

South Australia

# **Listening and Surveillance Devices Variation Regulations 2013**

under the *Listening and Surveillance Devices Act 1972*

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## **Part 1—Preliminary**

### **1—Short title**

These regulations may be cited as the *Listening and Surveillance Devices Variation Regulations 2013*.

### **2—Commencement**

These regulations come into operation on the day on which they are made.

### **3—Variation provisions**

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

## Part 2—Variation of *Listening and Surveillance Devices Regulations 2003*

### 4—Variation of regulation 3—Interpretation

Regulation 3(1), definition of *records authority*, (b)—delete paragraph (b) and substitute:

- (b) in relation to Independent Commissioner Against Corruption records—the Independent Commissioner Against Corruption;
- (c) in relation to ACC records—the Chief Executive Officer of the ACC;

### 5—Variation of regulation 6—Access to records

Regulation 6(2)(a) and (6)(a)—delete "member of the police force" wherever occurring and substitute in each case:

police officer

### 6—Variation of regulation 8—Destruction of records

Regulation 8(2)(d)—delete "member of the police force" and substitute:

police officer

### 7—Variation of regulation 13—Reporting to Minister on use of devices in prescribed circumstances (section 6B)

- (1) Regulation 13—delete "member of the police force" wherever occurring and substitute in each case:

police officer

- (2) Regulation 13(a)(iii)(A)—delete "an undercover operation authorised under the *Criminal Law (Undercover Operations) Act 1995*" and substitute:

undercover operations authorised under the *Criminal Investigation (Covert Operations) Act 2009*

- (3) Regulation 13(a)(iii)(A)—delete "such an undercover operation" and substitute:

such undercover operations

- (4) Regulation 13(b)(i)(A)—delete "an undercover operation authorised under the *Criminal Law (Undercover Operations) Act 1995*" and substitute:

undercover operations authorised under the *Criminal Investigation (Covert Operations) Act 2009*

- (5) Regulation 13(b)(i)(B)—delete "such an undercover operation" and substitute:

such undercover operations

## 8—Substitution of Schedules 1 and 2

Schedules 1 and 2—delete the Schedules and substitute:

### Schedule 1—Applications for warrants

#### Form 1—Application for warrant

*Listening and Surveillance Devices Act 1972*

Applicant's name (*in full*):

- 1 I apply for a warrant under section 6 of the *Listening and Surveillance Devices Act 1972* for the purposes of the investigation of a matter by—
- South Australia Police
  - the Independent Commissioner Against Corruption
  - the Australian Crime Commission
- 2 I apply for the warrant to confer the following powers:
- (a) the power to use (*insert number sought*) listening device(s)<sup>1</sup>
- (b) the power to enter or interfere with<sup>1</sup> .....<sup>2</sup> for the purposes of installing, using, maintaining or retrieving—
- listening device(s)<sup>1</sup>
  - surveillance device(s)<sup>1</sup> as follows:  

*(insert number)* visual surveillance device(s)  
*(insert number)* tracking device(s).
- 3 I apply for the following persons to be authorised to exercise the powers conferred by the warrant<sup>3</sup>:
- 4 I apply for the warrant on the following grounds<sup>4</sup>:
- The grounds for the application are verified in my accompanying affidavit.
- 5 I request that the warrant be in force for a period of (*insert number*) days<sup>5</sup>.

Signature of applicant:

Dated:

*Notes—*

- 1 *Strike out whichever does not apply.*
- 2 *Provide details (eg address, registration number) of any premises, vehicle or thing sought to be entered or interfered with.*
- 3 *Provide details (eg name, rank and number) of the police officer etc seeking the authority to exercise the powers conferred by the warrant.*

- 4 *Grounds may include the gravity of the criminal conduct to which the investigation relates, the significance to the investigation of the information sought to be obtained, the likely effectiveness of the use of the device in obtaining the information sought, the availability of alternative means of obtaining the information etc.*
- 5 *Section 6(7) provides that a warrant may not be in force for a period longer than 90 days.*

## **Form 2—Application for renewal of warrant**

*Listening and Surveillance Devices Act 1972*

Applicant's name (*in full*):

- 1 I apply for renewal of the warrant issued under section 6 of the *Listening and Surveillance Devices Act 1972* on (*insert date of issue*) by (*insert name of Judge*), a Judge of the Supreme Court of South Australia.
- 2 The warrant was issued for the purposes of the investigation of a matter by—
  - South Australia Police
  - the Independent Commissioner Against Corruption
  - the Australian Crime Commission<sup>1</sup>
- 3 The warrant conferred the following powers:
  - (a) the power to use (*insert number sought*) listening device(s)<sup>1</sup>
  - (b) the power to enter or interfere with<sup>1</sup> .....<sup>2</sup> for the purposes of installing, using, maintaining or retrieving—
    - listening device(s)<sup>1</sup>
    - surveillance device(s)<sup>1</sup> as follows:
      - (*insert number*) visual surveillance device(s)
      - (*insert number*) tracking device(s).
- 4 The powers conferred by the warrant were authorised to be exercised by the following persons<sup>3</sup>:
- 5 I apply for renewal of the warrant on the following grounds<sup>4</sup>:

The grounds for the application are verified in my accompanying affidavit.
- 6 I request that the warrant be renewed for a further period of (*insert number*) days<sup>5</sup>.

