

通訊保障及監察法 Communications Protection and Surveillance Act

修正日期：民國 96 年 07 月 11 日

Last amendment: 11 July 2007

第 1 條

Article 1

為保障人民秘密通訊自由不受非法侵害，並確保國家安全，維護社會秩序，特制定本法。

This Act is enacted to protect people's freedom of confidential communications from unlawful infringement, as well as to ensure national security and maintain social order.

第 2 條

Article 2

通訊監察，除為確保國家安全、維持社會秩序所必要者外，不得為之。

Communications surveillance may not be conducted, except as required to ensure national security or maintain social order.

前項監察，不得逾越所欲達成目的之必要限度，且應以侵害最少之適當方法為之。

Communications surveillance under the preceding paragraph may not exceed the extent necessary for achieving the desired objective, and shall be conducted by the least infringing appropriate means.

第 3 條

Article 3

本法所稱通訊如下：

The term "communications" as used in this Act means any of the following:

一、利用電信設備發送、儲存、傳輸或接收符號、文字、影像、聲音或其他信息之有線及無線電信。

1. Wire and wireless telecommunications that transmit, store, transport, or receive symbols, text, images, sounds, or other messages through the use of telecommunications facilities.

二、郵件及書信。

2. Mail and written correspondence.

三、言論及談話。

3. Speech and oral communication.

前項所稱之通訊，以有事實足認受監察人對其通訊內容有隱私或秘密之合理期待者為限。

The communications referred to in the preceding paragraph shall be limited to those for which there is an adequate showing of facts that a person subject to surveillance would have a reasonable expectation of privacy or confidentiality with respect to the content of the communications.

第 4 條

Article 4

本法所稱受監察人，除第五條及第七條所規定者外，並包括為其發送、傳達、收受通訊或提供通訊器材、處所之人。

The term "a person subject to surveillance" as used in this Act shall include, in addition to those contemplated in Article 5 and Article 7, a person who transmits, conveys, or receives communications on behalf of, or provides communications devices or premises to such a person.

第 5 條

Article 5

有事實足認被告或犯罪嫌疑人有下列各款罪嫌之一，並危害國家安全或社會秩序情節重大，而有相當理由可信其通訊內容與本案有關，且不能或難以其他方法蒐集或調查證據者，得發通訊監察書。

A communications surveillance warrant may be issued when there is an adequate showing of facts to support the suspicion that a defendant or criminal suspect has committed one of the following offenses, that national security or social order has been seriously endangered, that there is probable cause for belief that the content of communications by that defendant or criminal suspect is relevant to the offense, and that it would be impossible or difficult to collect or investigate the evidence by means other than communications surveillance:

一、最輕本刑為三年以上有期徒刑之罪。

1. An offense punishable by imprisonment for a minimum of 3 years.

二、刑法第一百條第二項之預備內亂罪、第一百零一條第二項之預備暴動內亂罪或第一百零六條第三項、第一百零九條第一項、第三項、第四項、第一百二十一條第一項、第一百二十二條第三項、第一百三十一條第一項、第一百四十二條、第一百四十三條第一項、第一百四十四條、第一百四十五條、第二百零一條之一、第二百五十六條第一項、第三項、第二百五十七條第一項、第四項、第二百九十八條第二項、第三百條、第三百三十九條、第三百三十九條之三或第三百四十六條之罪。

2. An offense specified in any of the following provisions of the Criminal Code: Article 100, paragraph 2 (relating to preparation for causing civil strife); Article 101, paragraph 2 (relating to preparation for causing civil strife by violence); Article 106, paragraph 3; Article 109, paragraph 1, 3, or 4; Article 121, paragraph 1; Article 122, paragraph 3; Article 131, paragraph 1; Article 142; Article 143, paragraph 1; Article 144; Article 145; Article 201-1; Article 256, paragraph 1 or 3; Article 257, paragraph 1 or 4; Article 298, paragraph 2; Article 300; Article 339; Article 339-3; or Article 346.

三、貪污治罪條例第十一條第一項、第二項之罪。

3. An offense specified in Article 11, paragraph 1 or 2 of the Anti-Corruption Act.

四、懲治走私條例第二條第一項、第三項或第三條之罪。

4. An offense specified Article 2, paragraph 1 or 3 or in Article 3 of the Smuggling Punishment Act.

五、藥事法第八十二條第一項、第三項或第八十三條第一項、第四項之罪。

5. An offense specified in Article 82, paragraph 1 or 3 or Article 83, paragraph 1 or 4 of the Pharmaceutical Affairs Act.

