

# **Telecommunications (Interception) Act 1979**

**No. 114 of 1979**

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# Telecommunications (Interception) Act 1979

No. 114 of 1979

An Act to prohibit the interception of telecommunications except where specially authorized in the interests of security or in connection with inquiries related to narcotics offences, and for related purposes.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

## PART I—PRELIMINARY

- Short title**        1. This Act may be cited as the *Telecommunications (Interception) Act 1979*.<sup>1</sup>
- Commence-  
ment**             2. This Act shall come into operation on the day on which the *Australian Security Intelligence Organization Act 1979* comes into operation.
- Repeal and  
savings**         3. (1) The *Telephonic Communications (Interception) Act 1960*<sup>2</sup> is repealed.
- (2) A warrant in force under the *Telephonic Communications (Interception) Act 1960* immediately before the commencement of this Act has effect after the commencement of this Act—
- (a) if it was issued by the Attorney-General—as if it had been issued under section 9 of this Act; or
- (b) if it had been issued by the Director-General of Security—as if it had been issued under section 10 of this Act.
- Application**     4. This Act binds the Crown in right of the Commonwealth, of a State and of the Northern Territory.
- Interpret-  
ation**            5. (1) In this Act, unless the contrary intention appears—
- “activities prejudicial to security” has the same meaning as it has in the *Australian Security Intelligence Organization Act 1979*;
- “Commission” means the Australian Telecommunications Commission;
- “communication” includes conversation, message and signal, and any part of a conversation, message or signal;
- “Comptroller-General of Customs” means the Comptroller-General of Customs holding office under the *Customs Act 1901*;

- “Managing Director of the Commission” means the person holding, or performing the duties of, the office of Managing Director of the Commission under the *Telecommunications Act 1975*;
- “narcotics offence” means an offence punishable as provided by section 235 of the *Customs Act 1901*;
- “officer of Customs” means a person who is an Officer of Customs for the purposes of the *Customs Act 1901*;
- “officer of the Commission” includes—
- (a) an employee of the Commission; and
  - (b) a person, whether or not an officer or employee of the Australian Postal Commission, doing any acts or things on behalf of the Australian Telecommunications Commission under arrangements made between the Australian Postal Commission and the Australian Telecommunications Commission by virtue of section 12 of the *Postal Services Act 1975*;
- “security” has the same meaning as it has in the *Australian Security Intelligence Organization Act 1979*;
- “subscriber” means a person who is authorized by the Commission to rent, provide or use a telecommunications service;
- “telecommunications service” means a telecommunications service, within the meaning of the *Telecommunications Act 1975*, that is provided or used by, or used with the authority of, the Commission, and includes such a service, whether known as a private line or by some other name, that is not connected to the switching equipment at an exchange operated by or on behalf of the Commission;
- “telecommunications system” means a system controlled by the Commission in connection with the provision of a telecommunications service;
- “the Director-General of Security” means the person holding, or performing the duties of, the office of Director-General of Security under the *Australian Security Intelligence Organization Act 1979*;
- “the Organization” means the Australian Security Intelligence Organization;
- “warrant” means a warrant issued under section 9, 10, 11, 20 or 21.

(2) Where a telecommunications service is provided by the Commission for the use of a person or persons in the service of the Commission (not being a telecommunications service to which that person is the subscriber or those persons are subscribers), the Commission shall, for the purposes of this Act, be deemed to be the subscriber to that telecommunications service.

- (3) In this Act, unless the contrary intention appears—
- (a) a reference to narcotics inquiries that are being made by officers of Customs shall be read as a reference to—
    - (i) inquiries that are being made by officers of Customs in relation to a narcotics offence that has been committed or is reasonably suspected of having been committed; or
    - (ii) in a case where there are circumstances reasonably giving rise to the suspicion that a narcotics offence is likely to be committed—inquiries by officers of Customs in relation to the likely commission of that offence;
  - (b) a reference to narcotics inquiries that have been made by officers of Customs shall be read as a reference to—
    - (i) inquiries that have been made by officers of Customs in relation to a narcotics offence that has been committed or was reasonably suspected of having been committed; or
    - (ii) in a case where there have been circumstances that reasonably gave rise to the suspicion that a narcotics offence was likely to be committed—inquiries that have been made by officers of Customs in relation to the likely commission of that offence; and
  - (c) a reference to a telegram shall be read as a reference to a material record, held by, or on behalf of, the Commission, of a message transmitted, or intended for transmission, as a telegram.

