



# **Telecommunications (Interception and Access) Amendment (Public Interest Advocates and Other Matters) Regulation 2015**

## **Select Legislative Instrument No. 167, 2015**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 15 October 2015

Peter Cosgrove  
Governor-General

By His Excellency's Command

George Brandis QC  
Attorney-General

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*OPC61455 - H*



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## 1 Name

This is the *Telecommunications (Interception and Access) Amendment (Public Interest Advocates and Other Matters) Regulation 2015*.

## 2 Commencement

- (1) Each provision of this instrument 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 instrument	The day after this instrument is registered.	16 October 2015

Note: This table relates only to the provisions of this instrument as originally made.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

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

## 3 Authority

This instrument is made under the *Telecommunications (Interception and Access) Act 1979*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *Telecommunications (Interception and Access) Regulations 1987*

#### **1 Before regulation 1**

Insert:

### **Part 1—Introduction**

#### **Division 1—Preliminary**

#### **2 After regulation 1**

Insert:

##### **1A Authority**

These Regulations are made under the Act.

#### **Division 2—Interpretation**

#### **3 Regulation 2**

Insert:

*paid work* means work for financial gain or reward (whether as an employee, a self-employed person or otherwise).

#### **4 Regulation 2AB**

Repeal the regulation.

#### **5 After regulation 2A**

Insert:

## **Part 2—Interception of telecommunications**

### **2B Criminal organisation—prescribed provisions**

Section 7 of the *Serious Crime Control Act* (NT) is prescribed for paragraph (b) of the definition of *criminal organisation* in subsection 5(1) of the Act.

Note: Section 7 of the *Serious Crime Control Act* (NT) describes an organisation declared under section 15 of that Act.

## **Part 3—Prescribed forms for warrants**

### **Division 1—Telecommunications service warrants, issue of named person warrants and entry on premises warrants**

#### **6 Before regulation 4**

Insert:

#### **Division 2—Stored communication warrants**

#### **7 After regulation 4**

Insert:

### **Division 3—Journalist information warrants**

#### **5 Journalist information warrant—prescribed form**

For subsection 180U(1) of the Act, Form 7 in Schedule 3 is prescribed.

## **Part 4—Access to telecommunications data**

### **Division 1—Journalist information warrants**

#### **6 Public Interest Advocate to be given proposed journalist information warrant requests made by the Director-General of Security**

- (1) Before requesting a journalist information warrant under section 180J of the Act, the Director-General of Security must ensure that a copy of the proposed request is given to a Public Interest Advocate who:
  - (a) has been cleared for security purposes to the same level, and at the same frequency, as that required of an ASIO employee; or
  - (b) satisfies paragraph 13(1)(b) of these Regulations.
- (2) If:
  - (a) a copy of a proposed request is given to a Public Interest Advocate, as required by subregulation (1); and
  - (b) subparagraph 8(1)(b)(ii) applies;the Director-General of Security must ensure that a copy of the proposed request is given to another Public Interest Advocate in accordance with this regulation.

#### **7 Public Interest Advocate to be given proposed journalist information warrant applications made by an enforcement agency**

- (1) Before making a written application for a journalist information warrant under section 180Q of the Act, the person making the application on behalf of an enforcement agency must ensure that a Public Interest Advocate is given a copy of the proposed application.
- (2) Before making an oral application for a journalist information warrant under section 180Q of the Act, the person making the application on behalf of an enforcement agency must ensure that a Public Interest Advocate is notified of the proposed application.
- (3) If:



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- (a) both:
    - (i) a copy of a proposed application is given to a Public Interest Advocate, as required by subregulation (1); and
    - (ii) subparagraph 8(1)(b)(ii) applies; or
  - (b) both:
    - (i) a Public Interest Advocate is notified of a proposed application, as required by subregulation (2); and
    - (ii) the Public Interest Advocate advises that he or she is unable to attend the hearing of the application;
- the person making the application must ensure that a copy of the proposed application is given to another Public Interest Advocate in accordance with this regulation.