- 六、證券交易法第一百七十一條或第一百七十三條第一項之罪。
6. An offense specified in Article 171 or Article 173, paragraph 1 of the Securities and Exchange Act.
- 七、期貨交易法第一百十二條或第一百十三條第一項、第二項之罪。
7. An offense specified in Article 112 or Article 113, paragraph 1 or 2 of the Futures Trading Act.
- 八、槍砲彈藥刀械管制條例第十二條第一項、第二項、第四項、第五項或第十三條第二項、第四項、第五項之罪。
8. An offense specified in Article 12, paragraph 1, 2, 4, or 5 or in Article 13, paragraph 2, 4, or 5 of the Firearm, Ammunition, and Knives Control Act.
- 九、公職人員選舉罷免法第八十八條第一項、第八十九條第一項、第二項、第九十條之一第一項、第九十一條第一項第一款或第九十一條之一第一項之罪。
9. An offense specified in one of the following provisions of the Public Servants Election and Recall Act: Article 88, paragraph 1; Article 89, paragraph 1 or 2; Article 90-1, paragraph 1; Article 91, paragraph 1, subparagraph 1; and Article 91-1, paragraph 1.
- 十、農會法第四十七條之一或第四十七條之二之罪。
10. An offense specified in Article 47-1 or Article 47-2 of the Farmers' Association Act.
- 十一、漁會法第五十條之一或第五十條之二之罪。
11. An offense specified in Article 50-1 or Article 50-2 of the Fishermen's Association Act.
- 十二、兒童及少年性交易防制條例第二十三條第一項、第四項、第五項之罪。

12. An offense specified in Article 23, paragraph 1, 4, or 5 of the Child and Youth Sexual Transaction Prevention Act.

十三、洗錢防制法第九條第一項、第二項之罪。

13. An offense specified in Article 9, paragraph 1 or 2 of the Money Laundering Control Act.

十四、組織犯罪防制條例第三條第一項後段、第二項後段、第六條或第十一條第三項之罪。

14. An offense specified in Article 3, the latter part of paragraph 1 or the latter part of paragraph 2, Article 6, or Article 11, paragraph 3 of the Organized Crime Prevention Act.

十五、陸海空軍刑法第十四條第二項、第十七條第三項、第十八條第三項、第十九條第三項、第二十條第五項、第二十二條第四項、第二十三條第三項、第二十四條第二項、第四項、第五十八條第五項、第六十三條第一項之罪。

15. An offense specified in one of the following provisions of the Criminal Code of the Armed Forces: Article 14, paragraph 2; Article 17, paragraph 3; Article 18, paragraph 3; Article 19, paragraph 3; Article 20, paragraph 5; Article 22, paragraph 4; Article 23, paragraph 3; Article 24, paragraph 2 or 4; Article 58, paragraph 5; and Article 63, paragraph 1.

前項通訊監察書，偵查中由檢察官依司法警察機關聲請或依職權以書面記載第十一條之事項並敘明理由、檢附相關文件，聲請該管法院核發；檢察官受理申請案件，應於二小時內核復。如案情複雜，得經檢察長同意延長二小時。法院於接獲檢察官核轉受理申請案件，應於二十四小時內核復。審判中由法官依職權核發。法官並得於通訊監察書上對執行人員為適當之指示。

A communications surveillance warrant under the preceding paragraph shall be issued as follows: If the case is in the investigation stage, the prosecutor of competent jurisdiction shall, upon application by a law enforcement agency or *ex officio*, file a motion with the court of competent jurisdiction for the communications surveillance warrant, specifying in writing the particulars prescribed in Article 11 and stating the reasons, and annexing relevant documents. The prosecutor of competent jurisdiction shall review and respond within 2 hours from the receipt of the application by the law enforcement agency. In the event of a complex case, the time limit may be extended for an additional 2 hours with the approval of the chief prosecutor. The court of competent jurisdiction shall, upon receipt of the application reviewed and forwarded by the prosecutor, review and respond within 24 hours. If the case is in the trial stage, the communications surveillance warrant shall be issued by a judge of competent jurisdiction *ex officio*. In the communications surveillance warrant, the judge of competent jurisdiction may give appropriate instructions to the personnel who will execute the surveillance.

前項之聲請經法院駁回者，不得聲明不服。

A motion under the preceding paragraph that has been denied by the court of competent jurisdiction may not be appealed.

執行機關應於執行監聽期間，至少作成一次以上之報告書，說明監聽行為之進行情形，以及有無繼續執行監聽之需要。法官依據經驗法則、論理法則自由心證判斷後，發現有不應繼續執行監聽之情狀時，應撤銷原核發之通訊監察書。

During the period when monitoring is carried out, the authority executing the communications surveillance (hereinafter, the "surveillance execution authority") shall present at least one report, specifying the progress of the monitoring and whether it is necessary to continue the monitoring. If, following the rules of experience and logic to evaluate the evidence freely, the judge of competent jurisdiction finds that the monitoring should not continue, the judge shall quash the communications surveillance warrant previously issued.