(4) A reference in this Act to the Attorney-General shall, at a time when the Attorney-General is absent from Australia or when, by reason of illness of the Attorney-General or for any other reason, the Director-General of Security or the Comptroller-General of Customs cannot readily communicate with the Attorney-General, be read as including a reference to a Minister who has been authorized in writing by the Attorney-General to perform the functions of the Attorney-General under this Act at such a time.

Meaning of  
interception

6. (1) For the purposes of this Act, but subject to sub-section (2), interception of a communication passing over a telecommunications system consists of listening to or recording, by any means, such a communication in its passage over that telecommunications system without the knowledge of the person making the communication.

(2) Where a person lawfully on premises, or in a vessel, vehicle or aircraft, to which a telecommunications service is provided by the Commission, by means of any apparatus or equipment that is part of that service—

- (a) listens to or records a communication passing over the telecommunications system of which that service forms a part, being a communication that is being made to or from that service;

- (b) listens to or records a communication passing over the telecommunications system of which that service forms a part, being a communication that is being received at that service in the ordinary course of the operation of that telecommunications system; or
- (c) listens to or records a communication passing over the telecommunications system of which that service forms a part as a result of a technical defect in that system or the mistake of an officer of the Commission,

the listening or recording does not, for the purposes of this Act, constitute the interception of the communication.

## PART II—INTERCEPTION OF TELECOMMUNICATIONS AND TELEGRAMS

7. (1) A person shall not—

- (a) intercept;
- (b) authorize, suffer or permit another person to intercept; or
- (c) do any act or thing that will enable him or another person to intercept,

Telecom-  
munications  
not to be  
intercepted

a communication passing over a telecommunications system.

Penalty: \$5,000 or imprisonment for 2 years.

(2) Sub-section (1) does not apply to or in relation to—

- (a) an act or thing done by an officer of the Commission in the course of his duties for or in connection with—
  - (i) the installation of any line, or the installation of any apparatus or equipment, used or intended for use in connection with a telecommunications service or the operation or maintenance of a telecommunications system; or
  - (ii) the identifying or tracing of any person who has contravened, or is suspected of having contravened or being likely to contravene, a provision of the *Telecommunications Act 1975* or of any regulation or by-law in force under that Act; or
- (b) the interception of a communication in pursuance of a warrant.

(3) The reference in sub-section (2) to a line shall be read as a reference to a wire, cable, tube, conduit, fibre, waveguide or other physical medium installed or maintained by or with the authority of the Commission and used, or intended for use, in connection with a telecommunications service.

(4) A person shall not divulge or communicate to another person, or make use of or record, any information obtained by intercepting a communication passing over a telecommunications system, or obtained by virtue of a warrant issued under section 11 or 21, except—

- (a) in or in connection with the performance by the Organization of its functions or otherwise for purposes of security;
- (b) for the purpose of narcotics inquiries that are being, or have been, made by officers of Customs; or
- (c) in the performance of any duty of that first-mentioned person as an officer of the Commission.

Penalty: \$5,000 or imprisonment for 2 years.

(5) Notwithstanding sub-section (4)—

- (a) the Director-General of Security may, by himself or by an officer authorized by him, communicate, in accordance with paragraph 18 (3) (a), (b) or (c) of the *Australian Security Intelligence Organization Act 1979*, information obtained by intercepting a communication passing over a telecommunications system, or obtained by virtue of a warrant issued under section 11;
- (b) the Comptroller-General of Customs may, in accordance with the following sub-paragraphs, by himself or by an officer of Customs authorized by him, communicate information obtained by intercepting a communication passing over a telecommunications system, or obtained by virtue of a warrant issued under section 21:
  - (i) where the information relates, or appears to relate, to the commission, or intended commission, of an offence against the law of the Commonwealth or of a State or Territory, being an offence punishable by imprisonment for life or for a period, or maximum period, of not less than 3 years—the information may be communicated to an officer of the Commonwealth Police Force or of the Police Force of a State or Territory; or
  - (ii) where the information relates, or appears to relate, to activities prejudicial to security—the information may be communicated to the Director-General of Security; and
- (c) an officer of the Commonwealth Police Force or of the Police Force of a State or Territory may, in the course of performing his duties as such an officer, communicate to another officer of that Police Force information that was communicated to him in accordance with paragraph 18 (3) (a) of the *Australian Security Intelligence Organization Act 1979* or with sub-paragraph (b) (i) of this sub-section.