## **8 Public Interest Advocate to deal with proposed journalist information warrant requests and applications**

### *Requests and written applications*

- (1) Upon receiving a proposed request by the Director-General of Security or written application by an enforcement agency for a journalist information warrant, the relevant Public Interest Advocate:
  - (a) may consider the proposed request or application; and
  - (b) must, as soon as reasonably practicable, advise the applicant that:
    - (i) he or she will prepare a submission in relation to the proposed request or application; or
    - (ii) he or she is unable to prepare a submission in relation to the proposed request or application.

### *Oral applications*

- (2) Upon being notified about a proposed oral application by an enforcement agency for a journalist information warrant, the relevant Public Interest Advocate must advise the applicant whether he or she is able to attend the hearing of the application.

Note: See regulation 10.

### *Further information relating to requests or applications*

- (3) If:

- (a) further information is given to:
    - (i) the Minister in relation to a request by the Director-General of Security; or
    - (ii) the relevant Part 4-1 issuing authority in relation to an application by an enforcement agency; and
  - (b) a Public Interest Advocate is also given the further information or a summary of it;
- then:
- (c) in the case of a request by the Director-General of Security for a journalist information warrant, subregulation (1) applies as if the further information or summary were a proposed request for such a warrant; and
  - (d) in the case of a written application by an enforcement agency for a journalist information warrant, subregulation (1) applies as if the further information or summary were a proposed written application for such a warrant; and
  - (e) in the case of an oral application by an enforcement agency for a journalist information warrant, subregulation (2) applies as if the further information or summary were a proposed oral application for such a warrant.

## 9 Public Interest Advocate to prepare submissions

### *Submission to be prepared*

- (1) If subparagraph 8(1)(b)(i) applies, the relevant Public Interest Advocate must prepare a submission relating to the proposed request by the Director-General of Security or application by an enforcement agency, and endeavour to do so within a reasonable period, but no later than 7 days after being given the proposed request or application.
- (2) The Public Interest Advocate must include in the submission the facts and considerations he or she considers:
  - (a) are relevant to one or both of the following:
    - (i) the decision whether to issue a journalist information warrant (including any facts and considerations which support the conclusion that a journalist information warrant should not be issued);
    - (ii) the decision about the conditions or restrictions (if any) that are to be specified in the warrant; and

- 
- (b) have not been satisfactorily addressed in the proposed request by the Director-General of Security or application by the enforcement agency.
  - (3) Subregulation (2) does not limit the facts or considerations that the Public Interest Advocate may include in his or her submission.
  - (4) In determining what is a reasonable period to prepare the submission, the Public Interest Advocate must take into account:
    - (a) the time that could reasonably be expected to be required to prepare the submission; and
    - (b) the gravity of the matter in relation to which the proposed request or application relates; and
    - (c) the urgency of the circumstances in which the proposed request or application is made; and
    - (d) any other matter that the Public Interest Advocate considers relevant.

*Copy of submission to be given to relevant person*

- (5) The Public Interest Advocate must, as soon as reasonably practicable, provide a copy of the submission to:
  - (a) in the case of a proposed request by the Director-General of Security—the Director-General of Security; and
  - (b) in the case of a proposed application by an enforcement agency—the following:
    - (i) if the Public Interest Advocate knows the identity of the person who proposes to make the application on behalf of the enforcement agency and that person is available—that person;
    - (ii) in any other case—the chief officer of the enforcement agency that is proposing to make the application.

