

TELECOMMUNICATIONS (INTERCEPTION AND ACCESS) LEGISLATION AMENDMENT
(EMERGENCY SERVICE FACILITIES) INSTRUMENT (NO.1) 2025

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Home Affairs
in compliance with section 15J of the *Legislation Act 2003*

PURPOSE AND OPERATION OF THE INSTRUMENT

The purpose of the *Telecommunications (Interception and Access) Legislation Amendment (Emergency Service Facilities) Instrument (No. 1) 2025* (Amendment Instrument) is to specify the geographical regions for the emergency service facilities operated by:

- the New South Wales Rural Fire Service in the geographical region of Eurunderee
- the Queensland Ambulance Service in the geographical region of Coomera, with effect from 30 July 2025
- the South Australia Country Fire Service, shared with South Australia Metropolitan Fire Service, South Australia State Emergency Service and South Australia Fire and Emergency Services Commission, in the geographical region of Keswick
- the Australian Maritime Safety Authority in the geographic region of Canberra, and
- the Police Force of the Northern Territory and the Northern Territory Ambulance Services in the geographic regions of Alice Springs, Knuckey Lagoon and Nightcliff.

The Amendment Instrument also removes the following emergency service facilities operated by:

- the New South Wales Rural Fire Service in the geographical regions of Mudgee, Young and Tuncurry
- the Emergency Services Telecommunications Authority in the geographical region of Melbourne
- the Queensland Ambulance Service in the geographical region of Southport, with effect from 1 October 2025, and
- the Australian Maritime Safety Authority in the geographical region of Braddon.

The Amendment Instrument is made under subsection 6(2D) of the *Telecommunications (Interception and Access) Act 1979* (TIA Act) and amends the following instruments (the Instruments):

- *Telecommunications (Interception and Access) (Emergency Service Facilities—New South Wales) Instrument 2020*
- *Telecommunications (Interception and Access) (Emergency Service Facilities—Victoria) Instrument 2020*
- *Telecommunications (Interception and Access) (Emergency Service Facilities—Queensland) Instrument 2025*
- *Telecommunications (Interception and Access) (Emergency Service Facilities—South Australia) Instrument 2023*
- *Telecommunications (Interception and Access) (Emergency Service Facilities – Australian Capital Territory) Instrument 2019*, and

- *Telecommunications (Interception and Access) (Emergency Service Facilities – Northern Territory) Instrument 2023.*

Background

The TIA Act establishes a general prohibition against the interception of communications passing over a telecommunications system. However, there is an exception in section 6 that allows a person to listen to or record emergency calls at emergency facilities declared by the Minister in certain circumstances.

Under subsection 6(2B), the Minister may declare premises to be emergency service facilities if the Minister is satisfied that the premises are operated by a police, fire, ambulance or dispatching service to enable emergency services to deal with a request for assistance in an emergency.

New South Wales

The New South Wales Rural Fire Service notified the Attorney-General's Department (the department), which at the time administered the TIA Act, that there is a new facility in Eurunderee, and that the facilities in Mudgee, Young and Tuncurry are no longer operational. The Minister subsequently declared the premises in Eurunderee operated by the New South Wales Rural Fire Service to be an emergency service facility. The Minister also amended the declaration to remove the facilities in Mudgee, Young and Tuncurry.

Victoria

The Emergency Services Telecommunications Authority notified the department that its name had changed to Triple Zero Victoria, and that its Melbourne facility is no longer operational. The Minister amended the declaration to reflect the change in the organisations name and to remove the Melbourne facility.

Queensland

The Queensland Ambulance Service notified the department that there is a new facility being built in Coomera, to become operational 30 July 2025 and that the Southport facility will be decommissioned by October 2025. The Minister subsequently declared the premises in Coomera operated by the Queensland Ambulance Service to be an emergency service facility, with effect from 30 July 2025. The Minister also amended the declaration to remove the facility in Southport, with effect from 1 October 2025.

South Australia

The South Australian Country Fire Service, through the South Australian Attorney-General's Department, notified the department that there is a new facility in Keswick. The Minister subsequently declared the premises in Keswick operated by the South Australian Country Fire Service, and shared with the South Australia Metropolitan Fire Service, South Australia State Emergency Service and South Australia Fire and Emergency Services Commission to be an emergency service facility.

Australian Capital Territory

The Australian Maritime Safety Authority notified the department that the facility in Braddon has changed locations to Canberra, and that they have a back-up site in Mitchell. The Minister subsequently declared the premises in Canberra and Mitchell operated by the Australian Maritime Safety Authority to be emergency service facilities, and amended the declaration to remove the facility in Braddon.

Northern Territory

The Police Force of the Northern Territory notified the department that there is a new operations centre commencing 19 May 2025 in Alice Springs.

Northern Territory Ambulance Services notified the department that their service shares two facilities with the Police Force of the Northern Territory, at Knuckey Lagoon and Nightcliff.

The Minister subsequently declared premises in Alice Springs operated by Police Force of the Northern Territory to be an emergency service facility. The Minister also amended the declaration to add Northern Territory Ambulance Services as joint operators of the facilities in Knuckey Lagoon and Nightcliff.