違反本條規定進行監聽行為情節重大者，所取得之內容或所衍生之證據，於司法偵查、審判或其他程序中，均不得採為證據。

If monitoring is conducted in a manner that seriously violates this article, no content so obtained or evidence so derived may be received in evidence in any judicial investigation, trial, or other proceeding.

第 6 條

Article 6

有事實足認被告或犯罪嫌疑人有犯刑法妨害投票罪章、公職人員選舉罷免法、總統副總統選舉罷免法、槍砲彈藥刀械管制條例第七條、第八條、毒品危害防制條例第四條、擄人勒贖罪或以投置炸彈、爆裂物或投放毒物方法犯恐嚇取財罪、組織犯罪條例第三條、洗錢防制法第十一條第一項、第二項、第三項、刑法第二百二十二條、第二百二十六條、第二百七十一條、第三百二十五條、第三百二十六條、第三百二十八條、第三百三十條、第三百三十二條及第三百三十九條，為防止他人生命、身體、財產之急迫危險，司法警察機關得報請該管檢察官以口頭通知執行

機關先予執行通訊監察。但檢察官應告知執行機關第十一條所定之事項，並於二十四小時內陳報該管法院補發通訊監察書；檢察機關為受理緊急監察案件，應指定專

責主任檢察官或檢察官作為緊急聯繫窗口，以利掌握偵辦時效。

When there is an adequate showing of facts that a defendant or criminal suspect has violated the Chapter on Offenses of Interference with Voting in the Criminal Code, the Public Servants Election and Recall Act, the President and Vice President Election and Recall Act, Article 7 or Article 8 of the Firearm, Ammunition, and Knives Control Act, or Article 4 of the Narcotics Hazards Control Act, or has committed kidnapping for ransom or extortion by planting or detonating bombs or explosives, or by administering poisonous substance, or has violated Article 3 of the Organized Crime Prevention Act, Article 11, paragraph 1, 2, or 3 of the Money Laundering Control Act, or Article 222, 226, 271, 325, 326, 328, 330, 332, or 339 of the Criminal Code, to avoid imminent danger to the life, person, or property of others, a law enforcement agency may apply to a prosecutor of competent jurisdiction, requesting the prosecutor of competent jurisdiction to verbally notify the surveillance execution authority of the provisional commencement of communications surveillance. The prosecutor of competent jurisdiction, on his or her part, shall notify the surveillance execution authority of the particulars prescribed in Article 11, and shall file with the court of competent jurisdiction within 24 hours for retroactive issuance of a communications surveillance warrant. To effectively control the timing of investigations, a prosecutorial authority shall specially designate a head prosecutor or prosecutor as the contact window to process urgent applications for communications surveillance.

法院應設置專責窗口受理前項聲請，並應於四十八小時內補發通訊監察書；未於四十八小時內補發者，應即停止監察。

A court shall have a dedicated contact window to process motions under the preceding paragraph, and communications surveillance warrants shall be retroactively issued within 48 hours. If a communications surveillance warrant is not retroactively issued within 48 hours, the surveillance shall immediately terminate.

違反本條規定進行監聽行為情節重大者，所取得之內容或所衍生之證據，於司法偵查、審判或其他程序中，均不得採為證據。

If monitoring is conducted in a manner that seriously violates this article, no content so obtained or evidence so derived may be received in evidence in any judicial investigation, trial, or other proceeding.

第 7 條

Article 7

為避免國家安全遭受危害，而有監察下列通訊，以蒐集外國勢力或境外敵對勢力情報之必要者，綜理國家情報工作機關首長得核發通訊監察書。

When it is necessary to place any of the following communications under surveillance for the purpose of collecting intelligence about a foreign power or hostile overseas power to prevent danger to national security, the head of the authority that exercises overall administration of national intelligence work (hereinafter, the "national intelligence authority") may issue communications surveillance warrants:

一、外國勢力、境外敵對勢力或其工作人員在境內之通訊。

1. Communications within the territory of the Republic of China (ROC) by a foreign power or hostile overseas power, or by an agent thereof.
二、外國勢力、境外敵對勢力或其工作人員跨境之通訊。
2. Cross-border communications by a foreign power or hostile overseas power, or by an agent thereof.
三、外國勢力、境外敵對勢力或其工作人員在境外之通訊。
3. Communications outside the territory of the ROC by a foreign power or hostile overseas power, or by an agent thereof.

前項各款通訊之受監察人在境內設有戶籍者，其通訊監察書之核發，應先經綜理國家情報工作機關所在地之高等法院專責法官同意。但情況急迫者不在此限。

If a person subject to surveillance of the communications under the preceding paragraph has a household registration in the ROC, the issuance of a communications surveillance warrant for that person's communications shall first be approved by the specially designated judge of the High Court at the place where the national intelligence authority is located. This, however, does not apply in case of emergency.

