

**Telecommunications Information Privacy Code 2003**  
**Amendment No 7**

I, **JOHN EDWARDS**, Privacy Commissioner, now issue under section 51 of the Privacy Act 1993, this amendment to the Telecommunications Information Privacy Code 2003.

Issued by me at Wellington on 8 April 2020.



John Edwards

**Privacy Commissioner**

**1. Title**

This amendment is the Telecommunications Information Privacy Code 2003 Amendment No 7.

**2. Commencement**

This amendment will come into force on 7 May 2020.

**3. Insertion of new clause 2A (review)**

Part 1 is amended as follows:

**Insert:            2A.    Review**

The Commissioner will review the operation of Schedule 4 from time to time, and no later than 1 May 2022.

#### 4. Amendment to clause 4 (application of code)

Clause 4(1) is amended as follows:

**Insert:** (d) additionally, for the purposes of Schedule 4, location information as defined in clause 1 of Schedule 4.

#### 5. Amendment to clause 5: Rule 3 (collection from individual)

Rule 3 is amended as follows:

**Insert:** (5) Where a network operator participates in the emergency location information system in accordance with Schedule 4, it must ensure that additional steps required by clause 4 of Schedule 4 are taken to meet specific transparency obligations in relation to the system.

#### 6. Amendments to clause 5: Rule 5 (storage and security)

Rule 5(1A) is amended as follows:

**Delete:** the word “caller”

#### 7. Amendment to clause 5: Rule 11 (disclosure)

Rule 11(1)(ha) is amended as follows:

**Delete:** the words “in accordance with the requirements”  
**Replace with:** to the relevant government agency for the purposes

#### 8. Amendments to Schedule 4: Title and preamble

(1) The title of Schedule 4 is amended as follows:

**Delete:** **Emergency caller location information (mobile)**  
**Replace with:** **Emergency location information**

(2) The preamble to Schedule 4 is amended as follows:

**Delete:** all instances of the word “ECLI”  
**Replace with:** ELI

**Delete:** from the first paragraph, the word “caller”

**Insert:** at the end of the first paragraph, the words “; or to prevent or lessen a serious threat to an individual’s life or health”

**Delete:** from the second paragraph, the words “by enabled mobile devices, and by network operators using cell tower locations,”

**Insert:** at the end of the second paragraph, the sentence “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.”

**Delete:** from the end of paragraph 3, the word “call”

## 9. Amendments to Schedule 4: Clause 1 (interpretation)

(1) Clause 1 of Schedule 4 is amended as follows:

**Insert:** in the appropriate alphabetical order:

**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 Location Information (ELI)** means:

- (a) DLI;
- (b) ECLI

**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

**serious threat** has the same meaning as in section 2(1) of the Act

**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

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

(2) The definition of “ECLI source” in clause 1 of Schedule 4 is amended as follows:

**Delete:** the word “mobile”

**Replace with:** telecommunication

**Delete:** the words “Location Area Service (LAS) system”

**Replace with:** Emergency Location Information System (ELIS)

**Insert:** at the beginning of subclause (b), the words “in relation to a telecommunication device,”

(3) The definition of “emergency service provider” in clause 1 of Schedule 4 is amended as follows:

**Delete:** subclause (b)

**Replace with:** (b) Fire and Emergency New Zealand;

**Insert:** new subclause (da):

(da) New Zealand Search and Rescue;

**Insert:** new subclause (db):

(db) Maritime New Zealand;

**Delete:** from subclause (e), the word “ECLI”

**Replace with:** ELI

**Delete:** from subclause (e), the words “LAS system”

**Replace with:** ELIS

(4) Clause 1 of Schedule 4 is amended as follows:

**Delete:** The definition of “permitted primary purpose”

**Replace with:** **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

(5) Clause 1 of Schedule 4 is amended as follows:

**Delete:** from subclause (a) of the definition of “permitted secondary purpose”, the word “caller”

**Delete:** from subclause (b) of the definition of “permitted secondary purpose”, the words “LAS system”

**Replace with:** ELIS

(6) The definition of “Location Area Service (LAS) System” in clause 1 of Schedule 4 is amended as follows:

**Delete:** the words “Location Area Service (LAS) system”

**Replace with:** **Emergency Location Information System (ELIS)**

**Delete:** all instances of the word “ECLI”

**Replace with:** ELI

(7) Clause 1 of Schedule 4 is amended as follows:

**Delete:** from the definition of “emergency call”, the word “mobile”

**Replace with:** telecommunication

**Delete:** the definition of “emergency caller”

**Delete:** from the definition of “Emergency Caller Location Information (ECLI)”, the words “personal information indicating the approximate geographical position of a mobile device, which may include the latitude, longitude and altitude of that device,”