Signature of applicant:

Dated:

Notes—

- 1 *Strike out whichever does not apply.*

- 2 Provide details (eg address, registration number) of any premises, vehicle or thing sought to be entered or interfered with.
- 3 Provide details (eg name, rank and number) of the police officer etc authorised to exercise the powers conferred by the warrant.
- 4 Grounds may include the gravity of the criminal conduct to which the investigation relates, the significance to the investigation of the information sought to be obtained, the likely effectiveness of the use of the device in obtaining the information sought, the availability of alternative means of obtaining the information etc.
- 5 Section 6(7) provides that a warrant may not be in force for a period longer than 90 days.

### **Form 3—Application for variation of warrant**

*Listening and Surveillance Devices Act 1972*

**Note—**

If the warrant has previously been renewed/varied, this form should be modified so that the details of any previous renewals/variations are set out clearly.

Applicant's name (*in full*):

- 1 I apply for variation of the warrant issued to me under section 6 of the *Listening and Surveillance Devices Act 1972* on (*insert date of issue*) by (*insert name of Judge*), a Judge of the Supreme Court of South Australia.
- 2 The warrant conferred the following powers:
  - (a) the power to use (*insert number*) listening device(s)<sup>1</sup>
  - (b) the power to enter or interfere with<sup>1</sup> .....<sup>2</sup> for the purposes of installing, using, maintaining or retrieving—
    - listening device(s)<sup>1</sup>
    - surveillance device(s)<sup>1</sup> as follows:
      - (*insert number*) visual surveillance device(s)
      - (*insert number*) tracking device(s).
- 3 The powers conferred by the warrant are authorised to be exercised by the following persons<sup>3</sup>:
- 4 I apply for variation of the terms/conditions/limitations<sup>1</sup> of the warrant as follows:
- 5 The grounds for the application are as follows<sup>4</sup>:

The grounds for the application are verified in my accompanying affidavit.
- 6 The warrant will, unless cancelled earlier, remain in force until<sup>5</sup>

Signature of applicant:

Dated:

*Notes—*

- 1 *Strike out whichever does not apply.*
- 2 *Provide details (eg address, registration number) of any premises, vehicle or thing sought to be entered or interfered with.*
- 3 *Provide details (eg name, rank and number) of the police officer etc authorised to exercise the powers conferred by the warrant.*
- 4 *Grounds may include the gravity of the criminal conduct to which the investigation relates, the significance to the investigation of the information sought to be obtained, the likely effectiveness of the use of the device in obtaining the information sought, the availability of alternative means of obtaining the information etc.*
- 5 *Insert date the warrant will cease to be in force.*

## **Schedule 2—Warrant**

### **Form 1—Warrant**

*Listening and Surveillance Devices Act 1972*

An application for a warrant under section 6 of the *Listening and Surveillance Devices Act 1972* has been made to me by—

- a police officer
- an investigator under the *Independent Commissioner Against Corruption Act 2012*
- a member of the Australian Crime Commission<sup>1</sup>

I, (*insert name of Judge*), a Judge of the Supreme Court of South Australia, am satisfied that there are, in the circumstances of the case, reasonable grounds for issuing the warrant subject to the conditions/limitations specified in the warrant.

The powers conferred by the warrant are as follows:

- (a) the power to use (*insert number*) listening device(s)
- (b) the power to enter or interfere with<sup>1</sup> .....<sup>2</sup> for the purposes of installing, using, maintaining or retrieving—
  - listening device(s)<sup>1</sup>
  - surveillance device(s)<sup>1</sup> as follows:
    - (*insert number*) visual surveillance device(s)
    - (*insert number*) tracking device(s).

The powers conferred by the warrant are subject to the following conditions/limitations<sup>3</sup>:

The persons authorised to exercise the powers conferred by the warrant are as follows<sup>4</sup>:

The period for which the warrant will be in force is (*insert number*) days from the date of issue (being the date shown below).

Signed:  
Judge of the Supreme Court

Dated:

*Notes*—

- 1 *Strike out whichever does not apply.*
- 2 *Provide details (eg address, registration number) of any premises, vehicle or thing sought to be entered or interfered with.*
- 3 *Provide details of the conditions/limitations to which the powers conferred under the warrant are subject.*
- 4 *Provide details (eg name, rank and number) of the police officer etc seeking the authority to exercise the powers conferred by the warrant.*

**Note**—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

### **Made by the Governor**

with the advice and consent of the Executive Council  
on 17 October 2013

No 241 of 2013

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