

Schedule 4

Emergency location information

Schedule 4 enables the disclosure of emergency location information ("ELI") by network operators to emergency service providers, and the collection and use of ELI by emergency service providers, for the purpose of establishing the location of an individual who has made an emergency call, in order to facilitate a response to that call, or to prevent or lessen a serious threat to an individual's life or health.

The Schedule regulates location information which is automatically generated when making an emergency call. It also regulates the use of technology that enables the collection of location information about cellular devices in the absence of an emergency call from the individual concerned, where this is necessary to prevent or lessen a serious threat to individual life or health.

The Schedule limits the collection, retention, use and disclosure of ELI to ensure that the sharing and use of this information is at all times connected with responding to an emergency.

This Schedule applies only to location agencies, as defined in clause 1 of this Schedule.

1 Interpretation

In this Schedule,-

cellular device means a telecommunication device capable of connecting to a cellular network

Device Location Information (DLI) means location information that is-

- (a) derived from a DLI source; and
- (b) not generated by an emergency call

DLI source means-

- (a) a cellular device; or
- (b) in relation to a cellular device, a network operator

emergency call means any telecommunication from a telecommunication device to a specified emergency number

Emergency Caller Location Information (ECLI) means location information that is-

- (a) derived from an ECLI source; and
- (b) generated by an emergency call

ECLI source means-

- (a) a telecommunication device enabled automatically to send ECLI to the Emergency Location Information System (ELIS) when an emergency call is made; or
- (b) in relation to a telecommunication device, a network operator

Emergency Location Information (ELI) means-

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(a) DLI;

(b) ECLI

Emergency Location Information System (ELIS) means the system which receives and processes ELI and makes ELI available to emergency service providers for the permitted primary purpose and permitted secondary purpose

emergency service provider means-

(a) New Zealand Police; or

(b) Fire and Emergency New Zealand; or

(c) The Priory in NZ of the Most Venerable Order of the Hospital of St John of Jerusalem (St John); or

(d) Wellington Free Ambulance Service (Incorporated); or

~~(e) New Zealand Search and Rescue; or~~

~~(f)~~(e) Maritime New Zealand; or

~~(g)~~(f) any other agency authorised by the relevant government agency under clause 2 of this Schedule to receive ELI ~~from the ELIS~~

location agency means-

(a) an emergency service provider; or

(b) a network operator; or

(c) the relevant government agency;

location information means personal information indicating the approximate geographical position of a device, which may include the latitude, longitude, altitude and direction of travel of that device

permitted primary purpose means-

(a) in relation to ECLI, to enable an emergency service provider to facilitate a response to an emergency call; or

(b) in relation to DLI, to enable an emergency service provider to prevent or lessen a serious threat to the life or health of the individual concerned or another individual

permitted secondary purpose means the following purposes that are directly related to the permitted primary purpose-

(a) maintaining a record of the information used to establish the location of an emergency by an emergency service provider; and

(b) monitoring ~~the and~~ auditing the operation of the ELIS by the relevant government agency

public sector agency has the same meaning as in section 7(1) of the Privacy Act 2020.

relevant government agency means the ~~public sector government~~ agency responsible for the ELIS

serious threat has the same meaning as in section 7(1) of the Act

specified emergency number means 111 or any other emergency number, agreed by the location agencies from time to time, that connects to the 111 emergency call service

telecommunication device-

- (a) means any terminal device capable of being used for transmitting or receiving a telecommunication over a network; and
- (b) includes a cellular device.

2 Additional agencies authorised to receive ELI ~~from the ELIS~~

- (1) For the purposes of paragraph (ef) of the definition of emergency service provider, the relevant government agency may, after consulting the Commissioner, authorise an agency to receive ELI ~~from the ELIS~~—where that agency—
 - (a) provides emergency services to the public; and
 - (b) requires ELI ~~from the ELIS~~ for the permitted primary purpose.

3 Collection, use, disclosure and accuracy of ELI

- (1) A location agency may collect, use or disclose ELI if it believes on reasonable grounds that—
 - (a) the collection, use or disclosure is necessary for a permitted primary purpose or permitted secondary purpose; and
 - (b) in the case of a disclosure - the disclosure is to another location agency.
- (2) The relevant government agency may collect ELI in compliance with subclause (1)(a) either—
 - (a) directly from the relevant telecommunication device; or
 - (b) from the relevant network operator.
- (3) ~~New Zealand Search and Rescue~~, Maritime New Zealand, or any agency authorised under clause 2 to receive ELI, must not collect ELI ~~directly from the relevant government agency directly from the ELIS~~.
- (4) Before collecting, using or disclosing DLI in relation to a cellular device, an emergency service provider must take all reasonable steps to ensure that the device relates to the individual whose location is necessary for the purpose of responding to the serious threat.
- (5) Where an emergency service provider collects ELI, it must ensure that the frequency and duration of the collection is limited to that which is necessary for the permitted primary purpose.
- (6) A location agency may combine ELI with other information - such as aggregated geolocation information - in order to improve the accuracy of ELI for the permitted primary purpose.
- (7) A network operator or emergency service provider is restricted by this clause in its collection, use or disclosure of ELI only to the extent that the information is sourced from the ELIS.