(6) Without limiting the application of sub-section (4), a person may give information obtained by intercepting a communication passing over a telecommunications system, or obtained by virtue of a warrant issued under section 11 or 21, in evidence in a proceeding—

- (a) by way of a prosecution for a narcotics offence;

- (b) by way of a prosecution for an offence against the *Telecommunications Act 1975* or a regulation or by-law in force under that Act;
- (c) by way of a prosecution for any other offence against the law of the Commonwealth or of a State or Territory punishable by imprisonment for life or for a period, or maximum period, of not less than 3 years;
- (d) by way of an application for an order under sub-section 243B (1) of the *Customs Act 1901*; or
- (e) for the condemnation or recovery of a ship or aircraft, or of goods, seized under section 203 of the *Customs Act 1901* in connection with the commission of a narcotics offence.

(7) An offence against this section may be prosecuted either summarily or upon indictment, but—

- (a) an offender is not liable to be punished more than once in respect of the same offence;
- (b) the offence shall not be prosecuted summarily except in the name of the Attorney-General; and
- (c) where the offence is prosecuted summarily, the court shall not impose a penalty exceeding a fine of \$1,000 or imprisonment for 6 months.

8. (1) It is unlawful—

- (a) for a person—
  - (i) being an officer, employee or agent of the Organization acting in his capacity as such; or
  - (ii) being an officer of Customs acting in his capacity as such, to seek from the Commission or from an officer of the Commission; or
- (b) for the Commission, or for an officer of the Commission, to provide to such a person,

Inspection of  
telegrams

access to a telegram or information concerning the contents of a telegram except in pursuance of, or for the purposes of, a warrant under this Act.

(2) It is the duty of the Director-General of Security to take all reasonable steps to ensure that sub-section (1) is not contravened by officers, employees and agents of the Organization.

(3) It is the duty of the Comptroller-General of Customs to take all reasonable steps to ensure that sub-section (1) is not contravened by officers of Customs.

(4) Nothing in sub-section (1)–

(a) applies in relation to–

(i) a telegram addressed to, or appearing to be intended to be received by, or on behalf of, the Organization; or

(ii) a telegram addressed to, or appearing to be intended to be received by, or on behalf of, the Comptroller-General of Customs or his Department; or

(b) shall be taken to limit the operation of a warrant issued under section 9, 10 or 20.

### PART III–WARRANTS AUTHORIZING THE ORGANIZATION TO INTERCEPT TELECOMMUNICATIONS AND TELEGRAMS

Issue of warrants by Attorney-General for Organization to intercept telecommunications

9. (1) Where, upon receipt by the Attorney-General of a request by the Director-General of Security for the issue of a warrant under this section in respect of a telecommunications service, the Attorney-General is satisfied that–

(a) the telecommunications service is being or is likely to be–

(i) used by a person engaged in, or reasonably suspected by the Director-General of Security of being engaged in, or of being likely to engage in, activities prejudicial to security; or

(ii) used for purposes prejudicial to security; and

(b) the interception by the Organization of communications made to or from the telecommunications service will, or is likely to, assist the organization in carrying out its function of obtaining intelligence relating to security,

the Attorney-General may, by warrant under his hand, authorize persons approved under section 12 in respect of the warrant to intercept, subject to any conditions or restrictions that are specified in the warrant, communications that are being made to or from that service and such a warrant may authorize entry on any premises specified in the warrant for the purpose of installing, maintaining, using or recovering any equipment used to intercept such communications.

(2) A request by the Director-General of Security for the issue of a warrant in respect of a telecommunications service–

(a) shall include a description of the service sufficient to identify it, including–

(i) the name, address and occupation of the subscriber (if any) to the service; and

(ii) the number (if any) allotted to the service by the Commission; and



- (b) shall specify the facts and other grounds on which the Director-General of Security considers it necessary that the warrant should be issued and, where relevant, the grounds on which the Director-General of Security suspects a person of being engaged in, or of being likely to engage in, activities prejudicial to security.

(3) Where the Director-General of Security makes a request, otherwise than in writing, for the issue of a warrant in respect of a telecommunications service, he shall forthwith forward to the Attorney-General a request in writing in respect of the telecommunications service.

(4) Where a warrant under this section authorizes entry on premises, the warrant shall state whether entry is authorized to be made at any time of the day or night or only during specified hours and may, if the Attorney-General thinks fit, provide that entry may be made without permission first being sought or demand first being made, and authorize measures that he is satisfied are necessary for that purpose.

