applicant enforcement agency [name]

Person making application on behalf of applicant enforcement agency [full name]

Note See subsections 119 (4) and (5) of the Act in relation to issuing a further warrant in respect of a person in respect of whom a previous warrant was issued.

1 Authorisation

(1) I, [name], an issuing authority within the meaning of the *Telecommunications (Interception and Access) Act 1979* (the **Act**), acting

under section 116 of the Act, authorise the accessing of any stored communication:

- (a) that was made by the person mentioned above, or that another person has made and for which the intended recipient is the person mentioned above; and
 - (b) that becomes, or became, a stored communication before the warrant is first executed in relation to the carrier that holds the communication.
- (2) I am satisfied, on the basis of the information given to me by the applicant enforcement agency, that:
- (a) Division 1 of Part 3-3 of the Act has been complied with in relation to the application for this warrant; and
 - *(b) because of urgent circumstances, it was necessary to make the application by telephone; and
 - (c) there are reasonable grounds for suspecting that *a particular carrier holds/*particular carriers hold stored communications:
 - (i) that the person mentioned above has made; or
 - (ii) that another person has made and for which the person mentioned above is the intended recipient; and
 - (d) information that would be likely to be obtained by accessing those stored communications under a stored communications warrant would be likely to assist in connection with the investigation by the applicant enforcement agency of the following *serious contravention/*serious contraventions, in which the person mentioned above is involved:

[short particulars of each serious contravention]; and
 - (e) the warrant should be issued having regard to the following matters only:
 - (i) how much the privacy of any person or persons would be likely to be interfered with by accessing those stored communications under a stored communications warrant; and
 - (ii) the gravity of the conduct constituting each serious contravention being investigated; and
 - (iii) how much the information referred to in paragraph (d) would be likely to assist in connection with the investigation by the

applicant enforcement agency of each serious contravention;
and

- (iv) to what extent the methods of investigating each serious contravention that do not involve the use of a stored communications warrant in relation to the person mentioned above have been used by, or are available to, the applicant enforcement agency; and
- (v) how much the use of such methods would be likely to assist in connection with the investigation by the applicant enforcement agency of each serious contravention; and
- (vi) how much the use of such methods would be likely to prejudice the investigation by the applicant enforcement agency of each serious contravention, whether because of delay or for any other reason.

2 Persons who may exercise this authority

Under section 127 of the Act, the authority conferred by this warrant may be exercised by an officer or staff member of the applicant enforcement agency, or another enforcement agency, in relation to whom an approval under subsection 127 (2) of the Act is in force in relation to the warrant, or to the class of warrants to which it belongs.

3 Duration of warrant

- (1) Under section 125 of the Act, this warrant comes into force when it is issued.
- * (2) Under subsection 119 (1) of the Act, this warrant remains in force until the occurrence of the sooner of the following:
 - (a) the warrant is first executed;
 - (b) the end of the period of 5 days after the day on which it was issued.

[Complete the above subclause only if the warrant relates to 1 or more telecommunication services that are all operated by the same carrier]

- * (2) Under subsection 119 (2) of the Act, this warrant remains in force, to the extent that it relates to a telecommunications service operated by a particular carrier, until the occurrence of the sooner of the following:
 - (a) the warrant is first executed in relation to a telecommunications service operated by that particular carrier;

(b) the end of the period of 5 days after the day on which it was issued.

[Complete the above subclause only if the warrant relates to 2 or more telecommunications services that are not all operated by the same carrier]

***4 Conditions**

The accessing of stored communications under this warrant is subject to the following conditions:

[details of conditions].

***5 Restrictions**

The accessing of stored communications under this warrant is subject to the following restrictions:

[details of restrictions].

Dated

.....
Issuing Authority

* Omit if not applicable

Table of Instruments**Notes to the *Telecommunications (Interception and Access) Regulations 1987*****Note 1**

The *Telecommunications (Interception and Access) Regulations 1987* (in force under the *Telecommunications (Interception and Access) Act 1979*) as shown in this compilation comprise Statutory Rules 1987 No. 329 amended as indicated in the Tables below.

Under the *Legislative Instruments Act 2003*, which came into force on 1 January 2005, it is a requirement for all non-exempt legislative instruments to be registered on the Federal Register of Legislative Instruments. From 1 January 2005 the Statutory Rules series ceased to exist and was replaced with Select Legislative Instruments (SLI series). Numbering conventions remain the same, ie Year and Number.

Table of Instruments

Year and number	Date of notification in Gazette or FRLI registration	Date of commencement	Application, saving or transitional provisions
1987 No. 329	11 Jan 1988	1 Sept 1988 (see <i>Gazette</i> 1988, No. S256)	
1994 No. 5	1 Feb 1994	1 Feb 1994 (see r. 1 and <i>Gazette</i> 1994, No. S27)	—
1997 No. 421	24 Dec 1997	1 Feb 1998	—
2000 No. 180	12 July 2000	12 July 2000	—
2000 No. 325	8 Dec 2000	8 Dec 2000	—
2001 No. 85	10 May 2001	10 May 2001	—
2002 No. 184	15 Aug 2002	15 Aug 2002	—
2005 No. 302	16 Dec 2005 (see F2005L04097)	17 Dec 2005 (see r. 2)	—
2006 No. 116	2 June 2006 (see F2006L01621)	Rr. 1–3 and Schedule 1: 13 June 2006 Remainder: 1 July 2006	—
2006 No. 293	17 Nov 2006 (see F2006L03703)	18 Nov 2006	—

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
R. 1	rs. 2000 No. 180; 2006 No. 116
R. 2	rs. 2006 No. 116
R. 2A	ad. 2002 No. 184 rs. 2005 No. 302
R. 3	am. 1994 No. 5 rs. 2000 Nos. 180 and 325; 2006 No. 116
R. 4	ad. 2006 No. 116
Schedules 1, 2	rep. 1994 No. 5
Schedule 1	
Schedule 1	ad. 2005 No. 302
Schedule 3	
Heading to Schedule 3.....	rs. 2000 Nos. 180 and 325; 2006 No. 116
Schedule 3.....	am. 1994 No. 5; 1997 No. 421 rs. 2000 No. 325 am. 2001 No. 85; 2006 Nos. 116 and 293
Schedule 3A	ad. 2000 No. 180 rep. 2000 No. 325
Heading to Schedule 4.....	rs. 2000 No. 180 rep. 2000 No. 325
Schedule 4	am. 1994 No. 5; 1997 No. 421 rep. 2000 No. 325
Schedule 4A	ad. 2000 No. 180 rep. 2000 No. 325
Schedule 5	am. 1994 No. 5; 1997 No. 421; 2000 No. 180 rep. 2000 No. 325