



*Interception of Communications (Code of Conduct) Regulations*

## SAINT LUCIA

STATUTORY INSTRUMENT, 2006, No. 166

[ 16th October, 2006 ]

In exercise of the powers conferred pursuant to section 37 of the Interception of Communications Act 2005, No.31, the Chief Justice makes these Regulations:

### **Citation**

1. These Regulations may be cited as the Interception of Communications (Code of Conduct) Regulations 2006.

### **Interpretation**

2. In these Regulations —

“Code of Conduct” means the Code of Conduct set out in the Schedule;

“officer in charge of interception” means the Commissioner of Police;

“principal Act” means the Interception of Communications Act 2005, No.31.

### **Code of Conduct**

3. The Code of Conduct shall, in addition to the provisions of the principal Act, regulate the conduct of authorised officers under the principal Act.

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(Regulation 3)

**CODE OF CONDUCT****Conduct of authorised and interception officers**

1. —(1) The provisions of this Code of Conduct are in addition to all procedures to be complied with under the principal Act.

(2) An authorised officer who fails to comply with the procedures set out in this Code of Conduct shall, in addition to all penalties under the principal Act, be subject to disciplinary sanctions.

**Separation of roles**

2. — (1) Subject to subsection (2), an authorised officer with access to communications intercepted under the provisions of the principal Act shall not participate in any investigation or provide evidence for use in court proceedings.

(2) An authorised officer shall not disclose any intercepted material to investigating officers except such information as is necessary to enable investigating officers to obtain independent evidence to support criminal proceedings or to execute a search or seizure of materials, items or evidence to be used in criminal proceedings.

**List of persons nominated to act as authorised officers**

3. The Commissioner of Police shall —

- (a) keep a register of persons authorised to act as authorised officers in accordance with section 2(1)(e) of the principal Act;
- (b) update the register mentioned in paragraph (a) immediately upon the authorisation of any person in addition to or in place of a person authorised under section 2(1)(e) of the principal Act; and
- (c) keep a register of all written authorisations given to persons authorised in accordance with section 2(1) (e) of the principal Act.

**Preparing and swearing affidavits**

4. — (1) An authorised officer shall not —

- (a) use the services of any person other than the Attorney General or the Director of Public Prosecutions in cases where he or she requires assistance in the preparation of an affidavit pursuant to the provisions of the principal Act; and



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- (b) swear to an affidavit except before, a judge, a magistrate or a justice of the peace so authorised in writing by the Chief Justice.

(2) The Commissioner of Police shall keep a register of the names of the judges, magistrates and justices of the peace authorised by the Chief Justice.

**Limitation on use of intercepted material**

5. – (1) Subject to subsections (2) to (7), an authorised officer shall only make recordings of intercepted communications as required for an investigation.

(2) Additional recordings of intercepted communications may be made for purposes of —

- (a) translation, where necessary; and  
(b) making disclosure to the prosecution in a criminal matter in accordance with section 19 (6) of the principal Act.

(3) Where disclosure of intercepted communications is to be made to the prosecution in accordance with section 19(6) of the principal Act, the authorised officer shall ensure that —

- (a) disclosure is only made to the prosecutor presenting the case;  
(b) a copy of the indictment and case summary is forwarded to him or her and that he or she peruses the contents before making a disclosure;  
(c) the disclosure is given at a conference with the prosecutor presenting the case; and  
(d) if there is a change of prosecutor or a material change in the nature of the Crown's case, a further indictment and case summary are collected and a further conference is convened.

(4) A case conference may be dispensed with only in cases where the officer in charge of interception —

- (a) receives and reviews the indictment and case summary; and  
(b) decides, upon review of the indictment and case summary, that the prosecution is being advanced in a manner consistent with the principal Act.

(5) An authorised officer shall ensure that all persons to whom intercepted communication is disclosed —

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- (a) acknowledge, in writing, that they have read and understood all security safeguards; and
  - (b) only make such notes as may be required for the purpose of disclosure.
- (6) The interception officer shall —
- (a) retain all notes made by the prosecutor;
  - (b) make such notes available to the prosecutor as requested; and
  - (c) destroy all such notes as soon as the purposes for which they have been taken are fulfilled.