前項但書情形，綜理國家情報工作機關應即將通訊監察書核發情形，通知綜理國家情報工作機關所在地之高等法院之專責法官補行同意；其未在四十八小時內獲得同意者，應即停止監察。

If the proviso to the preceding paragraph applies, the national intelligence authority shall notify the specially designated judge of the High Court of the provisional issuance of a communications surveillance warrant and request retroactive approval of the issuance. If the retroactive approval is not granted within 48 hours, the surveillance shall immediately terminate.

違反前二項規定進行監聽行為所取得之內容或所衍生之證據，於司法偵查、審判或其他程序中，均不得採為證據。

If monitoring is conducted in violation of either of the preceding two paragraphs, no content so obtained or evidence so derived may be received in evidence in any judicial investigation, trial, or other proceeding.

第 8 條

Article 8

前條第一項所稱外國勢力或境外敵對勢力如下：

The term "foreign power" or "hostile overseas power" as used in paragraph 1 of the preceding article means any of the following:

- 一、外國政府、外國或境外政治實體或其所屬機關或代表機構。
1. A foreign government or a foreign or overseas political entity, or a subordinate agency or representative institution thereof.
- 二、由外國政府、外國或境外政治實體指揮或控制之組織。
2. An organization directed or controlled by a foreign government or a foreign or overseas political entity.
- 三、以從事國際或跨境恐怖活動為宗旨之組織。
3. An organization with the objective of engaging in international or cross-border terrorist activities.

第 9 條

Article 9

第七條第一項所稱外國勢力或境外敵對勢力工作人員如下：

The term "an agent of a foreign power or hostile overseas power" as used in Article 7, paragraph 1 means any of the following:

一、為外國勢力或境外敵對勢力從事秘密情報蒐集活動或其他秘密情報活動，而有危害國家安全之虞，或教唆或幫助他人為之者。

1. A person who engages in gathering of secret intelligence or other secret intelligence activities for a foreign power or hostile overseas power, where such activities are likely to endanger national security, or who solicits or abets another person to engage in gathering of secret intelligence or other secret intelligence activities.

二、為外國勢力或境外敵對勢力從事破壞行為或國際或跨境恐怖活動，或教唆或幫助他人為之者。

2. A person who, on behalf of a foreign power or hostile overseas power, commits sabotage or engages in international or cross-border terrorist activities, or solicits or abets another person to do so.

三、擔任外國勢力或境外敵對勢力之官員或受僱人或國際恐怖組織之成員者。

3. A person who acts as an officer or employee of a foreign power or hostile overseas power, or who is a member of an international terrorist organization.

第 10 條

Article 10

依第七條規定執行通訊監察所得資料，僅作為國家安全預警情報之用。但發現有第五條所定情事者，應將所得資料移送司法警察機關、司法機關或軍事審判機關依法處理。

Information obtained in the course of the communications surveillance pursuant to Article 7 shall be used only as early-warning intelligence for national security. However, upon discovery of any act that would constitute an offense specified in Article 5, the information so obtained shall be referred to a law enforcement agency, a judicial authority, or a military tribunal for handling in accordance with the law.

第 11 條

Article 11

通訊監察書應記載下列事項：

A communications surveillance warrant shall set forth all of the following particulars:

一、案由及涉嫌觸犯之法條。

1. The facts and circumstances relied upon by the applicant, to justify the applicant's belief that a warrant should be issued, and the provision or provisions of law that, it is suspected, have been, are being, or are about to be violated.

二、監察對象。

2. Identity of the person whose communications are to be subject to surveillance.

三、監察通訊種類及號碼等足資識別之特徵。

3. The type and numbers of communication, and other characteristics that can serve to identify the communications to be subject to surveillance.

四、受監察處所。

4. The place to be put under communications surveillance.

五、監察理由。

5. Reasons for communications surveillance.

六、監察期間及方法。

6. Time period and method of the communications surveillance.

七、聲請機關。

7. The authority moving for the communications surveillance.

八、執行機關。

8. The authority authorized to execute the communications surveillance (hereinafter, the "surveillance execution authority").

九、建置機關。

9. The authority in charge of deployment (hereinafter, the "deployment authority").

前項第八款之執行機關，指蒐集通訊內容之機關。第九款之建置機關，指單純提供通訊監察軟硬體設備而未接觸通訊內容之機關。

The surveillance execution authority under subparagraph 8 of the preceding paragraph means the authority that collects the content of communications. The deployment authority under subparagraph 9 means the authority that only deploys hardware and software equipment for communications surveillance but has no access to the content of the communications.

核發通訊監察書之程序，不公開之。

The proceedings for the issuance of a communications surveillance warrant shall not be made public.