*Submission to take into account further information*

- (6) If:
  - (a) further information is given to:
    - (i) the Minister in relation to a request by the Director-General of Security; or
    - (ii) the relevant Part 4-1 issuing authority in relation to an application by an enforcement agency; and

- (b) a Public Interest Advocate is also given the further information or a summary of it; and
  - (c) subparagraph 8(1)(b)(i) applies;
- the Public Interest Advocate must update the submission, or prepare a new submission, relating to the request or application taking into account the further information or summary.
- (7) The Public Interest Advocate must endeavour to update the submission, or prepare the new submission, within a reasonable period, but no later than 7 days after being given the further information or summary.
  - (8) Subregulations (2) to (5) apply in relation to updating the submission or preparing the new submission.

*Late submissions*

- (9) If a Public Interest Advocate provides a copy of the submission, or updated submission, after the end of the 7 day period mentioned in subregulation (1) or (7), the Minister or Part 4-1 issuing authority may consider the late submission or updated submission.

**10 Public Interest Advocate's attendance at hearing of oral application by an enforcement agency for a proposed journalist information warrant**

- (1) A Public Interest Advocate may attend the hearing of an oral application by an enforcement agency for a journalist information warrant in person, or by telephone or other means of voice communication.
- (2) A Public Interest Advocate attending such a hearing may make submissions to the Part 4-1 issuing authority hearing the application in the presence of the relevant enforcement agency.
- (3) Submissions made by the Public Interest Advocate must include the facts and considerations he or she considers:
  - (a) are relevant to one or both of the following:
    - (i) the decision whether to issue a journalist information warrant (including any facts and considerations which support the conclusion that a journalist information warrant should not be issued);

- 
- (ii) the decision about the conditions or restrictions (if any) that are to be specified in the warrant; and
    - (b) have not been satisfactorily addressed in the enforcement agency's application.
  - (4) Subregulation (3) does not limit the facts or considerations that the Public Interest Advocate may include in his or her submissions.
  - (5) If:
    - (a) further information is given to a relevant Part 4-1 issuing authority in relation to an oral application; and
    - (b) a Public Interest Advocate is also given the further information or a summary of it; and
    - (c) the Public Interest Advocate has confirmed his or her availability to attend the hearing of the application;the Public Interest Advocate must update the submission made, or make a new submission, to the Part 4-1 issuing authority taking into account the further information or summary.

## **11 Further information, or a copy or summary of information, to be given to Public Interest Advocate**

### *Further information relating to a request by the Director-General of Security*

- (1) If, under section 180K of the Act, the Minister requires the Director-General of Security to give to the Minister further information in connection with a request made by the Director-General of Security, the Minister may require that:
  - (a) in the case of further information given in writing—the further information, or a copy of it, be given to a Public Interest Advocate; and
  - (b) in the case of further information given orally—both:
    - (i) the further information, or a summary of it, be given to a Public Interest Advocate; and
    - (ii) the further information or summary be given to the Public Interest Advocate in a particular form, which may be the same form as that in which the further information was given to the Minister or another form.
- (2) In deciding whether to act under subregulation (1), the Minister may have regard to the following matters:

- (a) the extent to which further information would be likely to be relevant to a Public Interest Advocate's preparation of a new submission, or the updating of his or her submission, relating to the request;
- (b) the gravity of the matter in relation to which the request relates;
- (c) the urgency of the circumstances in which the request is being made;
- (d) any other matter that the Minister considers relevant.

*Further information relating to an application by an enforcement agency*

- (3) If, under section 180R of the Act, a Part 4-1 issuing authority requires a person to give to the Part 4-1 issuing authority further information in connection with an application by an enforcement agency, the Part 4-1 issuing authority may require that:
  - (a) in the case of further information given in writing—the further information, or a copy of it, be given to a Public Interest Advocate; and
  - (b) in the case of further information given orally—both:
    - (i) the further information, or a summary of it, be given to a Public Interest Advocate; and
    - (ii) the further information or summary be given to the Public Interest Advocate in a particular form, which may be the same form as that in which the further information was given to the Part 4-1 issuing authority or another form.
- (4) In deciding whether to act under subregulation (3), a Part 4-1 issuing authority may have regard to the following matters:
  - (a) the extent to which further information would be likely to be relevant to a Public Interest Advocate's preparation of a new submission, or the updating of his or her submission, relating to the application;
  - (b) the gravity of the matter in relation to which the application relates;
  - (c) the urgency of the circumstances in which the application is being made;
  - (d) any other matter that the Part 4-1 issuing authority considers relevant.

