

SOUTH AUSTRALIA

LISTENING AND SURVEILLANCE DEVICES RULES 2005

The *Listening And Surveillance Devices Rules 2005*, dated 28 November 2005, came into operation on 1 March 2006 (*South Australian Government Gazette*, 19 January 2006, p.234).

1 Short title

These rules may be cited as the Listening and Surveillance Devices Rules 2005.

2 Commencement

These rules will come into operation on 1 March 2006.

3 Interpretation

In these rules—

Act means the *Listening and Surveillance Devices Act 1972*;

duplicate warrant means the warrant form required to be filled out and signed under section 6A(3)(g) of the Act;

regulations means the *Listening and Surveillance Devices Regulations 2003*.

4 Applications for issue, renewal or variation of warrants

An application for the issue, renewal or variation of a warrant under the Act—

(a) must be made—

- (i) in urgent circumstances—in accordance with section 6A of the Act;
 - (ii) in any other circumstances—in accordance with section 6 of the Act;
- and

(b) must be in the appropriate form set out in Schedule 1 of the regulations with, in the case of an application made in urgent circumstances by facsimile under section 6A of the Act, such variations as may be appropriate.

5 Documents to be lodged in sealed envelope with judge

(1) An affidavit, warrant or other document or proceeding brought in the Supreme Court, or issued in respect of an application for a warrant under the Act, must be lodged in a sealed envelope with the judge hearing the application and must not be filed or lodged in the Registry or entered in the records of the court.

(2) If an application for a warrant has been made by telephone under section 6A(3) of the Act, the following procedures apply:

- (a) the applicant must, as soon as practicable after the issue of the warrant, forward to the judge who issued the warrant the documents referred to in section 6A(3)(h) of the Act in a sealed envelope; and
- (b) the documents referred to in paragraph (a) must not be filed or lodged in the Registry or entered in the records of the court.

6 Affidavits by police officers must have approval appended

An affidavit verifying the grounds of an application for a warrant made by a member of the police force must have appended to it a copy of the written instrument containing the approval of the Director of Public Prosecutions for the making of the application.

Note—

See section 6(2)(a) of the Act.

7 Warrants

- (1) A warrant issued under the Act must be in the form set out in Schedule 2 of the regulations.
- (2) A warrant and duplicate warrant issued in urgent circumstances under section 6A of the Act must be in the form set out in Schedule 2 of the regulations with such variations as may be appropriate.

8 Secure storage of documents

- (1) Following the hearing of an application for the issue, variation or renewal of a warrant under the Act, the warrant, any copy of the warrant, the affidavit verifying the grounds on which the application was made and any other document used or referred to in relation to the hearing must be placed in a sealed envelope and lodged with the Registry.
- (2) The sealed envelope
 - (a) is to be kept in such secure place as may be directed by the Registrar for the period written on the face of the envelope by the judge who heard the application; and
 - (b) is not to be opened except by and in accordance with an order of a judge of the court.

Schedule 1—Revocation of Listening Devices Rules 1992

1 Revocation of *Listening Devices Rules 1992*

- (1) The Listening Devices Rules 1992 (the revoked rules) are revoked.
- (2) The revocation does not affect—
 - (a) the validity of any warrant issued under the revoked rules or proceedings relating to any such warrant; or
 - (b) the admissibility of evidence obtained by the use of any such warrant.