第 12 條

Article 12

第五條、第六條之通訊監察期間，每次不得逾三十日，第七條之通訊監察期間，每次不得逾一年；其有繼續監察之必要者，應附具體理由，至遲於期間屆滿之二日前，提出聲請。

No communications surveillance warrant entered under Article 5 or Article 6 may authorize communications surveillance longer than 30 days, and no communications surveillance warrant entered under Article 7 may authorize communications surveillance longer than 1 year. If it is necessary to extend the surveillance, another motion shall be filed, with specific reasons cited, no later than 2 days before the expiration of the period authorized in the previous communication surveillance warrant.

第五條、第六條之通訊監察期間屆滿前，偵查中檢察官、審判中法官認已無監察之必要者，應即停止監察。

If, before the expiration of the time period authorized for communications surveillance under Article 5 or Article 6, the prosecutor, if the case is in the investigation stage, or the judge, if the case is in the trial stage, deems the surveillance no longer necessary, the surveillance shall immediately terminate.

第七條之通訊監察期間屆滿前，綜理國家情報工作機關首長認已無監察之必要者，應即停止監察。

If, before the expiration of the time period authorized for communications surveillance under Article 7, the head of the national intelligence authority considers the surveillance no longer necessary, the surveillance shall immediately terminate.

第 13 條

Article 13

通訊監察以截收、監聽、錄音、錄影、攝影、開拆、檢查、影印或其他類似之必要方法為之。但不得於私人住宅裝置竊聽器、錄影設備或其他監察器材。

Communications surveillance may be conducted by means of interception, monitoring, audio recording, video recording, photography, unsealing, inspection, photocopying, or other similar methods as necessary. However, there shall be no installation of intercepting devices, video recording equipment, or other surveillance devices in a private residence.

執行通訊監察，除經依法處置者外，應維持通訊暢通。

Communications under surveillance shall be maintained unbroken, unless other dispositive measures are to be taken in accordance with law.

第 14 條

Article 14

通訊監察之執行機關及處所，得依聲請機關之聲請定之。法官依職權核發通訊監察書時，由核發人指定之；依第七條規定核發時，亦同。

The surveillance execution authority and the place to be put under communications surveillance may be determined on the basis of the motion filed by the moving authority. If a communications surveillance warrant is issued *ex officio* by a judge of competent jurisdiction, the issuer

shall designate therein the surveillance execution authority and the place to be put under communications surveillance. The same shall apply to communications surveillance warrants issued pursuant to Article 7.

電信事業及郵政事業有協助執行通訊監察之義務；其協助內容為執行機關得使用該事業之通訊監察相關設施與其人員之協助。

Telecommunications enterprises and postal enterprises have a duty to assist with the execution of communications surveillance; these enterprises shall assist the surveillance execution authority with access to their facilities related to the communications surveillance and assistance from their personnel.

前項因協助執行通訊監察所生之必要費用，於執行後，得請求執行機關支付；其項目及費額由交通部會商有關機關訂定公告之。

The necessary costs arising from the assistance with the execution of communications surveillance under the preceding paragraph may be subsequently charged to the surveillance execution authority. The chargeable fee items and the amounts thereof shall be prescribed and announced by the Ministry of Transportation and Communications in consultation with other appropriate authorities.

電信事業之通訊系統應具有配合執行監察之功能，並負有協助建置機關建置、維持通訊監察系統之義務。但以符合建置時之科技及經濟上合理性為限，並不得逾越期待可能性。

Telecommunications enterprises shall ensure their communications systems have functionality compatible with the execution of surveillance, and they have a duty to assist the deployment authority with the

deployment and maintenance of communications surveillance systems. However, this duty shall be consistent with technological feasibility and economic reasonableness at the time of deployment, and may not be beyond reasonable expectations.

前項協助建置通訊監察系統所生之必要費用，由建置機關負擔。另因協助維持通訊監察功能正常作業所生之必要費用，由交通部會商有關機關訂定公告之。

The necessary costs arising from assistance with the deployment of communications surveillance systems under the preceding paragraph shall be borne by the deployment authority. Further, the necessary costs arising from assistance in maintaining normal operation of communications surveillance functionality shall be prescribed and announced by the Ministry of Transportation and Communications in consultation with other appropriate authorities.

第 15 條

Article 15

第五條、第六條及第七條第二項通訊監察案件之執行機關於監察通訊結束時，應即敘明受監察人之姓名、住所或居所報由檢察官、綜理國家情報工作機關陳報法院通知受監察人。如認通知有妨害監察目的之虞或不能通知者，應一併陳報。

Upon the conclusion of the surveillance in a communications surveillance cases under Article 5, Article 6, or Article 7, paragraph 2, the surveillance execution authority shall report forthwith the name and domicile or residence of the person subject to surveillance to the prosecutor or the

national intelligence authority, as the case may be. The prosecutor or the national intelligence authority shall subsequently file with the court of competent jurisdiction to notify the person subject to surveillance. If giving notification is considered likely to interfere with the objective of the surveillance or notification is impossible, these considerations should be presented in the filing.