(5) A warrant under this section shall specify the period for which it is to remain in force, being a period that does not exceed 6 months, but may be revoked by the Attorney-General at any time before the expiration of the period so specified.

(6) Sub-section (5) shall not be construed as preventing the issue of a further warrant in accordance with this section in respect of a telecommunications service in respect of which a warrant has, or warrants have, previously been issued.

**10. (1) Where—**

- (a) the Director-General of Security has forwarded or made a request to the Attorney-General for the issue of a warrant under section 9 in respect of a telecommunications service;
- (b) the Attorney-General has not, to the knowledge of the Director-General of Security, made a decision with respect to the request and has not, within the preceding period of 3 months, refused to issue a warrant under section 9 in respect of the telecommunications service;
- (c) the Director-General of Security has not, within the preceding period of 3 months, issued a warrant under this section in respect of the telecommunications service; and
- (d) the Director-General of Security is satisfied—
- (i) that the facts of the case would justify the issue of a warrant by the Attorney-General; and
  - (ii) that, if the interception by the Organization of communications made to or from the telecommunications service does not commence before a warrant can be issued and made available by the Attorney-General, security will be, or is likely to be, seriously prejudiced,

Issue of  
warrant by  
Director-  
General of  
Security in  
emergency  
for Organiz-  
ation to  
intercept  
telecom-  
munications

the Director-General of Security may, by warrant under his hand, authorize persons approved under section 12 in respect of the warrant to intercept, subject to any conditions or restrictions that are specified in the warrant, communications that are being made to or from that service and such a warrant may authorize entry on any premises specified in the warrant for the purpose of installing, maintaining, using or recovering any equipment used to intercept such communications.

(2) Where a warrant under this section authorizes entry on premises, the warrant shall state whether entry is authorized to be made at any time of the day or night or only during specified hours and may, if the Director-General of Security thinks fit, provide that entry may be made without permission first being sought or demand first being made, and authorize measures that he is satisfied are necessary for that purpose.

(3) A warrant under this section shall specify the period for which it is to remain in force, being a period that does not exceed 48 hours, but may be revoked by the Attorney-General at any time before the expiration of the period so specified.

(4) Where the Director-General of Security issues a warrant under this section, he shall forthwith furnish to the Attorney-General—

- (a) a copy of the warrant; and
- (b) a statement of the grounds on which he is satisfied as to the matters referred to in sub-paragraph (1) (d) (ii).

Issue of warrants for Organization to intercept telegrams

11. (1) Where, upon receipt by the Attorney-General of a request by the Director-General of Security for the issue of a warrant under this sub-section in relation to a person, the Attorney-General is satisfied that—

- (a) that person is engaged in, or is reasonably suspected by the Director-General of Security of being engaged in, or of being likely to engage in, activities prejudicial to security; and
- (b) access by the Organization to telegrams lodged by or on behalf of, or addressed to or intended to be received by, that person will, or is likely to, assist the Organization in carrying out its function of obtaining intelligence relevant to security,

the Attorney-General may, by warrant under his hand, authorize the Commission—

- (c) to inspect and make copies of telegrams lodged by, or on behalf of, that person at a specified telegraph office, or addressed to, or intended to be received by, that person at a specified place; and
- (d) to furnish the copies of those telegrams referred to in paragraph (c) to the Director-General of Security.

(2) Where—

- (a) the Director-General of Security has forwarded or made a request to the Attorney-General for the issue of a warrant under sub-section (1) in relation to a person;
- (b) the Attorney-General has not, to the knowledge of the Director-General of Security, issued, or refused to issue, a warrant as a result of that request and has not, within the preceding period of 3 months, refused to issue a substantially similar warrant;
- (c) the Director-General of Security has not, within the preceding period of 3 months, issued a substantially similar warrant; and
- (d) the Director-General of Security is satisfied—
  - (i) that the facts of the case would justify the issue of a warrant by the Attorney-General; and
  - (ii) that, if the action to be authorized by the warrant does not commence before a warrant can be issued and made available by the Attorney-General, security will be, or is likely to be, seriously prejudiced,

the Director-General of Security may, by warrant under his hand, authorize the Commission—

- (e) to inspect and make copies of telegrams lodged by, or on behalf of, that person at a specified telegraph office, or addressed to, or intended to be received by, that person at a specified place; and
- (f) to furnish the copies of those telegrams referred to in paragraph (e) to the Director-General of Security.

