

3L Use of electronic equipment at premises

- (1) The executing officer of a warrant in relation to premises, or a constable assisting, may operate electronic equipment at the warrant premises to access data (including data not held at the premises) if he or she suspects on reasonable grounds that the data constitutes evidential material.

Note: A constable can obtain an order requiring a person with knowledge of a computer or computer system to provide assistance: see section 3LA.

- (1A) If the executing officer or constable assisting suspects on reasonable grounds that any data accessed by operating the electronic equipment constitutes evidential material, he or she may:
- (a) copy any or all of the data accessed by operating the electronic equipment to a disk, tape or other associated device brought to the premises; or
 - (b) if the occupier of the premises agrees in writing—copy any or all of the data accessed by operating the electronic equipment to a disk, tape or other associated device at the premises; and take the device from the premises.
- (1B) If:
- (a) the executing officer or constable assisting takes the device from the premises; and
 - (b) the Commissioner is satisfied that the data is not required (or is no longer required) for a purpose mentioned in section 3ZQU or for other judicial or administrative review proceedings;
- the Commissioner must arrange for:
- (c) the removal of the data from any device in the control of the Australian Federal Police; and
 - (d) the destruction of any other reproduction of the data in the control of the Australian Federal Police.
- (2) If the executing officer or a constable assisting, after operating the equipment, finds that evidential material is accessible by doing so, he or she may:
- (a) seize the equipment and any disk, tape or other associated device; or
 - (b) if the material can, by using facilities at the premises, be put in documentary form—operate the facilities to put the material in that form and seize the documents so produced.
- (3) A constable may seize equipment under paragraph (2)(a) only if:
- (a) it is not practicable to copy the data as mentioned in subsection (1A) or to put the material in documentary form as mentioned in paragraph (2)(b); or
 - (b) possession by the occupier of the equipment could constitute an offence.
- (4) If the executing officer or a constable assisting suspects on reasonable grounds that:
- (a) evidential material may be accessible by operating electronic equipment at the premises; and
 - (b) expert assistance is required to operate the equipment; and
 - (c) if he or she does not take action under this subsection, the material may be destroyed, altered or otherwise interfered with;
- he or she may do whatever is necessary to secure the equipment, whether by locking it up, placing a guard or otherwise.
- (5) The executing officer or a constable assisting must give notice to the occupier of the premises of his or her intention to secure equipment and of the fact that the equipment may be secured for up to 24 hours.
- (6) The equipment may be secured:
- (a) for a period not exceeding 24 hours; or
 - (b) until the equipment has been operated by the expert;

whichever happens first.

- (7) If the executing officer or a constable assisting believes on reasonable grounds that the expert assistance will not be available within 24 hours, he or she may apply to an issuing officer for an extension of that period.
- (8) The executing officer or a constable assisting must give notice to the occupier of the premises of his or her intention to apply for an extension, and the occupier is entitled to be heard in relation to the application.
- (9) The provisions of this Division relating to the issue of warrants apply, with such modifications as are necessary, to the issuing of an extension.