法院對於前項陳報，除認通知有妨害監察目的之虞或不能通知之情形外，應通知受監察人。

The court of competent jurisdiction shall notify the person subject to surveillance of the filing under the preceding paragraph, unless giving notification is considered likely to interfere with the objective of the surveillance or notification is impossible to make.

前項不通知之原因消滅後，執行機關應報由檢察官、綜理國家情報工作機關陳報法院補行通知。

After the cause for not giving notification under the preceding paragraph ceases to exist, the surveillance execution authority shall report to the prosecutor or the national intelligence authority, as the case may be, for subsequent filing with the court of competent jurisdiction to give retroactive notification.

關於執行機關陳報事項經法院審查後，交由司法事務官通知受監察人。

Following the review by the court of competent jurisdiction, matters reported by the surveillance execution authority shall be forwarded to a judicial associate for notification to the person subject to surveillance.

第 16 條

Article 16

執行機關於監察通訊後，應按月向檢察官、依職權核發通訊監察書之法官或綜理國家情報工作機關首長報告執行情形。檢察官、依職權核發通訊監察書之法官或綜理國家情報工作機關首長並得隨時命執行機關提出報告。

After the commencement of communications surveillance, the surveillance execution authority shall report the status of the surveillance on a monthly basis to the prosecutor of competent jurisdiction, the judge who issued *ex officio* the communications surveillance warrant, or the head of the national intelligence authority, as the case may be. The prosecutor of competent jurisdiction, the judge who issued *ex officio* the communications surveillance warrant, or the head of the national intelligence authority also may from time to time order the surveillance execution authority to make a status report.

第五條、第六條通訊監察之監督，偵查中由檢察機關、審判中由法院，第七條通訊監察之監督，由綜理國家情報工作機關，派員至建置機關，或使用電子監督設備，監督通訊監察執行情形。偵查中案件，法院得隨時派員監督執行機關執行情形。

With respect to communications surveillance under Article 5 or Article 6, the prosecutorial authority (if the case is in the investigation stage) or the court of competent jurisdiction (if the case is in the trial stage) may supervise the execution of communications surveillance by sending personnel to the deployment authority or by using electronic monitoring equipment, and with respect to communications surveillance under

Article 7, the national intelligence authority may do the same. For a case in the investigation stage, the court of competent jurisdiction may from time to time send personnel to supervise the implementation of communications surveillance by the surveillance execution authority.

第 17 條

Article 17

監察通訊所得資料，應加封緘或其他標識，由執行機關蓋印，保存完整真實，不得增、刪、變更，除已供案件證據之用留存於該案卷或為監察目的有必要長期留存者外，由執行機關於監察通訊結束後，保存五年，逾期予以銷燬。

Information obtained in the course of communications surveillance shall be sealed or have other indication marks attached thereto, and shall be affixed with the official seal of the surveillance execution authority to ensure the integrity and authenticity thereof. No addition, deletion, or alteration shall be made to the information so obtained. Unless it has been retained in the case files to be used for evidence purposes or long-term preservation is necessary for the objective of the surveillance, information obtained in the course of communications surveillance shall be kept by the surveillance execution authority for 5 years after the conclusion of the communications surveillance and then destroyed.

通訊監察所得資料全部與監察目的無關者，執行機關應即報請檢察官、依職權核發通訊監察書之法官或綜理國家情報工作機關首長許可後銷燬之。

If the information obtained in the course of communications surveillance is completely irrelevant to the objective of the surveillance, the

surveillance execution authority shall report forthwith to the prosecutor of competent jurisdiction, the judge who issued *ex officio* the communications surveillance warrant, or the head of the national intelligence authority, as the case may be, and destroy the aforementioned information after receiving permission to do so.

前二項之資料銷燬時，執行機關應記錄該通訊監察事實，並報請檢察官、依職權核發通訊監察書之法官或綜理國家情報工作機關首長派員在場。

When information is to be destroyed under the preceding two paragraphs, the surveillance execution authority shall record the fact that the communications surveillance was conducted, and shall request the prosecutor of competent jurisdiction, the judge who issued *ex officio* the communications surveillance warrant, or the head of the national intelligence authority, as the case may be, to send personnel to witness the destruction.

第 18 條

Article 18

依本法監察通訊所得資料，不得提供與其他機關（構）、團體或個人。但符合第五條或第七條之監察目的或其他法律另有規定者，不在此限。

Information obtained in the course of communications surveillance under this Act may not be provided or disclosed to any other authority (agency), organization, or individual. This, however, does not apply if the provision or disclosure of the information is consistent with the

surveillance purposes set forth in Article 5 or Article 7 or where another law provides otherwise.