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**12 Public Interest Advocate to return proposed journalist information warrant requests and applications**

- (1) After a decision has been made to issue, or refuse to issue, a journalist information warrant, or a request or application for such a warrant is withdrawn, a Public Interest Advocate must:
  - (a) in the case of a request by the Director-General of Security—return the following to the Director-General of Security:
    - (i) the proposed request to which the warrant relates;
    - (ii) any submission prepared by a Public Interest Advocate;
    - (iii) any other document, or a copy of or extract from a document, relating to the proposed request; and
  - (b) in the case of an application by an enforcement agency—return the following to the enforcement agency:
    - (i) the proposed application to which the warrant relates;
    - (ii) any submission prepared by a Public Interest Advocate;
    - (iii) any other document, or a copy of or extract from a document, relating to the proposed application.
- (2) If:
  - (a) further information is given to:
    - (i) the Minister in relation to a request by the Director-General of Security; or
    - (ii) the relevant Part 4-1 issuing authority in relation to an application by an enforcement agency; and
  - (b) a Public Interest Advocate is also given the further information or a summary of it;the Public Interest Advocate must return the document containing the information or summary to the relevant person mentioned in subregulation (1).

**Division 2—Public Interest Advocates****13 Eligibility for appointment**

- (1) Before declaring a person to be a Public Interest Advocate, the Prime Minister must be satisfied that:
  - (a) the person is a Queen’s Counsel or Senior Counsel who has been cleared for security purposes to a level that the Prime Minister considers appropriate; or

- (b) the person has served as a judge of:
  - (i) the High Court; or
  - (ii) a court that is or was created by the Parliament under Chapter III of the Constitution; or
  - (iii) the Supreme Court of a State or Territory; or
  - (iv) the District Court (or equivalent) of a State or Territory; but no longer holds a commission as a judge of a court listed in this paragraph.
- (2) However, the following persons may not be declared as a Public Interest Advocate:
  - (a) the Director-General of Security or a Deputy Director-General of Security;
  - (b) an examiner;
  - (c) the Director of Public Prosecutions or a person performing a similar function appointed under the law of a State or Territory;
  - (d) the Solicitor-General of the Commonwealth, or of a State or Territory;
  - (e) a person who is employed by the Commonwealth, a State or Territory;
  - (f) a member of the Parliament of the Commonwealth or a State or the Legislative Assembly of a Territory.

#### **14 Term of appointment**

A Public Interest Advocate holds office for the period specified in the written instrument declaring the person to be a Public Interest Advocate. The period must not exceed 5 years.

Note: A Public Interest Advocate may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

#### **15 Remuneration**

##### *Entitlement to charge*

- (1) A Public Interest Advocate may charge remuneration for the time spent by the Public Interest Advocate in the performance of his or her role as a Public Interest Advocate.
- (2) Such remuneration is to be borne:



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- (a) in respect of a request for a journalist information warrant by the Director-General of Security—by the Organisation; and
  - (b) in respect of an application for a journalist information warrant by an enforcement agency—by the enforcement agency.

*Rate of remuneration*

- (3) A Public Interest Advocate may charge for remuneration:
  - (a) per day—at the daily rate payable to senior counsel without the approval of the Attorney-General, as set out in Appendix D of the *Legal Services Directions 2005* and as in force from time to time; and
  - (b) per hour—at one-sixth of the maximum daily rate mentioned in paragraph (a), up to a maximum of 6 hours per day.

## **16 Disclosure of interests to the Minister**

A Public Interest Advocate must give written notice to the Prime Minister of all interests, pecuniary or otherwise, that the Public Interest Advocate has or acquires and that conflicts or could conflict with the proper performance of his or her functions.

