

Activities allowed under intelligence warrants

While the Act provides for a single authorisation regime for the New Zealand Security Intelligence Service (NZSIS) and Government Communications Security Bureau (GCSB), different powers are available to each agency under the Act. This reflects the fact the NZSIS and GCSB are distinct organisations with different roles and different ways of collecting intelligence.

Activities and powers permitted under an authorisation

The Act sets out separate sets of powers available to the NZSIS and GCSB to give effect to warrants obtained by each agency. Warrantable activities, and the powers available to each agency, are set out below.

The NZSIS and GCSB can obtain warrants to carry out the same types of activities (such as a “search”) but the powers available to each agency are different. For example, the GCSB can conduct a remote search of a computer, but certain powers associated with **physical** searches are reserved for the NZSIS. This recognises that the NZSIS operates primarily in the physical world and GCSB primarily in the electronic.

The agencies may jointly apply for a warrant if the specialist capabilities of both are needed to carry out an operation. If issued, the agencies can jointly carry out activities authorised by the warrant and exercise all of the powers available under the Act.

Warrantable activities and powers

Activities that may be authorised and conducted by the NZSIS and GCSB under a warrant:

- **Surveillance:** conduct warranted surveillance, such as visual surveillance of a private place.
- **Interception:** intercept communications, such as a phone call.
- **Search:** search places, such as private premises, or things, such as a computer network or device.
- **Seizure:** seize physical things, such as documents, or non-physical things, such as information on a computer network.
- **Requests to foreign partners:** ask a partner to carry out activities under a NZSIS or GCSB warrant. The agencies cannot use a foreign partner to circumvent the warranting process and New Zealand law.
- Any action required to protect secret collection capabilities.
- **Human intelligence:** collect intelligence through human sources or intelligence officers (including online) where the officer or source may be required to undertake an unlawful act, such as joining a terrorist group.
- **Additional activity for GCSB only:** any other act necessary or desirable to protect communications or information infrastructures of importance to the New Zealand Government.

To conduct these activities, the agencies can:

NZSIS only

- **Enter** any place, vehicle or other thing authorised by the warrant.
- **Install, use, maintain or remove** a tracking device or visual surveillance device.
- **Break open or interfere** with a vehicle or other thing.
- **Take photographs, sound and video recordings and drawings** of a place, vehicle or other thing entered or searched, and of anything found in or on that place, vehicle or other thing.
- **Bring and use** any equipment in a search of a place, vehicle or other thing.
- **Use** any equipment found in a search of a place, vehicle or other thing.
- **Bring and use** a dog to assist with a search (such as an explosive detection dog).
- **Use any force** in respect of any property that is reasonable for the purposes of carrying out a search or seizure.

NZSIS and GCSB

- **Access** an information infrastructure.
- **Install, use, maintain or remove** a visual surveillance device to maintain the operational security of a warranted activity.
- **Install, use, maintain or remove** an interception device
- **Extract and use** any electricity in the course of carrying out a warranted activity.
- Any other act that is reasonable in the circumstances and reasonably required to conceal the fact that anything has been done under the warrant and to keep the activities of the agencies covert.
- Any other act that is reasonable in the circumstances and reasonably required to achieve the purposes of the warrant.