第 19 條

Article 19

違反本法或其他法律之規定監察他人通訊或洩漏、提供、使用監察通訊所得之資料者，負損害賠償責任。

A person or entity who engages in surveillance of communications of others or discloses, furnishes, or uses information obtained in the course of communications surveillance, in violation of this Act or other laws, shall be liable for compensatory damages.

被害人雖非財產上之損害，亦得請求賠償相當之金額；其名譽被侵害者，並得請求為回復名譽之適當處分。

In the event of non-pecuniary injury, an aggrieved person may still claim a commensurate amount of compensatory damages. In case of injury to reputation, the aggrieved person may also demand other appropriate measures necessary for the restoration of the person's reputation.

前項請求權，不得讓與或繼承。但以金額賠償之請求權已依契約承諾或已起訴者，不在此限。

The right to claim compensation under the preceding paragraph may not be assigned or succeeded to. This, however, does not apply to a right to claim for monetary compensation that has been acknowledged by contract or that is subject to a pending action.

第 20 條

Article 20

前條之損害賠償總額，按其監察通訊日數，以每一受監察人每日新台幣一千元以上五千元以下計算。但能證明其所受之損害額高於該金額者，不在此限。

The total amount of damages under the preceding article shall be computed, for each person subject to surveillance, at not less than NT\$1,000 and not greater than NT\$5,000 a day for each day of the communications surveillance. This, however, does not apply if the amount of the damage suffered by the aggrieved person can be proved to be higher than the amount computed as above.

前項監察通訊日數不明者，以三十日計算。

If for the purposes of the preceding paragraph the total number of days for which the communications surveillance was carried out cannot be ascertained, the computation shall be made on the maximum period of 30 days.

第 21 條

Article 21

損害賠償請求權，自請求權人知有損害及賠償義務人時起，因二年間不行使而消滅；自損害發生時起，逾五年者亦同。

Rights to claim damages shall be extinguished if not exercised within 2 years from the time the claimant becomes aware of the injury and of the person liable for the damages. The same shall apply if 5 years have elapsed from the occurrence of the injury.

第 22 條

Article 22

公務員或受委託行使公權力之人，執行職務時違反本法或其他法律之規定監察他人通訊或洩漏、提供、使用監察通訊所得之資料者，國家應負損害賠償責任。

The State shall be liable for damages if a civil servant or a person or entity appointed to exercise governmental authority, in the course of performing its duties, engages in surveillance of communications of others or discloses, furnishes, or uses information obtained in the course of communications surveillance, in violation of this Act or other laws.

依前項規定請求國家賠償者，適用第十九條第二項、第三項及第二十條之規定。

A claim for State compensation made pursuant to the preceding paragraph shall be subject to Article 19, paragraphs 2 and 3 and Article 20.

第 23 條

Article 23

損害賠償除依本法規定外，適用民法及國家賠償法規定。

In addition to the provisions of this Act, damages shall also be governed by those of the Civil Code and the State Compensation Act.

第 24 條

Article 24

違法監察他人通訊者，處五年以下有期徒刑。

Illegal surveillance of the communications of others shall be punished by imprisonment for not more than 5 years.

執行或協助執行通訊監察之公務員或從業人員，假借職務或業務上之權力、機會或方法，犯前項之罪者，處六月以上五年以下有期徒刑。

A civil servant or an employee who, in executing or assisting with execution of communications surveillance, commits the offense in the preceding paragraph by abusing authority, opportunity, or means associated with his or her office or work shall be punished by imprisonment for not less than 6 months and not more than 5 years.

意圖營利而犯前二項之罪者，處一年以上七年以下有期徒刑。

Committing the offense in either of the preceding two paragraphs with intent to seek profit shall be punished by imprisonment for not less than 1 year and not more than 7 years.

第 25 條

Article 25

明知為違法監察通訊所得之資料，而無故洩漏或交付之者，處三年以下有期徒刑。

Disclosure or delivery without cause of the information obtained through communications surveillance that is known to be illegal shall be punished by imprisonment for not more than 3 years.

意圖營利而犯前項之罪者，處六月以上五年以下有期徒刑。

Committing the offense in the preceding paragraph with intent to seek profit shall be punished by imprisonment for not less than 6 months and not more than 5 years.

第 26 條

Article 26

前二條違法監察通訊所得之資料，不問屬於犯人與否，均沒收之。

Regardless whether or not it belongs to the offender, information obtained through the illegal communication surveillance under either of the preceding two articles shall be confiscated.

犯人不明時，得單獨宣告沒收。

If the identity of the offender is unknown, confiscation may be declared independently.