## **17 Conflicts of interest**

- (1) A Public Interest Advocate must take reasonable steps to avoid any conflict of interest (real or apparent) in connection with the proper performance of his or her functions as a Public Interest Advocate.
- (2) If the Public Interest Advocate believes that he or she has a conflict of interest (real or apparent) in relation to the subject-matter of a proposed request by the Director-General of Security or proposed application by an enforcement agency for a journalist information warrant, the Public Interest Advocate must:
  - (a) in the case of a proposed request by the Director-General of Security—advise the Director-General of Security that he or she is unable to prepare a submission in relation to the proposed request; or
  - (b) in the case of a proposed written application by an enforcement agency—advise the applicant that he or she is unable to prepare a submission in relation to the proposed application; or

- (c) in the case of a proposed oral application by an enforcement agency—advise the applicant that he or she is unable to attend the hearing of the application.
- (3) To avoid doubt, subregulation (2) does not limit subparagraph 8(1)(b)(ii) or subregulation 8(2).

## 18 Resignation

- (1) A Public Interest Advocate may resign from his or her position by giving the Prime Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Prime Minister or, if a later day is specified in the resignation, on that later day.

## 19 Termination of appointment

- (1) The Prime Minister may revoke the declaration of a Public Interest Advocate:
  - (a) for misbehaviour by the Public Interest Advocate; or
  - (b) if the Public Interest Advocate is unable to perform his or her duties because of physical or mental incapacity.
- (2) The Prime Minister must revoke the declaration of a Public Interest Advocate if:
  - (a) the Public Interest Advocate:
    - (i) becomes bankrupt; or
    - (ii) takes steps to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
    - (iii) compounds with one or more of his or her creditors; or
    - (iv) makes an assignment of his or her remuneration for the benefit of one or more of his or her creditors; or
  - (b) the Public Interest Advocate fails, without reasonable excuse, to comply with regulation 16 or 17; or
  - (c) the Public Interest Advocate is a person mentioned in paragraph 13(1)(a) and either:
    - (i) ceases to be a Queen's Counsel or Senior Counsel; or
    - (ii) ceases to hold a security clearance to a level that the Prime Minister considers appropriate; or

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- (d) the Public Interest Advocate holds a position mentioned in subregulation 13(2).

## **20 Immunity from legal action**

No action, suit or proceeding may be brought against a person who is, or has been, a Public Interest Advocate in relation to anything done, or omitted to be done, in good faith by the Public Interest Advocate:

- (a) in the performance, or purported performance, of his or her functions; or
- (b) in the exercise, or purported exercise, of his or her powers.

## **Division 3—Miscellaneous**

### **21 Arrangements with States and Territories**

*Governor-General may make arrangements*

- (1) The Governor-General may make arrangements with:
  - (a) the Governor of a State (other than the Northern Territory); and
  - (b) the Chief Minister for the Australian Capital Territory; and
  - (c) the Administrator of the Northern Territory;with respect to the administration of provisions of the Act and these Regulations relating to journalist information warrants.

*Lack of arrangement does not affect validity of exercise of power or performance of function*

- (2) The validity of the performance of a function, or the exercise of a power, is not affected by the absence of an arrangement under this regulation covering the performance of the function, or exercise of the power, relating to the provisions mentioned in subregulation (1).