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4 Notice of collection

- (1) An emergency service provider, or the relevant government agency on its behalf, must, as soon as reasonably practicable after collecting DLI pursuant to clause 3(1)(a), notify the individual concerned of:
 - (a) the date and time the information was collected; and
 - (b) the type of information collected; and
 - (c) the duration of the collection; and
 - (d) the purpose for the collection.
- (2) An emergency service provider is not required to take the steps referred to in subclause (1) if it believes, on reasonable grounds, that doing so would be likely to prejudice the physical or mental health of the individual concerned or another individual.
- (3) Within 7 days of making a decision under subclause (2), an emergency service provider must-
 - (a) review that decision to determine whether subclause (2) still applies; and
 - (b) if subclause (2) no longer applies, take the steps referred to in subclause (1).
- (4) Subject to the general transparency requirements set out at clause 5, a location agency is not required to notify an individual of the collection of ECLI.

5 General duty of transparency

- (1) Location agencies should apply a general policy of openness and transparency in respect of the ELIS that enables individuals to understand and have confidence in the system.
- (2) Without limiting subclause (1), the information made available by location agencies in an appropriate way, such as on the agency's website or a shared website, should include-
 - (a) a general explanation of the ELIS, including-
 - (i) how ELI is generated or collected, and shared; and
 - (ii) how ELI will be used and the benefits to the public of the system; and
 - (iii) where ELI will be stored and for how long; and
 - (iv) the current agencies participating in the system and their roles; and
 - (v) that the system is permitted by this Schedule; and
 - (b) guidance about individual access, correction and complaint rights in respect of the system.

6 Retention of ELI

- (1) A location agency must not keep ELI sourced from the ELIS for longer than is required for a permitted primary purpose or permitted secondary purpose.

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- (2) Where the relevant government agency retains ELI for the purpose of monitoring or auditing the operation of the ELIS, reasonable steps must be taken to ensure that the information is not retained in a form that is capable of identifying the individual to whom the information relates.

7 Safeguards to ensure compliance

- (1) A location agency must take reasonable steps to ensure that it collects, retains, uses and discloses ELI in compliance with the requirements of this Schedule.
- (2) Without limiting subclause (1), a location agency must-
 - (a) develop and maintain written policies and procedures in respect of the collection, retention, accuracy, use and disclosure of ELI; and
 - (b) provide information and training to relevant employees or agents to ensure compliance with these policies and procedures; and
 - (c) monitor usage and regularly check compliance with the requirements of the Schedule and, in particular, with the limitations on the retention of ELI; and
 - (d) take prompt and effective action in respect of any failure to comply with the requirements of the Schedule.
- (3) The relevant government agency must maintain a log of all disclosures of DLI (disclosure log), which includes-
 - (a) whether the disclosure was in reliance on the permitted primary purpose, the permitted secondary purpose, or another purpose; and
 - (b) where the disclosure was in reliance on the permitted primary purpose, the grounds for believing that it was necessary; and
 - (c) where the disclosure was in reliance on another purpose, a description of this other purpose and the statutory authority on which it was based; and
 - (d) the date of the disclosure and the duration for which ELI was collected; and
 - (e) whether or not the individual concerned was notified in accordance with clause 4.
- (4) Where the relevant government agency uses DLI for either the permitted primary purpose or permitted secondary purpose, it must treat this as a disclosure of DLI for purposes of Clause 7(3).

8 Assurance of compliance

- (1) The relevant government agency must, before authorising an agency under clause 2 to receive ELI from the ELIS, seek and obtain an assurance that the agency will take the steps required by clause 7.
- (2) A location agency - including the relevant government agency - must, on request from the Commissioner, provide a written assurance that the steps required by clause 7 have been taken.
- (3) Every three months, ~~The~~ relevant government agency must provide to the Commissioner , ~~every three months,~~ the disclosure log for the preceding three-month period.

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9 Permitted sharing of ELI for search and rescue

Nothing in this Schedule prevents a location agency from disclosing information about an individual's potential location to any agency or person who is acting on behalf of that location agency to locate and rescue that individual.