第 27 條

Article 27

公務員或曾任公務員之人因職務知悉或持有依本法或其他法律之規定監察通訊所得應秘密之資料，而無故洩漏或交付之者，處三年以下有期徒刑。

A current or former civil servant who, in the course of his or her duties, becomes aware of or possesses information obtained in the course of communications surveillance under this Act or other laws that is required

to be kept confidential, and then discloses or delivers such information without cause shall be punished by imprisonment for not more than 3 years.

第 28 條

Article 28

非公務員因職務或業務知悉或持有依本法或其他法律之規定監察通訊所得應秘密之資料，而無故洩漏或交付之者，處二年以下有期徒刑、拘役或新台幣二萬元以下罰金。

A person other than a civil servant who, in the course of his or her duties or work, becomes aware of or possesses information obtained in the course of communications surveillance under this Act or other laws that is required to be kept confidential and then discloses or delivers such information without cause shall be punished by imprisonment for not more than 2 years, by detention, or by a criminal fine of not more than NT\$20,000.

第 29 條

Article 29

監察他人之通訊，而有下列情形之一者，不罰：

Surveillance of communications of others conducted in any of the following circumstances is exempted from punishment:

一、依法律規定而為者。

1. The surveillance is conducted in accordance with the law.

二、電信事業或郵政機關（構）人員基於提供公共電信或郵政服務之目的，而依有關法令執行者。

2. The surveillance is executed by the personnel of a telecommunications enterprises or postal agency (institution) in accordance with applicable laws and regulations for the purpose of providing public telecommunications or postal services.

三、監察者為通訊之一方或已得通訊之一方事先同意，而非出於不法目的者。

3. The surveillance is conducted by a party to the communications or with prior consent from a party to the communications, and is not for unlawful purposes.

第 30 條

Article 30

第二十四條第一項、第二十五條第一項及第二十八條之罪，須告訴乃論。

The offenses specified in Article 24, paragraph 1, Article 25, paragraph 1, and Article 28 are prosecutable only upon complaint.

第 31 條

Article 31

有協助執行通訊監察義務之電信事業及郵政機關（構），違反第十四條第二項之規定者，由交通部處以新台幣五十萬元以上二百五十萬元以下罰鍰；經通知限期遵行而仍不遵行者，按日連續處罰，並得撤銷其特許或許可。

If a telecommunications enterprise or postal agency (institution) under the duty to assist with execution of communications surveillance violates Article 14, paragraph 2 of this Act, an administrative fine of not less than NT\$500,000 and not more than NT\$2.5 million shall be imposed on it by the Ministry of Transportation and Communications. If the violator fails to comply after being notified to do so within a specified time period, the fine may be imposed consecutively on a daily basis, and in addition thereto, the license or permit granted to the violator may be voided.

第 32 條

Article 32

軍事審判機關於偵查、審判現役軍人犯罪時，其通訊監察準用本法之規定。

The provisions of this Act concerning communications surveillance shall apply mutatis mutandis during a military tribunal's investigation or trial of an offense committed by an active member of the armed services.

前項通訊監察書於偵查現役軍人犯罪時，由軍事檢察官向該管軍事審判官聲請核發。軍事審判官並得於通訊監察書上，對執行人員為適當之指示。執行機關應於執行監聽期間，至少作成一次以上之報告書，說明監聽行為之進行情形，以及有無繼續監聽之需要。軍事審判官依經驗法則、論理法則自由心證判斷後，發現有不應繼續執行監聽之情狀時，應撤銷原通訊監察書。

During an investigation of an offense committed by an active member of the armed services, a communications surveillance warrant under the preceding paragraph shall be issued by the military judge of competent

jurisdiction upon motion made by the military prosecutor of competent jurisdiction. In the communications surveillance warrant, the military judge of competent jurisdiction may give appropriate instructions to the personnel who will execute the surveillance. During the period when monitoring is carried out, the surveillance execution authority shall present at least one report, specifying the progress of the monitoring and whether it is necessary to continue the monitoring. If, following the rules of experience and logic to evaluate the evidence freely, the military judge of competent jurisdiction finds that the monitoring should not continue, the judge shall quash the communications surveillance warrant originally granted.

違反前三項規定進行監聽行為所取得之內容或所衍生之證據，於司法偵查、審判或其他程序中，均不得採為證據。

If monitoring is conducted in a manner that violates any of the preceding three paragraphs, no content so obtained or evidence so derived may be received in evidence in any judicial investigation, trial, or other proceeding.

第 33 條

Article 33

本法施行細則，由行政院會同司法院定之。

The enforcement rules of this Act shall be prescribed jointly by the Executive Yuan and the Judicial Yuan.

第 34 條

Article 34

本法自公布日施行。

This Act shall come into force from the date of promulgation.

本法修正條文自公布後五個月施行。

Amendments to this Act shall come into force 5 months after the date of their promulgation.