(3) A request for the issue of a warrant made to the Attorney-General under sub-section (1) shall specify the facts and other grounds on which the Director-General of Security considers it necessary that the warrant should be issued and, where relevant, the grounds on which the Director-General of Security suspects a person of being engaged in, or of being likely to be engaged in, activities prejudicial to security.

(4) Where the Director-General of Security makes a request under sub-section (1), otherwise than in writing, for the issue of a warrant, he shall forthwith forward to the Attorney-General a request in writing for the issue of that warrant.

(5) A warrant under this section shall specify the period for which it is to remain in force, being a period not exceeding—

- (a) in the case of a warrant issued by the Attorney-General—6 months; or
- (b) in the case of a warrant issued by the Director-General of Security—48 hours,

but may be revoked by the Attorney-General at any time before the expiration of the period so specified.

(6) Sub-section (5) shall not be construed as preventing the issue of any further warrant in relation to a person in relation to whom a warrant has, or warrants have, previously been issued.

(7) Where the Director-General of Security issues a warrant under this section, he shall forthwith furnish to the Attorney-General—

- (a) a copy of the warrant; and
- (b) a statement of the grounds on which he is satisfied as to the matters referred to in sub-paragraph (2) (d) (ii).

(8) The authority conferred by a warrant issued under this section on the Commission may be exercised only by—

- (a) the Managing Director of the Commission; and
- (b) officers of the Commission approved, for the purposes of that warrant or of warrants issued under this section, by the Managing Director of the Commission or by an officer of the Commission appointed by the Managing Director of the Commission, in writing, to be an authorizing officer of the Commission for the purposes of this section.

(9) Nothing in the *Telecommunications Act 1975* shall be taken to prohibit the doing of anything in pursuance of, or for the purposes of, a warrant under this section.

(10) In this section—

- (a) a reference to a telegraph office shall be read as a reference to a place where telegrams may be accepted for transmission by or on behalf of the Commission;
- (b) a reference to telegrams lodged by, or on behalf of, a person shall be read as including a reference to telegrams lodged, by means of a telecommunications service, by, or on behalf of, a person;
- (c) a reference to telegrams addressed to, or intended to be received by, a person at a specified place shall be read as including a reference to—
  - (i) telegrams addressed to, or intended to be received by, a person at a specified post office box or at a specified post office for collection by that person;
  - (ii) telegrams addressed to a person and intended to be received by the person by means of a specified bag service; and
  - (iii) telegrams addressed to a person by reference to the number of a telecommunications service.

**12.** The Director-General of Security, or an officer of the Organization appointed by the Director-General of Security, in writing, to be an authorizing officer for the purposes of this sub-section, may, by writing under his hand, approve officers and employees of the Organization and other persons as persons authorized to exercise, on behalf of the Organization, the authority conferred by a particular warrant, or by warrants, issued under any of the following sections, namely, section 9 or 10.

Persons authorized to intercept communications for Organization

**13.** Where, before a warrant under section 9, 10 or 11 ceases to be in force, the Director-General of Security is satisfied that the grounds on which the warrant was issued have ceased to exist, he shall forthwith inform the Attorney-General accordingly and take such steps that are necessary to ensure that the interception of communications, or the inspection of telegrams, as the case may be, in pursuance of the warrant is discontinued.

Discontinuance of interception before expiration of warrant

**14.** Where a record or copy, whether in writing or otherwise, has been made of a communication intercepted in pursuance of a warrant issued under section 9 or 10, or a copy of a telegram has been made in pursuance of a warrant issued under section 11, and the Director-General of Security is satisfied that the record or copy is not required, and is not likely to be required, in or in connection with the performance by the Organization of its functions or the exercise of its powers (including the powers conferred on it by sub-section 7(5)), the Director-General of Security shall cause the record or copy to be destroyed.

Certain records of communication to be destroyed

**15.** (1) Where the Attorney-General issues a warrant under section 9 or revokes a warrant issued under section 9 or 10, he shall cause—

Manner in which warrants, &c., to be dealt with

- (a) the Director-General of Security and the Managing Director of the Commission to be informed forthwith of the issue of the warrant or of the revocation, as the case may be;
- (b) the warrant or the instrument of revocation, as the case may be, to be forwarded, as soon as practicable, to the Director-General of Security; and
- (c) a copy of the warrant or of the instrument of revocation, as the case may be, certified in writing by the Attorney-General to be a true copy of the warrant or of the instrument, to be forwarded as soon as practicable to the Managing Director of the Commission.