## Part 5—Application and transitional provisions

### Division 1—Amendments made by the Telecommunications (Interception and Access) Amendment (Public Interest Advocates and Other Matters) Regulation 2015

#### 22 Use of prescribed forms

- (1) Despite the amendment made by item 9 of Schedule 1 to the amending regulation, an application for a telecommunications service warrant may be validly made, and such a warrant validly issued, using Form 1 of Schedule 3 to the *Telecommunications (Interception and Access) Regulations 1987*, as in force immediately before the commencement day, until the end of 7 days after the commencement day.
- (2) Despite the amendment made by item 9 of Schedule 1 to the amending regulation, an application for a telecommunications service warrant—B-party may be validly made, and such a warrant validly issued, using Form 2 of Schedule 3 to the *Telecommunications (Interception and Access) Regulations 1987*, as in force immediately before the commencement day, until the end of 7 days after the commencement day.
- (3) Despite the amendment made by item 10 of Schedule 1 to the amending regulation, an application for a stored communications warrant may be validly made, and such a warrant validly issued, using Form 6 of Schedule 3 to the *Telecommunications (Interception and Access) Regulations 1987*, as in force immediately before the commencement day, until the end of 7 days after the commencement day.

- (4) In this regulation:

**amending regulation** means the *Telecommunications (Interception and Access) Amendment (Public Interest Advocates and Other Matters) Regulation 2015*.

**commencement day** means the day the amending regulation commences.

**23 Repeal of this Part**

This Part is repealed on the eighth day after the *Telecommunications (Interception and Access) Amendment (Public Interest Advocates and Other Matters) Regulation 2015* commences.

**8 Schedule 3 (note to Schedule heading)**

Omit “and 4”, substitute “, 4 and 5”.

**9 Schedule 3 (Forms 1 and 2)**

Repeal the forms, substitute:

**Form 1—Telecommunications service warrant****Commonwealth of Australia**

*Telecommunications (Interception and Access) Act 1979*

**TELECOMMUNICATIONS SERVICE WARRANT**

<i>Telecommunications service</i>	[unique number assigned to the service; any other known unique identifying factors]
<i>Particular *person/*persons</i>	[full known *name/*names, other known names, other known identifying information (eg date of birth)]
<i>Applicant agency</i>	[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/\*persons mentioned above \*is/\*are using, or \*is/\*are likely to use, the service; and
- (d) 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 is/\*particular persons are 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, communications made to or from the service;
  - (ii) the gravity of the conduct constituting the \*offence/\*offences being investigated;
  - (iii) how much the information mentioned in paragraph (d) would be likely to assist in connection with the investigation by the applicant agency of the \*offence/\*offences;
  - (iv) to what extent methods of investigating the \*offence/\*offences that do not involve so intercepting communications have been used by, or are available to, the applicant agency;
  - (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;
  - (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.

## 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

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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 [*a date that is 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 2—Telecommunications service warrant—  
B-party**

**Commonwealth of Australia**

*Telecommunications (Interception and Access) Act 1979*

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**TELECOMMUNICATIONS SERVICE WARRANT—  
B-PARTY**

<i>Telecommunications service</i>	[unique number assigned to the service; any other known unique identifying factors]
<i>Particular *person/*persons</i>	[full known *name/*names, other known names, other known identifying information (eg date of birth)]
<i>Applicant agency</i>	[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/\*persons mentioned above \*is/\*are using, or \*is/\*are likely to use, the service; and
  - (d) 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 \*another person is/\*other persons are involved, with whom the \*particular person is/\*particular persons are likely to communicate using the service:

[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, communications made to or from the service;
  - (ii) the gravity of the conduct constituting the \*offence/\*offences being investigated;
  - (iii) how much the information mentioned in paragraph (d) would be likely to assist in connection with the investigation by the applicant agency of the \*offence/\*offences;
  - (iv) to what extent methods of investigating the \*offence/\*offences that do not involve so intercepting communications have been used by, or are available to, the applicant agency;
  - (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;
  - (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.
- (3) I am satisfied that:
- \*the applicant agency has exhausted all other practicable methods of identifying the services used, or likely to be used, by the \*person/\*persons involved in the \*serious offence/\*serious offences being investigated.
  - \*interception of communications made to or from a service used or likely to be used by the particular \*person/\*persons involved in the \*serious offence/\*serious offences being investigated would not otherwise be possible.

