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**THE INFORMATION AND COMMUNICATIONS TECHNOLOGY
AUTHORITY LAW
(2010 REVISION)**

**THE INFORMATION AND COMMUNICATIONS TECHNOLOGY
AUTHORITY (INTERCEPTION OF TELECOMMUNICATION
MESSAGES) REGULATIONS, 2011**

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CAYMAN ISLANDS

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In exercise of the powers conferred by section 97 of the Information and Communications Technology Authority Law (2010 revision), the Governor in Cabinet makes the following Regulations -

PART 1 - PRELIMINARY

1. These Regulations may be cited as the Information and Communications Technology Authority (Interception of Telecommunications) Regulations, 2011.

Citation

2. In these Regulations -

Definitions

“ICAC” means the Interception of Communications Audit Committee established under regulation 17;

“intercept” includes monitoring and interrupting; and

“message” means a communication sent, delivered, received or transmitted, or intended to be sent, delivered, received or transmitted by telecommunication and includes any information that enables the identification of the origin and destination of the communication and the date and time it was transmitted or received.

3. These Regulations do not apply to the interception of messages on a telecommunication system provided by an employer to an employee.

Application

PART 2 - INTERCEPTION OF MESSAGES

4. In exercise of the power conferred under section 75(2)(a), the Governor may issue a warrant authorising any person employed by the Royal Cayman

Governor may authorise interception

Islands Police Service to intercept a message in relation to a matter or person for the purposes of gathering intelligence for purposes specified in regulation 5.

Grounds of interception

5. (1) The Governor may issue a warrant -
- (a) in the interests of national security;
 - (b) for purpose of preventing or detecting serious crime;
 - (c) to avert an imminent threat to human life;
 - (d) in circumstances coming within the scope of international mutual assistance agreements; or
 - (e) to safeguard the economic well-being of the Islands,

and if he is satisfied that the interception of the message is proportionate to the ends sought to be achieved by intercepting the message and the information sought to be obtained cannot be obtained by other less intrusive means.

(2) A warrant shall be addressed to the Commissioner, who may authorise an employee of the Royal Cayman Islands Police Service to execute the warrant.

Oral applications and grants

6. (1) Where there is imminent threat to life and it is not practicable to make a written application for a warrant, an oral application supported by grounds orally given may be made and an oral warrant may be issued to last for twenty four hours but the period may be extended by a written warrant issued upon a written application.

(2) A written application following an oral warrant shall otherwise comply with all the requirements of these Regulations and, in addition, reduce to writing the grounds orally given but shall in all other respects be treated as if no oral warrant had before been issued.

Governor may consult Attorney General

7. The Governor may, in the exercise of his powers under these Regulations, consult the Attorney General.

Contents of warrant

8. A warrant shall contain -
- (a) the facts constituting the grounds for requesting the warrant;
 - (b) details of the person or premises, if known, to which the request relates and how that person or premises are relevant to the request;
 - (c) a description of the messages to be intercepted;
 - (d) details of the communications service provider;
 - (e) supporting evidence of urgency, where an application is said to be urgent; and

- (f) an assurance that all material intercepted will be handled in accordance with safeguards established by the Government or the Royal Cayman Islands Police Service.

9. (1) No evidence shall be adduced, question asked, assertion or disclosure made or other thing done in, for the purposes of, or in connection with, any legal proceedings or proceedings under the Commissions of Enquiry Law(2007 Revision) which, in any manner -

Exclusion of matters from legal proceedings

- (a) discloses, in circumstances from which its origin in anything falling within subsection (2) may be inferred, any of the contents of an intercepted communication or any related communications data; or
- (b) tends (apart from any such disclosure) to suggest that anything falling within subsection (2) has or may have occurred or is going to occur.

(2) In this section “intercepted communication” means any communication intercepted in the course of its transmission by means of a postal service or telecommunication system.

10. A request for permission to intercept a message shall be directed to the Commissioner of Police who, if satisfied that such request might meet the grounds upon which the Governor may grant the request, may convey it to the Governor together with such modifications and comments as he may wish to make.

Channelling of requests to Governor: Within the RCIPS

11. (1) Requests from the Department of Immigration, the Department of Customs and Her Majesty’s Prison Service shall be channelled to the Commissioner of Police subject to such internal procedures as the Chief Immigration Officer, the Collector of Customs and the Director of Prisons, respectively, may administratively institute.

Channelling of requests to Governor: From Immigration and Customs

(2) Requests from the Department of Immigration, the Department of Customs and Her Majesty’s Prison Service shall be handled by the Royal Cayman Islands Police Service in such manner as the Commissioner of Police may administratively institute.

12. A warrant shall be valid for the period stated on the warrant but such period shall not exceed three months.

Duration of warrant

13. A warrant may continue to be renewed so long as the same criteria for issuance of the warrant in the first place are applied.

Renewal of warrant

Modification of warrant 14. The Governor may modify the details of a warrant issued either in his own discretion or upon request by the Commissioner of Police, who may be moved in that regard in the same way as he is in the issuance of an original warrant.

Need or otherwise of warrant to be kept under review 15. Without limiting the powers of the Governor in relation to any warrant, the Commissioner shall ensure that the need or otherwise of any warrant is kept under review.

PART 3: PRISONS

Monitoring of prisoners' telecommunications 16. (1) Nothing in these Regulations interferes with the duty of the Director of Prisons to intercept telecommunications to, from or among prisoners for the good order of the prison.

(2) It is declared for purposes of clarification that the right of prisoners to communicate with their attorneys in confidence shall continue to be enjoyed by all prisoners to the extent existing before entry into force of these Regulations.

PART 4: AUDIT

Establishment of audit committee 17. (1) The Governor in Cabinet shall appoint a committee to be known as the Interception of Communication Audit Committee, whose function shall be to conduct audits of interceptions carried out under these Regulations.

(2) The ICAC shall consist of the following five persons -

- (a) a Justice of the Peace, who shall be Chairperson;
- (b) a retired -
 - (i) Judge;
 - (ii) Magistrate; or
 - (iii) lawyer;
- (c) the Chief Officer in the Portfolio of Internal and External Affairs;
- (d) an information and technology specialist employed by the Cayman Islands Government; and
- (e) a technical expert (from a law enforcement agency outside the Islands) with experience in the interception of telecommunications.

(3) Members of the ICAC shall serve at the pleasure of the Governor in Cabinet.

(4) The ICAC shall adopt its own rules of procedure.

18. (1) The ICAC shall conduct an audit of all interception equipment and data records at least once every six months to determine whether interceptions were conducted in accordance with these Regulations. Conduct of audit

(2) The Commissioner of Police shall disclose or provide to the ICAC access to interception equipment, data records and such documents and information as the ICAC may require for the purpose of enabling it to carry out its functions under these Regulations and, for the purposes of this regulation, data records do not include the recordings of the conversations or a transcript thereof.

19. Members of the ICAC shall sign a confidentiality agreement with the Governor, which shall prohibit the disclosure to unauthorized persons of information obtained during the audit process. Confidentiality

20. The ICAC shall, through the Chairperson, present a written report to the Governor no later than 30 days after an audit is complete. Report

Made in Cabinet the 26th day of July, 2011.

Kim Bullings

Clerk of the Cabinet.