(2) Where the Attorney-General issues a warrant under section 11 or revokes a warrant issued under that section, he shall cause—

- (a) the Director-General of Security and the Managing Director of the Commission to be informed forthwith of the issue of the warrant or of the revocation, as the case may be;
- (b) the warrant or the instrument of revocation, as the case may be, to be forwarded as soon as practicable, to the Managing Director of the Commission; and

(c) a copy of the warrant or of the instrument of revocation, as the case may be, certified in writing by the Attorney-General to be a true copy of the warrant or of the instrument, to be forwarded, as soon as practicable, to the Director-General of Security.

(3) The Attorney-General shall record on each request in writing for the issue of a warrant received by him from the Director-General of Security his decision with respect to the request and shall cause the request to be returned to the Director-General of Security.

(4) Where the Director-General of Security issues a warrant under section 10, he shall cause—

(a) the Managing Director of the Commission to be informed forthwith of the issue of the warrant; and

(b) a copy of the warrant, certified in writing by him to be a true copy of the warrant, to be forwarded, as soon as practicable, to the Managing Director of the Commission.

(5) Where the Director-General of Security issues a warrant under section 11, he shall cause—

(a) the Managing Director of the Commission to be informed forthwith of the issue of the warrant; and

(b) the warrant to be forwarded, as soon as practicable, to the Managing Director of the Commission.

(6) The Director-General of Security shall cause to be retained in the records of the Organization all warrants issued by him under section 10, a copy of each warrant issued by him under section 11 and all warrants, copies of warrants, instruments of revocation and copies of instruments of revocation received by him from, and all requests and other documents returned to him by, the Attorney-General.

(7) The Managing Director of the Commission shall cause to be retained in the records of the Commission all warrants, copies of warrants, instruments of revocation and copies of instruments of revocation received by him from the Attorney-General and all warrants and copies of warrants received by him from the Director-General of Security.

**Obstruction**

**16.** A person shall not, without reasonable excuse, obstruct or hinder a person acting in pursuance of a warrant under section 9, 10 or 11.

Penalty: \$1,000.

**Reports to be made to Attorney-General on results of interception**

**17.** The Director-General of Security shall furnish to the Attorney-General, in respect of each warrant issued under section 9, 10 or 11, within 3 months after the expiration or revocation, whichever first occurs, of the warrant, a report in writing on the extent to which the interception of communications, or the inspection of telegrams, as the case may be, in pursuance of the warrant has assisted the Organization in carrying out its functions of obtaining intelligence relevant to security.

**PART IV—WARRANTS AUTHORIZING THE CUSTOMS TO INTERCEPT TELECOMMUNICATIONS AND TELEGRAMS**

**18.** In this Part, “Judge” means—

- (a) a Judge of the Federal Court of Australia or of the Supreme Court of the Australian Capital Territory;
- (b) a Judge of the Supreme Court of a State in respect of whom an appropriate arrangement in force under section 19 is applicable; or
- (c) a Judge of the Supreme Court of the Northern Territory who is not a Judge referred to in paragraph (a) and in respect of whom an appropriate arrangement in force under section 19 of this Act is applicable.

Interpretation

**19.** (1) The Governor-General may make arrangements with the Governor of a State for the performance by all or any of the persons who from time to time hold office as Judges of the Supreme Court of that State of the functions of a Judge under this Part.

Arrangements with States and the Northern Territory

(2) The Governor-General may make arrangements with the Administrator of the Northern Territory for the performance by all or any of the persons who from time to time hold office as Judges of the Supreme Court of that Territory and are not also Judges of the Federal Court of Australia or of the Supreme Court of the Australian Capital Territory of the functions of a Judge under this Part.

