



Telecommunications (Interception and Access) Amendment Regulations 2007 (No. 1)¹

Select Legislative Instrument 2007 No. 237

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Telecommunications (Interception and Access) Act 1979*.

Dated 9 August 2007

P. M. JEFFERY
Governor-General

By His Excellency's Command

PHILIP RUDDOCK
Attorney-General

1 Name of Regulations

These Regulations are the *Telecommunications (Interception and Access) Amendment Regulations 2007 (No. 1)*.

2 Commencement

These Regulations commence on 20 August 2007.

3 Amendment of *Telecommunications (Interception and Access) Regulations 1987*

Schedule 1 amends the *Telecommunications (Interception and Access) Regulations 1987*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 3

substitute

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 to which subparagraph 46 (1) (d) (i) of the Act applies — Form 1 in Schedule 3;
- (b) for a warrant issued under section 46 of the Act to which subparagraph 46 (1) (d) (ii) of the Act applies — Form 2 in Schedule 3;
- (c) for a warrant issued under section 46A of the Act to which subparagraph 46A (1) (d) (i) of the Act applies — Form 3 in Schedule 3;
- (d) for a warrant issued under section 46A of the Act to which subparagraph 46A (1) (d) (ii) of the Act applies — Form 4 in Schedule 3;

- (e) for a warrant issued under section 48 of the Act — Form 5 in Schedule 3.

[2] Schedule 3, Forms 3 and 4

substitute

Form 1 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

- (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 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 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

TELECOMMUNICATIONS SERVICE WARRANT — B-PARTY

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
 - (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 involved, with whom the particular person is 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;

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- (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 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 person 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.

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

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*Judge/*nominated AAT member

* Omit if not applicable

Form 3 Named person warrant — telecommunications services

Commonwealth of Australia

Telecommunications (Interception and Access) Act 1979

NAMED PERSON WARRANT — TELECOMMUNICATIONS SERVICES

Particular person [full known name, other known names, other known
(*named person*) 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 46A of the Act, authorise interceptions of communications made to or from any telecommunications service that the named person mentioned above 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

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- (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, 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, communications made to or from any telecommunications service used, or likely to be used, by the named person;
 - (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 (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;
 - (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 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

*General

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

*Excluded telecommunications services

This warrant does not authorise the interception of communications made to or from the following telecommunications services:
[*details and location of service(s)*].

Dated

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*Judge/*nominated AAT member

* Omit if not applicable

Form 4 **Named person warrant — telecommunications devices**

Commonwealth of Australia

Telecommunications (Interception and Access) Act 1979

NAMED PERSON WARRANT — TELECOMMUNICATIONS DEVICES

Particular person (named person)	[full known name, other known names, other known identifying information (eg date of birth)]
Particular telecommunications *device/*devices	[For each telecommunication device, the unique number assigned to the device (if known) and other known unique identifying factors]
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 46A of the Act, authorise interceptions of communications made by means of the particular telecommunications *device/*devices that the named person mentioned above 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 by means of the particular

telecommunications *device/*devices that the named 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, communications made by means of the particular telecommunications *device/*devices used, or likely to be used, by the named person;
 - (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 (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;
 - (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:

*there are no other practicable methods available to the applicant agency at the time of making the application to identify the telecommunications services used, or likely to be used, by the named person.

*interception of communications made to or from a telecommunications service used or likely to be used by the named person would not otherwise be practicable.

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 [*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

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*Judge/*nominated AAT member

* Omit if not applicable

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.