
CHAPTER 90**LISTENING DEVICES****ARRANGEMENT OF SECTIONS**

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CHAPTER 90
LISTENING DEVICES

An Act to regulate the use of certain devices for listening to private conversations, and for connected purposes.

*22 of 1972
E.L.A.O., 1974*

[Commencement 27th December, 1972]

1. This Act may be cited as the Listening Devices Act. Short title.
2. (1) In this Act, unless the context otherwise requires — Interpretation.

“listening device” means any instrument, apparatus, equipment or device capable of being used to hear, listen to or record a private conversation while it is taking place;

“private conversation” means any words spoken by one person to another in circumstances indicating that those persons or either of them desire the words to be heard or listened to only by themselves or by themselves and some other person, but does not include a conversation made in circumstances under which the parties to the conversation ought reasonably to expect the conversation to be overheard.

(2) A reference in this Act to a listening device does not include a reference to a hearing aid or similar device used by a person to overcome an impairment of hearing so as to enable him to hear sounds ordinarily audible to the human ear.

(3) A reference in this Act to a party to a private conversation is a reference —

- (a) to a person by or to whom words are spoken in the course of that conversation; and also
- (b) to a person who, with the consent, express or implied, of any of the persons by or to whom words are spoken in the course of that conversation, hears, listens to or records those words.

Prohibition of
use of listening
devices.

3. (1) Subject to the provisions of subsection (2) of this section, any person who uses a listening device to hear, listen to or record a private conversation to which he is not a party shall be guilty of an offence against this Act.

- (2) Subsection (1) of this section shall not apply —
- (a) where the person using the listening device does so in accordance with an authorisation given to him under section 5 of this Act; or
 - (b) to the unintentional hearing of a private conversation over a telephone.

(3) The court by which a person is convicted of an offence under this section may order that any listening device used in the commission of the offence shall be forfeited and disposed of as the court may think fit.

Prohibition of
communication
of private
conversations
recorded by
listening devices.

4. (1) Subject to the provisions of subsection (3) of this section, any person who communicates or publishes to any other person a private conversation or a report of or the substance, meaning or purport of a private conversation that has come to his knowledge as a result of the use of a listening device used in contravention of section 3 of this Act shall be guilty of an offence against this Act.

(2) Subject to the provisions of subsection (3) of this section, any person who, having been a party to a private conversation and having used a listening device to hear, listen to or record that conversation, subsequently communicates or publishes to any other person any record of the conversation made directly or indirectly by the use of a listening device shall be guilty of an offence against this Act.

(3) Subsection (1) or (2) of this section shall not apply where the communication or publication —

- (a) is made to a party to the private conversation or with the consent, express or implied, of such a party; or
- (b) is not more than is reasonably necessary —
 - (i) in the public interest;
 - (ii) in the performance of a duty of the person making the communication or publication; or
 - (iii) for the protection of the lawful interests of that person; or

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- (c) is made to a person who has, or is believed on reasonable grounds by the person making the communication or publication to have, such an interest in the private conversation as to justify the making of the communication or publication under the circumstances under which it is made; or
 - (d) is made in accordance with an authorisation referred to in paragraph (a) of subsection (2) of section 3 of this Act by a person who used the listening device to hear, listen to or record the private conversation pursuant to the authorisation.

5. (1) Where the Minister responsible for National Security is satisfied that the interests of the defence or the internal security of The Bahamas so require, he may in writing authorise the use by any person specified in the authorisation of a listening device for such period (not exceeding thirty days) and in such manner as may be so specified.

Authorisation of use of listening devices for public purposes.
E.L.A.O., 1974.

(2) Where the Commissioner of Police after consultation with the Attorney-General is satisfied —

- (a) that, for the purpose of the conduct by a police officer of an investigation into an offence that has been committed or that the Commissioner believes to have been committed, the use of a listening device is necessary; or
- (b) that an offence is about to be, or is reasonably likely to be, committed and that, for the purpose of enabling a police officer to obtain evidence of the commission of the offence or the identity of the offender, the use of a listening device is necessary,

the Commissioner after consultation with the Attorney-General, may in writing authorise the use by a police officer of a listening device for that purpose in such manner and for such period (not exceeding fourteen days) as may be specified in the authorisation.

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(3) Without prejudice to the powers of the Commissioner of Police under subsection (2) of this section, in relation to an offence against the Tariff Act, or the Customs Management Act, the provisions of that subsection shall have effect with the substitution —

- (a) for references to the Commissioner of Police, of references to the Comptroller of Customs; and
- (b) for references to a police officer, of references to a customs officer.

(4) A record of the particulars of every authorisation given by any person under this section shall be kept by him.

Authorisations to be *prima facie* evidence.

6. A document purporting to be an authorisation given under section 5 of this Act shall in all courts and on all occasions, without proof of the signature of the person purporting to have signed the document, be *prima facie* evidence that the person specified in the document as the person to whom the authorisation was given was authorised under that section to use a listening device in accordance with the terms of the document.

Irrelevant records to be destroyed.

7. Where any record is made, whether in writing or otherwise, of information obtained by the use of a listening device pursuant to an authorisation given by any person under section 5 of this Act, that person shall, as soon as possible after that record has been made, cause to be destroyed so much of the record as does not relate directly or indirectly to the purpose for which the authorisation was given.

Advertising listening devices prohibited.

8. Any person who in any way advertises or publicly exhibits a listening device with the intention or apparent intention of promoting its use or sale shall be guilty of an offence against this Act.

Prosecutions and penalties.

9. (1) Every offence against this Act shall be prosecuted summarily.

(2) Any person convicted of an offence against this Act shall be liable to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

10. (1) Where a private conversation has come to the knowledge of person as a result, direct or indirect, of the use of a listening device used in contravention of section 3 of this Act, evidence of that conversation may not be given by that person in any civil or criminal proceedings.

Evidence of private conversations unlawfully obtained inadmissible.

(2) Subsection (1) of this section shall not render inadmissible the evidence of a private conversation —

- (a) that has come to the knowledge of the person giving evidence if a party to the conversation consents to that evidence being given; or
- (b) in any prosecution for an offence against this Act.