## **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.

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**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 [*a date that is not more than 45 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

**10 Schedule 3 (Form 6)**

Repeal the form, substitute:

**Form 6—Stored communications warrant**

**Commonwealth of Australia**

*Telecommunications (Interception and Access) Act 1979*

**STORED COMMUNICATIONS WARRANT**

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

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*Applicant criminal law-enforcement agency* [name]

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*Person making application on behalf of applicant criminal law-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 criminal law-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 criminal law-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;
  - (ii) the gravity of the conduct constituting each serious contravention being investigated;
  - (iii) how much the information referred to in paragraph (d) would be likely to assist in connection with the investigation by the applicant criminal law-enforcement agency of each serious contravention;
  - (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 criminal law-enforcement agency;
  - (v) how much the use of such methods would be likely to assist in connection with the investigation by the applicant criminal law-enforcement agency of each serious contravention;
  - (vi) how much the use of such methods would be likely to prejudice the investigation by the applicant criminal law-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 criminal law-enforcement agency, or another criminal law-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

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## Form 7—Journalist information warrant

### Commonwealth of Australia

*Telecommunications (Interception and Access) Act 1979*

#### JOURNALIST INFORMATION WARRANT

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*\*Person/\*persons in respect of whom warrant is issued* [full known name, other known names, other known identifying information (eg date of birth or Australian Business Number)]

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*Applicant enforcement agency* [name]

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

Note: See subsection 180U(5) of the Act in relation to issuing a further warrant in relation to a person or persons in respect of whom a warrant has, or warrants have, previously been issued.

#### 1 Authorisation

- (1) I, [name], a Part 4-1 issuing authority within the meaning of the *Telecommunications (Interception and Access) Act 1979* (the *Act*), acting under section 180T of the Act, authorise the making of one or more authorisations under \*section/\*sections \*178, \*178A, \*179 or \*180 of the Act in relation to the particular \*person/\*persons mentioned above.
- (2) I am satisfied, on the basis of the information given to me by the applicant enforcement agency, that:
  - (a) this warrant is reasonably necessary for the following \*purpose/\*purposes:
    - \* (i) [if the warrant authorises the making of authorisations under section 178 of the Act] for the enforcement of the criminal law;
    - \* (ii) [if the warrant authorises the making of authorisations under section 178A of the Act] to find a person who the Australian Federal Police, or a Police Force of a State, has been notified is missing;

- 
- \*(iii) [if the warrant authorises the making of authorisations under section 179 of the Act] for the enforcement of a law imposing a pecuniary penalty or the protection of the public revenue;*
  - \*(iv) [if the warrant authorises the making of authorisations under section 180 of the Act] the investigation of an offence of a kind referred to in subsection 180(4) of the Act; and*
  - (b) the public interest in issuing this warrant outweighs the public interest in protecting the confidentiality of the source in connection with whom authorisations would be made, having regard to the matters set out in paragraph 180T(2)(b) of the Act.

*\*[short particulars of each other matter to which regard was had, as allowed by subparagraph 180T(2)(b)(vi) of the Act].*

## **2 Persons who may exercise this authority**

The authority conferred by this warrant may be exercised by an authorised officer of the applicant enforcement agency.

## **3 Duration of warrant**

- (1) Under section 180V of the Act, this warrant comes into force when it is issued.
- (2) Under subsection 180U(3) of the Act, this warrant remains in force until *[a date that is not more than 90 days away]*.

## **\*4 Conditions**

The making of an authorisation under this warrant is subject to the following conditions:  
*[details of conditions]*.

## **\*5 Restrictions**

The making of an authorisation under this warrant is subject to the following restrictions:  
*[details of restrictions]*.

**Schedule 1** Amendments

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Dated

.....  
Part 4-1 Issuing Authority

\* Omit if not applicable

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28      *Telecommunications (Interception and Access) Amendment (Public  
Interest Advocates and Other Matters) Regulation 2015*      No. 167, 2015  
OPC61455 - H