**20.** (1) Where, upon application being made to a Judge by an officer of Customs for the issue of a warrant under this section in respect of a telecommunications service, the Judge is satisfied, by information on oath, that—

Issue of warrants for the Customs to intercept telecommunications

- (a) there are reasonable grounds for suspecting that the telecommunications service is being, or is likely to be, used by a person who has committed, or is suspected on reasonable grounds of having committed, or of being likely to commit, a narcotics offence; and
- (b) the interception by officers of Customs of communications made to or from the telecommunications service will, or is likely to, assist officers of Customs in, or in connection with—
  - (i) inquiries that are being made in relation to a narcotics offence that the person has committed or is reasonably suspected of having committed; or
  - (ii) if there are circumstances reasonably giving rise to the suspicion that the person is likely to commit a narcotics offence—inquiries that are being made in relation to the likely commission, by the person, of that offence,

the Judge may, by warrant under his hand in accordance with the prescribed form, authorize persons approved under section 22 in respect

of the warrant to intercept, subject to any conditions or restrictions that he sees fit to specify in the warrant, communications that are being made to or from that service and such a warrant may authorize entry on any premises specified in the warrant for the purposes of installing, maintaining, using or recovering any equipment used to intercept such communications.

(2) A Judge may grant a warrant under sub-section (1) in respect of a telecommunications service situated anywhere in Australia.

(3) Information furnished to a Judge for the purposes of sub-section (1)—

- (a) may be given orally or otherwise; and
- (b) shall include the facts and other grounds on which the applicant considers it necessary that the warrant should be issued.

(4) Where a warrant under this section authorizes entry on premises, the warrant shall state whether entry is authorized to be made at any time of the day or night or only during specified hours, and may, if the Judge thinks fit, provide that entry may be made without permission first being sought or demand first being made, and authorize measures that he is satisfied are necessary for that purpose.

(5) A warrant under this section shall specify the period for which it is to remain in force, being a period that does not exceed 6 months.

(6) Sub-section (5) shall not be construed as preventing the issue of a further warrant in accordance with this section in respect of a telecommunications service in respect of which a warrant has, or warrants have, previously been issued.

Issue of  
warrants for  
the Customs  
to inspect  
telegrams

21. (1) Where, upon application being made to a Judge by an officer of Customs for the issue of a warrant under this section in relation to a person, the Judge is satisfied, by information on oath, that—

- (a) the person has committed, or is suspected on reasonable grounds of having committed, or of being likely to commit, a narcotics offence; and
- (b) access by officers of Customs to telegrams lodged by or on behalf of, or addressed to or intended to be received by, that person will, or is likely to, assist officers of Customs in or in connection with—
  - (i) inquiries that are being made in relation to a narcotics offence that the person has committed, or is reasonably suspected of having committed; or
  - (ii) if there are circumstances reasonably giving rise to the suspicion that the person is likely to commit a narcotics offence—inquiries in relation to the likely commission, by that person, of that offence,



the Judge may, by warrant under his hand in accordance with the prescribed form, authorize the Commission—

- (c) to inspect and make copies of telegrams lodged by, or on behalf of that person at a specified telegraph office, or addressed to, or intended to be received by, that person at a specified place; and
- (d) to furnish the copies of those telegrams referred to in paragraph (c) to the Comptroller-General of Customs.

(2) A Judge may grant a warrant under sub-section (1) in relation to a telegraph office, or other place, situated anywhere in Australia.

(3) Information furnished to a Judge for the purposes of sub-section (1)—

- (a) may be given orally or otherwise; and
- (b) shall include the facts and other grounds on which the applicant considers it necessary that the warrant should be issued.

(4) A warrant under this section shall specify the period for which it is to remain in force, being a period not exceeding 6 months.

(5) Sub-section (4) shall not be construed as preventing the issue of a further warrant in accordance with this section in relation to a person in relation to whom a warrant has, or warrants have, previously been issued.

(6) The authority conferred by a warrant issued under this section on the Commission may be exercised only by—

- (a) the Managing Director of the Commission; and
- (b) officers of the Commission approved, for the purposes of that warrant or of warrants issued under this section, by the Managing Director of the Commission or by an officer of the Commission appointed by the Managing Director of the Commission, in writing, to be an authorizing officer of the Commission for the purposes of this section.

(7) Nothing in the *Telecommunications Act 1975* shall be taken to prohibit the doing of anything in pursuance of, or for the purposes of, a warrant under this section.

(8) In this section—

- (a) a reference to a telegraph office shall be read as a reference to a place where telegrams may be accepted for transmission by or on behalf of the Commission;
- (b) a reference to telegrams lodged by, or on behalf of, a person shall be read as including a reference to telegrams lodged, by means of a telecommunications service, by, or on behalf of, a person;
- (c) a reference to telegrams addressed to, or intended to be received by, a person at a specified place shall be read as including a reference to—

- (i) telegrams addressed to, or intended to be received by, a person at a specified post office box or at a specified post office for collection by that person;
- (ii) telegrams addressed to a person and intended to be received by the person by means of a specified bag service; and
- (iii) telegrams addressed to a person by reference to the number of a telecommunications service.

