

TELECOMMUNICATIONS (INTERCEPTION AND ACCESS) LEGISLATION AMENDMENT  
(EMERGENCY SERVICE FACILITIES) INSTRUMENT (NO.2) 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. 2) 2025* (Amendment Instrument) is to specify the geographical regions for the emergency service facilities operated by:

- Emergency Management Victoria in the geographical regions of East Melbourne and Melbourne
- the Royal Flying Doctor Service Western Australia in the geographical region of South Perth
- Tasmania Police in the geographical region of Glenorchy, and
- the Australian Capital Territory Emergency Services Agency in the geographic region of Belconnen.

The Amendment Instrument also removes the geographic region of decommissioned emergency service facilities operated by:

- the Australian Volunteer Coast Guard (Victoria) in the geographical regions of Sandringham and Paynesville, and
- the Australian Capital Territory Emergency Services Agency in the geographic region of Curtin.

Finally, it updates the operators for the emergency service facilities in the geographic regions of Adelaide and Eastwood, South Australia.

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—Victoria) Instrument 2020*
- *Telecommunications (Interception and Access) (Emergency Service Facilities — Western Australia) Instrument 2022*
- *Telecommunications (Interception and Access) (Emergency Service Facilities—South Australia) Instrument 2023*
- *Telecommunications (Interception and Access) (Emergency Service Facilities — Tasmania) Instrument 2022*, and
- *Telecommunications (Interception and Access) (Emergency Service Facilities – Australian Capital Territory) Instrument 2019*.

**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.

The Department of Home Affairs received notice from:

- Emergency Management Victoria that there are two facilities in East Melbourne and Melbourne
- the Australian Volunteer Coast Guard (Victoria) that facilities in the Sandringham and Paynesville facilities have been decommissioned
- the Royal Flying Doctor Service Western Australia that there is a new facility in South Perth
- the South Australia Ambulance Service that their service shares two facilities with the South Australia Police and South Australia Metropolitan Fire Service in Adelaide
- the South Australia Police and South Australia Metropolitan Fire Service that they share a facility with South Australia Ambulance Service in Eastwood
- Tasmania Police that there is a new back-up site in Glenorchy, and
- the Australian Capital Territory Emergency Services Agency that the facility in Curtin has been decommissioned and that they share a site with Australian Capital Territory Policing in Belconnen.

The Minister subsequently amended the relevant declarations to remove the decommissioned facilities, add the new facilities and insert the new operators of existing facilities.

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 the Amendment 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. 2) 2025*.

### Section 2 – Commencement

Section 2 provides that the whole of the instrument commences 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.

### 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—Victoria) Instrument 2020*.

- Item 1 removes two decommissioned facilities operated by the Australian Volunteer Coast Guard (Victoria) in the geographical regions of Sandringham and Paynesville.
- Item 2 inserts two facilities operated by Emergency Management Victoria in the geographic regions of East Melbourne and Melbourne.

Schedule 2 of the Amendment Instrument amends section 1 of Schedule 1 to the *Telecommunications (Interception and Access) (Emergency Service Facilities — Western Australia) Instrument 2022*.

- Item 1 inserts a new facility operated by the Royal Flying Doctor Service Western Australia in the geographic region of South Perth.

Schedule 3 of the Amendment Instrument amends section 5 of the *Telecommunications (Interception and Access) (Emergency Service Facilities – South Australia) Instrument 2023*

- Item 1 inserts South Australia Ambulance Service as an additional operator of the facility in the region of Adelaide as the facility is shared with the South Australia Police.
- Item 2 inserts South Australia Ambulance Service as an additional operator of the facility in the geographic region of Adelaide as the facility is shared with the South Australia Metropolitan Fire Service.
- Item 3 inserts South Australia Police and South Australia Metropolitan Fire Service as additional operators of the facility in Eastwood as the facility is jointly operated by those operators.

Schedule 4 of the Amendment Instrument amends schedule 1 to the *Telecommunications (Interception and Access) (Emergency Service Facilities — Tasmania) Instrument 2022*.

- Item 1 inserts a new facility operated by Tasmania Police in the geographic region of Glenorchy.

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

- Item 1 removes the reference to Curtin as the Australian Capital Territory Emergency Services Agency has decommissioned this facility. It replaces that reference with a reference to Belconnen as the Australian Capital Territory Emergency Services Act shares a site with Australian Capital Territory Policing in Belconnen.

## 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. 2) 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 Victoria, Western Australia, South Australia, Tasmania and the Australian Capital Territory to be emergency service facilities. The Minister has also removed decommissioned facilities in Victoria and the Australian Capital Territory and updated the operators for the emergency service facilities in South Australia.

The purpose of the Amendment Instrument is to:

- specify the geographical location of facilities in East Melbourne, Melbourne, South Perth, Glenorchy and Belconnen
- remove the geographic location of facilities in Sandringham, Paynesville and Curtin, and
- update the operators for the declared facilities in Adelaide and Eastwood.

### 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 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 consulted with the following operators to understand the privacy arrangements in place at the premises:

- Emergency Management Victoria
- the Australian Volunteer Coast Guard (Victoria)
- the Royal Flying Doctor Service Western Australia
- South Australia Ambulance Service
- South Australia Metropolitan Fire Service
- Tasmania Police, and
- the Australian Capital Territory Emergency Services Agency.

Privacy policies, training and codes of conduct of the operators 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, limitations 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 Victoria, Western Australia, South Australia, Tasmania and the Australian Capital 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.