**Information subject to legal and other privilege**

**6.** — (1) An authorised officer shall seek the advice of the Director of Public Prosecutions or Attorney General in all cases where he or she is uncertain as to whether intercepted communication is subject to legal or other privilege.

(2) An authorised officer who intercepts communication that is subject to a legal or other privilege shall destroy such information at source immediately without making copies or disseminating it unless —

- (a) an entry warrant or interception direction specifically approves the retrieval of the information; and
- (b) it is retained with a clear warning that it is subject to a legal or other privilege.

(3) An authorised officer shall ensure that any communication which is subject to a legal or other privilege and is retained in accordance with this section is —

- (a) destroyed as soon as it is no longer necessary for the purpose for which a direction or warrant is granted; and
- (b) not disclosed to any person involved in the prosecution of any criminal proceedings related to the information.

(4) Any application for an interception direction, entry warrant or disclosure order which is likely to result in the interception of communication subject to a legal or other privilege shall include both an assessment of how likely it is that such information will be intercepted and the reasons why it is considered necessary to intercept the communication in spite of the fact that the information may be subject to a legal or other privilege.



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**Records and processing of Intercepted communications**

7. — (1) The officer in charge of interception shall ensure that there is a separate secure computer network for the storage of all intercepted materials.

(2) An authorised officer shall store all records of intercepted communication —

- (a) on the secure computer network established in accordance with subsection (1); and
- (b) apart from intelligence or other materials.

(3) An authorised officer shall not process intercepted communications alongside other information except within the confines of a secure office designated by the officer in charge of interception for that purpose.

**Storage of applications, affidavits and related documents**

8. — (1) The officer in charge of interception shall —

- (a) create and maintain an accurate system for recording and storing all applications made under the principal Act including renewals, modification, and cancellation relating to applications;
- (b) ensure that —
  - (i) original documents are seen by the Judge;
  - (ii) all documents given to the Judge are placed by the Judge into a sealed envelope;
  - (iii) all documents and copies given to and prepared by the Attorney General's Chambers or the office of the Director of Public Prosecutions are returned to the officer in charge of interception;
  - (iv) the envelope sealed by the court is not opened without the Court's expressed authorization;
  - (v) upon an application for renewal, modification or cancellation of a direction order or warrant, the original document to which the case relates are seen by the Judge and the officer of the Attorney General's Chambers or the office of the Director of Public Prosecutions making the application; and
  - (vi) renewals, modifications and cancellations of applications are made in a timely and efficient manner.

(2) The officer in charge of interception, when creating the system under subsection (1), shall ensure that it —

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- (a) identifies each case by —
  - (i) a unique case reference number;
  - (ii) the date of issuance and cessation of the relevant direction, order or warrant; and
  - (iii) the date when the direction, order or warrant was delivered to any person or communications provider.

**Procedure for translating intercepted material**

9. — (1) Where it is necessary to translate intercepted material, the translation must be —

- (a) conducted in the strictest confidence within a secure environment approved by the officer in charge of interception for that purpose; and
- (b) performed by a translator chosen from a list of translators approved by the Attorney General.

**Involvement of other agencies**

10. — (1) Where it is necessary to utilize the facilities of other agencies in the receiving and processing of intercepted communication, the following procedure must be followed —

- (a) the officer in charge of interception shall designate an authorised officer to collect the material from the host recording centre;
- (b) the authorised officer designated to collect the information will —
  - (i) follow all security arrangements of the host recording centre before accessing the information;
  - (ii) remove the information from the host recording centre on digital audio tape designated for such purposes or will remove the information in hard copy form; and
  - (iii) comply with all procedures under Parts III to V of the principal Act regarding the copying of intercepted material.

**Procedure for disseminating intercepted material**

11. — (1) Intercepted communication shall not be disseminated to anyone unless it is done in accordance with the Act or Regulations made pursuant to section 36(2) (b) of the principal Act.

(2) Intercepted material shall be disseminated in a secure manner that ensures integrity, confidentiality and complies with the provisions of the principal Act.



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Made this 21st day of September, 2006.

BRIAN GEORGE KEITH ALLEYNE, S.C.,  
*Chief Justice.*

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