



CRIMES (INTERCEPTION WARRANT) REGULATIONS 1997

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 8th day of December 1997

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 410 of the Crimes Act 1961, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Crimes (Interception Warrant) Regulations 1997.

(2) These regulations come into force on 1 February 1998.

2. Form of interception warrants—(1) Every interception warrant issued under section 312C of the Crimes Act 1961 must be in form 1 set out in the Schedule.

(2) Every interception warrant issued under section 312CB of the Crimes Act 1961 must be in form 2 set out in the Schedule.

SCHEDULE

Reg. 2

FORMS

Form 1

INTERCEPTION WARRANT IN RELATION TO ORGANISED CRIMINAL ENTERPRISE

(Section 312c, Crimes Act 1961)

1. To [Full name of commissioned officer of Police] and every other member of the Police for the time being assisting you.

2. I am satisfied on an application made to me in writing and on oath that—

(a) There are reasonable grounds for believing that—

(i) There is an organised criminal enterprise; and

(ii) A member of that organised criminal enterprise is planning, participating in, or committing, or has planned, participated in, or committed, criminal offences of which at least one is a specified offence (within the meaning of section 312A of the Crimes Act 1961), as part of a continuing course of criminal conduct planned, organised, or undertaken by members of that enterprise; and

(b) There are reasonable grounds for believing that evidence relevant to the investigation of the offence will be obtained through the use of a listening device to intercept private communications; and

(c) [Whichever of the following is applicable]:

*Other investigative procedures and techniques have been tried but have failed to facilitate the successful conclusion of the Police investigation of the case; and

or

*Other investigative procedures and techniques are unlikely to facilitate the successful conclusion of the Police investigation of the case, or are likely to be too dangerous to adopt in the particular case; and

or

*The case is so urgent that it would be impractical to carry out the Police investigation using only investigative procedures and techniques other than the interception of private communications; and

(d) The private communications to be intercepted are not likely to be privileged in proceedings in a court of law by virtue of any of the provisions of Part III of the Evidence Amendment Act (No. 2) 1980 or of any rule of law that confers privilege on communications of a professional character between a barrister or solicitor and a client; and

(e) Having considered the extent to which the privacy of any person or persons would be likely to be interfered with by the interception, it would be in the best interests of the administration of justice to grant an interception warrant.

3. The offence in respect of which the warrant is granted is *(being a specified offence within the meaning of section 312A of the Crimes Act 1961).*

SCHEDULE—continued

FORMS—continued

Form 1—continued

4. This is to authorise you at any time or times within days from the date of this warrant—

*To use a listening device to intercept the private communications of [Name and address of suspect]:

or

*To intercept private communications at [Premises or place, being premises or a place believed to be used for any purpose by any member of the organised criminal enterprise]:

or

*To enter, with force where necessary, [State vehicle, place, or premises that may be entered] for the purpose of placing, servicing, or retrieving the listening device.

*5. The following terms and conditions are imposed in the public interest:

*6. The following conditions are imposed to avoid, so far as practicable, the interception of communications of a professional character:

Dated at this day of 19 .

High Court Judge

*To be deleted where not applicable.

SCHEDULE—*continued*FORMS—*continued*

Form 2

INTERCEPTION WARRANT IN RELATION TO SERIOUS VIOLENT OFFENCE

(Section 312CB, Crimes Act 1961)

1. To [Full name of commissioned officer of Police] and every other member of the Police for the time being assisting you.

2. I am satisfied on an application made to me in writing and on oath that—

(a) There are reasonable grounds for believing that—

(i) A serious violent offence (within the meaning of section 312A of the Crimes Act 1961) has been committed, or is being committed, or is about to be committed; and

(ii) Where the serious violent offence has yet to be committed, the use of a listening device to intercept private communications is likely to prevent the commission of the offence; and

(b) [Whichever of the following is applicable]:

*There are reasonable grounds for believing that evidence relevant to the investigation of the case will be obtained through the use of a listening device to intercept private communications; and

or

*Where the serious violent offence has yet to be committed, there are reasonable grounds for believing that evidence relevant to the prevention of that offence will be obtained through the use of a listening device to intercept private communications; and

(c) [Whichever of the following is applicable]:

*Other investigative procedures and techniques have been tried but have failed to facilitate the successful conclusion of the Police investigation of the case, or, as the case may be, to provide assistance in preventing the commission of a serious violent offence; and

or

*Other investigative procedures and techniques are unlikely to facilitate the successful conclusion of the Police investigation of the case, or, as the case may be, prevent the commission of a serious violent offence, or are likely to be too dangerous to adopt in the particular case; and

or

*The case is so urgent that it would be impractical to carry out the Police investigation using only investigative procedures and techniques other than the interception of private communications; and

(d) The private communications to be intercepted are not likely to be privileged in proceedings in a court of law by virtue of any of the provisions of Part III of the Evidence Amendment Act (No. 2) 1980 or of any rule of law that confers privilege on communications of a professional character between a barrister or solicitor and a client; and

SCHEDULE—continued

FORMS—continued

Form 2—continued

(e) Having considered the extent to which the privacy of any person or persons would be likely to be interfered with by the interception, it would be in the best interests of the administration of justice to grant an interception warrant.

3. The offence in respect of which the warrant is granted is (being a serious violent offence within the meaning of section 312A of the Crimes Act 1961).

4. This is to authorise you at any time or times within days from the date of this warrant—

*To use a listening device to intercept the private communications of [Name and address of suspect];

or

*To intercept private communications at [Premises or place, being premises or a place believed to be used for any purpose by any person whom it is believed has committed, or is committing, or is about to commit, a serious violent offence];

or

*To enter, with force where necessary, [State vehicle, place, or premises that may be entered] for the purpose of placing, servicing, or retrieving the listening device.

*5. The following terms and conditions are imposed in the public interest:

*6. The following conditions are imposed to avoid, so far as practicable, the interception of communications of a professional character:

Dated at this day of 19 .

High Court Judge

*To be deleted where not applicable.

MARIE SHROFF, Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 February 1998, prescribe the forms to be used for interception warrants issued under section 312C or section 312CB of the Crimes Act 1961.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 11 December 1997.

These regulations are administered in the Department for Courts and the Ministry of Justice.