Subsection 6(2D) of the TIA Act provides that, if the Minister makes a declaration under subsection 6(2B) of the TIA Act, the Minister must, by legislative instrument specify the name of the emergency service and the geographic region in which those premises are located.

Details of the Amendment Instrument are set out in **Attachment A**. The Amendment Instrument satisfies the Minister's obligations under subsection 6(2D) of the TIA Act.

The Amendment Instrument is a disallowable instrument under section 42 of the *Legislation Act 2003* and therefore a Statement of Compatibility with Human Rights has been provided at **Attachment B**.

CONSULTATION

The Amendment Instrument was made at the request of the operators mentioned above. Consultation was undertaken with these operators on the draft instrument and no concerns were raised.

It was not necessary to conduct consultation beyond these operators as the Amendment Instrument is technical in nature in that communications are already being recorded and listened to at the operators' other emergency facilities. The Amendment Instrument merely updates the locations of those facilities and ensures that all of their facilities are listed.

The Office of Impact Analysis (OIA) has confirmed that an Impact Analysis is not required for this instrument (OIA25-09386). The OIA considered this Instrument is unlikely to have a more than minor impact, introducing no significant regulatory burden or impact for Australian individuals, businesses, or community organisations.

NOTES ON SECTIONS

Section 1 – Name

Section 1 provides that the Amendment Instrument is the *Telecommunications (Interception and Access) Legislation Amendment (Emergency Service Facilities) Instrument (No. 1) 2025*.

Section 2 – Commencement

Section 2 provides that sections 1 to 4 commence on the day after the Amendment Instrument is made. This provides clarity and promotes transparency by aligning the commencement of the instrument with the commencement of the declaration that allows calls to be intercepted at the new emergency service facilities.

Schedules 1 and 2 commence on the day after the Amendment Instrument is made to align the commencement of the instrument with the commencement of the declaration

Schedule 3, item 1 commences on 30 July 2025 to align with the date that the Coomera facility becomes operational.

Schedule 3, item 2 commences 1 October 2025 to ensure that the declaration of the Southport facility as an emergency service facility ceases to have effect after it has been decommissioned.

Schedules 4 to 6 commence on the day after the Amendment Instrument is made to align the commencement of the instrument with the commencement of the declaration.

Section 3 – Authority

Section 3 provides that the Amendment Instrument is made under subsection 6(2D) of the *Telecommunications (Interception and Access) Act 1979*. In addition, subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Section 4 – Schedule

Schedule 1 of the Amendment Instrument amends section 4 of the *Telecommunications (Interception and Access) (Emergency Service Facilities—New South Wales) Instrument 2020*

- Item 1 inserts a new facility operated by the New South Wales Rural Fire Service in the geographic region of Eurunderee.
- Items 2 to 4 remove inactive facilities previously operated by the New South Wales Rural Fire Service in the geographic regions of Mudgee, Young and Tuncurry.

Schedule 2 of the Amendment Instrument amends section 4 of the *Telecommunications (Interception and Access) (Emergency Service Facilities—Victoria) Instrument 2020*

- Item 1 substitutes reference to the “Emergency Services Telecommunications Authority” with “Triple Zero Victoria” to reflect the agency’s official name.
- Item 2 removes a decommissioned facility operated by the Emergency Services Telecommunications Authority in the geographic region of Melbourne.

Schedule 3 of the Amendment Instrument amends section 5 of the *Telecommunications (Interception and Access) (Emergency Service Facilities—Queensland) Instrument 2025*

- Item 1 inserts a new facility operated by the Queensland Ambulance Service in the geographic region of Coomera.
- Item 2 removes a decommissioned facility operated by the Queensland Ambulance Service in the geographic region of Southport.

Schedule 4 of the Amendment Instrument amends section 5 of the *Telecommunications (Interception and Access) (Emergency Service Facilities – South Australia) Instrument 2023*

- Item 1 inserts a new facility operated by the South Australian Country Fire Service, and shared with the South Australia Metropolitan Fire Service, South Australia State Emergency Service and South Australian Fire and Emergency Services Commission, in the geographic region of Keswick.

Schedule 5 of the Amendment Instrument amends schedule 1 of the *Telecommunications (Interception and Access) (Emergency Service Facilities – Australian Capital Territory) Instrument 2019*

- Item 1 substitutes reference to ‘Braddon’ and inserts the geographical regions of Canberra and Mitchell for the existing facilities operated by the Australian Maritime Safety Authority.