**Replace with:** location information

**Delete:** from the definition of “relevant government agency”, the words “LAS system”

**Replace with:** ELIS

#### 10. Amendments to Schedule 4: Clause 2 (authorisation of additional agencies)

(1) Clause 2 of Schedule 4 is amended as follows:

**Delete:** all instances of the word “ECLI”

**Replace with:** ELI

**Delete:** all instances of the words “LAS system”

**Replace with:** ELIS

(2) Clause 2 of Schedule 4 is amended as follows:

**Insert:** in subclause (1), after “may”, the words “, after consulting the Commissioner,”

(3) Clause 2 of Schedule 4 is amended as follows:

**Delete:** subclause (2)

#### 11. Amendments to Schedule 4: Clause 3 (collection, use, disclosure etc)

(1) Clause 3 of Schedule 4 is amended as follows:

**Delete:** the heading of clause 3

**Replace with:** **3. Collection, use, disclosure and accuracy of ELI**

(2) Clause 3 of Schedule 4 is amended as follows:

**Delete:** all instances of the word “ECLI”

**Replace with:** ELI

**Delete:** from subclause (4), the words “LAS system”

**Replace with:** ELIS

(3) Clause 3 of Schedule 4 is amended as follows:

**Insert:** in subclause (1)(a), after “is”, the word “necessary”

**Delete:** subclause (2)(a)

**Replace with:** (a) directly from the relevant telecommunication device;

(4) Clause 3 of Schedule 4 is amended as follows:

**Insert:** new subclause 2A:

(2A) 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.

(5) Clause 3 of Schedule 4 is amended as follows:

**Insert:** new subclause 2B:

(2B) 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.

(6) Clause 3 of Schedule 4 is amended as follows:

**Insert:** new subclause 2C:  
 (2C) 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.

## 12. Amendment to Schedule 4: New clause 3A (Notice of collection)

Schedule 4 is amended as follows:

**Insert:** new clause 3A:  
**3A. 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;
- (b) the type of information collected;
- (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
- (c) 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 4, a location agency is not required to notify an individual of the collection of ECLI.

### 13. Amendments to Schedule 4: Clause 4 (transparency)

(1) Clause 4 of Schedule 4 is amended as follows:

**Delete:** from subclause (1), the words “ECLI system”

**Replace with:** ELIS

**Delete:** from subclause 2(a), the words “ECLI system”

**Replace with:** ELIS

**Delete:** all remaining instances of the word “ECLI”

**Replace with:** ELI

(2) Clause 4 of Schedule 4 is amended as follows:

**Insert:** in subclause (2)(a)(i), after “generated”, the words “or collected,”

(3) Clause 4 of Schedule 4 is amended as follows:

**Delete:** subclause (3)

### 14. Amendments to Schedule 4: Clause 5 (retention)

(1) Clause 5 of Schedule 4 is amended as follows:

**Delete:** all instances of the word “ECLI”

**Replace with:** ELI

(2) Clause 5(1) of Schedule 4 is amended as follows:

**Insert:** after “ELI”, the words “sourced from the ELIS”

(3) Clause 5(2) of Schedule 4 is amended as follows:

**Delete:** the words “an individual who made an emergency call”

**Replace with:** “the individual to whom the information relates”

**Delete:** the words “LAS system”

**Replace with:** ELIS

### 15. Amendments to Schedule 4: Clause 6 (safeguards)

(1) Clause 6 of Schedule 4 is amended as follows:

**Delete:** all instances of the word “ECLI”



**Replace with:** ELI

(2) Clause 6 of Schedule 4 is amended as follows:

**Insert:** in subclause (2)(a), after the words “collection, retention”, the word “accuracy,”

(3) Clause 6 of Schedule 4 is amended as follows:

**Insert:** new subclause (3):

(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, permitted secondary purpose, or another purpose;
- (b) where the disclosure was in reliance on the permitted primary purpose, the grounds for believing that it was necessary;
- (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;
- (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 3A(1).

#### 16. Amendments to Schedule 4: Clause 7 (assurance of compliance)

(1) Clause 7 of Schedule 4 is amended as follows:

**Delete:** from subclause (1), the word “ECLI”

**Replace with:** ELI

**Delete:** from subclause (1), the words “LAS system”

**Replace with:** ELIS

(2) Clause 7 of Schedule 4 is amended as follows:

**Insert:** new subclause (3):

(3) The relevant government agency must provide to the Commissioner, every three months, the disclosure log for the preceding three month period.