Persons  
authorized to  
intercept  
communica-  
tions for the  
Customs

**22.** (1) The Comptroller-General of Customs, or an officer of Customs appointed by the Comptroller-General of Customs, in writing, to be an authorizing officer for the purposes of this section, may, by writing under his hand, approve officers of Customs and other persons as persons who may exercise the authority conferred by a particular warrant, or by warrants, issued under section 20.

(2) The Comptroller-General of Customs shall be deemed to be approved under sub-section (1) as a person who may exercise the authority conferred by any warrant issued under section 20.

Discontinu-  
ance of  
interception  
before  
expiration of  
warrant

**23.** Where, before a warrant issued under section 20 or 21, ceases to be in force, the Comptroller-General of Customs is satisfied that the grounds on which the warrant was issued have ceased to exist, he shall—

- (a) forthwith take such steps as are necessary to ensure that the interception of communications, or the inspection of telegrams, as the case may be, in pursuance of the warrant is discontinued; and
- (b) by instrument under his hand, revoke the warrant.

Certain  
records of  
communica-  
tions to be  
destroyed

**24.** Where a record or copy, whether in writing or otherwise, has been made of a communication intercepted in pursuance of a warrant issued under section 20, or a copy of a telegram has been made in pursuance of a warrant under section 21, and the Comptroller-General of Customs is satisfied—

- (a) that the record or copy will not assist, and is not likely to assist, officers of Customs in, or in connection with, narcotics inquiries that are being, or have been, made by officers of Customs; and
- (b) that the record or copy is not required, and is not likely to be required—
  - (i) in, or in connection with, proceedings of a kind referred to in sub-section 7 (6); or
  - (ii) in, or in connection with, the exercise by officers of Customs of the powers conferred on the Comptroller-General of Customs by sub-section 7 (5),

the Comptroller-General of Customs shall cause the record or copy to be destroyed.

**25.** (1) Where a warrant is issued under section 20, or a warrant so issued is revoked, the Comptroller-General of Customs shall cause—

Manner in which warrants, &c., to be dealt with

- (a) the Managing Director of the Commission to be informed forthwith of the issue of the warrant or of the revocation, as the case may be; and
- (b) a copy of the warrant or the instrument of revocation, as the case may be, certified in writing by the Comptroller-General of Customs, to be a true copy of the warrant or of the instrument, to be forwarded as soon as practicable to the Managing Director of the Commission.

(2) Where a warrant is issued under section 21 or a warrant so issued is revoked, the Comptroller-General of Customs shall cause—

- (a) the Managing Director of the Commission to be informed forthwith of the issue of the warrant or of the revocation, as the case may be; and
- (b) the warrant or the instrument of revocation, as the case may be, to be forwarded, as soon as practicable, to the Managing Director of the Commission.

(3) The Comptroller-General of Customs shall cause to be retained in the records of his Department all warrants issued under section 20 and instruments issued under section 23 revoking warrants so issued and a copy of each warrant issued under section 21 and of each instrument issued under section 23 revoking such a warrant.

**26.** A person shall not, without reasonable excuse, obstruct or hinder a person acting in pursuance of a warrant under section 20 or 21.

Obstruction

Penalty: \$1,000.

**27.** (1) The Comptroller-General of Customs shall furnish to the Minister a copy of each warrant issued under section 20 or 21 and of each instrument issued under section 23 revoking such a warrant as soon as practicable after the issue or revocation of the warrant.

Reports to be made to Minister concerning interception by the Customs

(2) The Comptroller-General of Customs shall furnish to the Minister, in respect of each warrant issued under section 20 or 21, within 3 months after the expiration or revocation, whichever first occurs, of the warrant, a report in writing on the extent to which the interception of communications, or the inspection of telegrams, as the case may be, in pursuance of the warrant has assisted officers of Customs in narcotics inquiries that are being, or have been, made by officers of Customs.

**28.** The Governor-General may make regulations prescribing forms of warrants for the purposes of this Part.

Regulations

**NOTES**

1. Act No. 114, 1979; assented to 25 October 1979.
2. Act No. 27, 1960, as amended. For previous amendments *see* Act No. 93, 1966; No. 216, 1973; and No. 56, 1975.