Schedule 6 of the Amendment Instrument amends section 5 of the *Telecommunications (Interception and Access) (Emergency Service Facilities – Northern Territory) Instrument 2023*

- Item 1 substitutes reference to the ‘Police Service of the Northern Territory’ with ‘Police Force of the Northern Territory’ to reflect the agency’s official name.
- Item 2 inserts a new facility operated by the Police Force of Northern Territory in the geographic region of Alice Springs.
- Item 3 substitutes reference to the “Ambulance Service of the Northern Territory” with “Northern Territory Ambulance Services” to reflect the agency’s official name.
- Item 4 substitutes reference to “Police Force of the Northern Territory” with “Police Force of the Northern Territory and Northern Territory Ambulance Services” as it is jointly operated by those operators.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

The *Telecommunications (Interception and Access) Legislation Amendment (Emergency Service Facilities) Instrument (No. 1) 2025* (the Amendment Instrument) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Disallowable Legislative Instrument

The Minister has, under subsection 6(2B) of the *Telecommunications (Interception and Access) Act 1979* (TIA Act), declared premises in New South Wales, Queensland, South Australia, the Australian Capital Territory and the Northern Territory to be emergency service facilities.

The purpose of the Amendment Instrument is to specify the geographical location of facilities in Eurunderee, New South Wales, Keswick, South Australia, Canberra and Mitchell, Australian Capital Territory, and Alice Springs, Northern Territory, as well as to remove facilities in Mudgee, New South Wales, Young, New South Wales, Tuncurry, New South Wales, Melbourne, Victoria, and Braddon, Australian Capital Territory.

The Amendment instrument also specifies the geographic location of a facility in Coomera, Queensland, effective from 30 July 2025, and removes the Southport facility operated by the Queensland Ambulance Service, effective from 1 October 2025.

Human rights implications

Interference with a person's privacy or correspondence

Article 17 of the International Covenant on Civil and Political Rights (ICCPR) provides that:

No one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour or reputation, and that everyone has the right to the protection of the law against such interference or attacks.

The right to privacy under Article 17 can be permissibly limited in order to achieve a legitimate objective and where the limitations are lawful and not arbitrary. The term 'arbitrary' means that any interference with privacy must be in accordance with the provisions, aims and objectives of the ICCPR and should be reasonable in the particular circumstances. The United Nations Human Rights Committee has interpreted 'reasonableness' in this context to imply that 'any interference with privacy must be proportional to the end sought and be necessary in the circumstances of any given case'.

Despite the general prohibition on the interception of communications in subsection 7(1) of the TIA Act, section 6 ensures that listening to or recording a communication passing over a telecommunications system to or from a declared emergency service facility by a person who is lawfully engaged in duties related to the receiving and handling of communications is not an interception of communication.

The purpose of this exception is to ensure that emergency services are able to assist an emergency caller, and respond to an emergency situation as quickly as possible, without first notifying the caller of the recording. This ensures that persons requiring emergency assistance are provided with efficient and timely assistance. Recording of a call enables an emergency service to undertake appropriate clarification, review and audit in dealing with an emergency situation which may involve a threat to life. The recording of emergency calls without notification to the caller is standard practice at these facilities, and the remaking of the Instrument maintains the status quo.

The effect of the Amendment Instrument is reasonable, necessary and proportionate to achieving the objective of providing efficient and timely assistance in emergency situations. The Amendment Instrument is subject to a number of safeguards, including:

- the exception applies only if the Minister is satisfied that the premises are operated by a police, ambulance, fire or dispatching service to enable them to deal with a request for assistance in an emergency
- under subsection 6(2G), the facility must erect signs easily visible at each entrance to the facility notifying persons that communications to or from the facility may be listened to or recorded, and
- the instrument is subject to disallowance and sunset.

The Department of Home Affairs (the department) consulted with the following operators to understand the privacy arrangements in place at the premises:

- The New South Wales Rural Fire Service
- Triple Zero Victoria
- Queensland Ambulance Service
- The South Australian Country Fire Service
- The Australian Maritime Safety Authority
- Police Force of the Northern Territory, and
- Northern Territory Ambulance Services.

Privacy policies, training and codes of conduct focus on the collection, use, storage and disclosure of information being undertaken only to the extent necessary to facilitate the operations of the premises as emergency service facilities.

Accordingly, to the extent that the measures in the Amendment Instrument may limit the prohibition on arbitrary and unlawful interference with privacy in Article 17 of the ICCPR, the limitation is proportionate to the legitimate objective of protecting public order, public health, public safety and the rights and freedoms of others, such as the right to life under Article 6 of the ICCPR.

In addition, under Article 12(3) of the ICCPR, limitation of rights may be permissible where they are necessary to protect interests including national security, public order, or the rights and freedoms of others such as the right to life under Article 6 of the ICCPR.

Right to life

The Amendment Instrument positively engages the right to life under Article 6. The right to life under Article 6 of the ICCPR includes obligations to promote life, including taking appropriate steps to protect the right to life of those within its jurisdiction.

The Amendment Instrument ensures that the premises declared as emergency service facilities can provide appropriate and timely assistance for persons in emergency situations. Emergency services are critical to delivering first responder functions to people in New South Wales, Victoria, Queensland, South Australia, Australian Capital Territory and the Northern Territory. In this regard, the Amendment Instrument promotes the right to life under Article 6 of the ICCPR.

Conclusion

The Amendment Instrument is compatible with human rights because it promotes the right to life under Article 6 of the ICCPR. To the extent that it limits human rights under Article 17 of the ICCPR, those limitations are permissible because they are authorised by law and are necessary, reasonable and proportionate to achieve a legitimate objective.