



Australian Government

Department of Infrastructure, Transport,
Regional Development and Communications

VEHICLE SAFETY OPERATIONS

Inspection, monitoring and investigation

Public guidance: regulating under the Road Vehicle Standards Act 2018

November 2021

The department has a range of powers and functions allowing our inspectors to inspect vehicles, vehicle components and premises, monitor compliance and investigate non-compliance. These powers and functions are used to assist in making decisions on applications, monitoring on-going compliance with legislation and responding to any identified non-compliance.

If you apply for an approval, or hold an approval related to the Road Vehicle Standards Act 2018 or Road Vehicle Standards Rules 2019 you may have interactions with our inspectors or delegated officers.

© Commonwealth of Australia 2021

Ownership of intellectual property rights in this publication

Unless otherwise noted, copyright (and any other intellectual property rights, if any) in this publication is owned by the Commonwealth of Australia (referred to below as the Commonwealth).

Disclaimer

The material contained in this publication is made available on the understanding that the Commonwealth is not providing professional advice, and that users exercise their own skill and care with respect to its use, and seek independent advice if necessary.

The Commonwealth makes no representations or warranties as to the contents or accuracy of the information contained in this publication. To the extent permitted by law, the Commonwealth disclaims liability to any person or organisation in respect of anything done, or omitted to be done, in reliance upon information contained in this publication.

Creative Commons licence

With the exception of (a) the Coat of Arms; (b) the Department of Infrastructure, Transport, Regional Development and Communications photos and graphics; and (c) [OTHER], copyright in this publication is licensed under a Creative Commons Attribution 4.0 Australia Licence.

Creative Commons Attribution 4.0 Australia Licence is a standard form licence agreement that allows you to copy, communicate and adapt this publication provided that you attribute the work to the Commonwealth and abide by the other licence terms.

Further information on the licence terms is available from <https://creativecommons.org/licenses/by/4.0/>

This publication should be attributed in the following way: © Commonwealth of Australia 2021.

Use of the Coat of Arms

The Department of the Prime Minister and Cabinet sets the terms under which the Coat of Arms is used. Please refer to the Commonwealth Coat of Arms - Information and Guidelines publication available at <http://www.pmc.gov.au>.

Contact us

This publication is available in hard copy or PDF format. All other rights are reserved, including in relation to any departmental logos or trademarks which may exist. For enquiries regarding the licence and any use of this publication, please contact:

Director – Creative Services
Communication Branch
Department of Infrastructure, Transport, Regional Development and Communications
GPO Box 594
Canberra ACT 2601
Australia

Email: publishing@infrastructure.gov.au

Website: www.infrastructure.gov.au

Contents

Contents	3
Purpose of this document	3
Why do we have powers to inspect, monitor and investigate?	4
What do we inspect, monitor and investigate?	4
Our inspectors and delegated officers	4
How can you identify our inspectors or delegated officers?	5
What to expect when inspectors or delegated officers attend to inspect, monitor or investigate	5
What we expect from you	5
Inspections	6
Monitoring and investigation powers	6
Entering a premises with consent	7
Entering a premises under a warrant	7
Your rights and obligations	8
Requesting information under conditions of approval	8
What do we do with the information we collect?	9
More information	9
Feedback and complaints	9
Glossary	10
Attachment A – Monitoring powers	11
Attachment B – Investigation powers	14

Purpose of this document

This guidance document provides general information on how the Department of Infrastructure, Transport, Regional Development and Communications (the department) may exercise powers and functions to inspect, monitor compliance with, and investigate potential breaches of the Road Vehicle Standards Act 2018 (the RVSA) and related legislation.

This is a guide to help you understand how we will exercise these powers and functions in line with Our Compliance Approach and Model, our current Compliance and Enforcement Strategy and the objectives of the RVSA. It outlines what powers and functions we have, how we may exercise them, and your related rights and obligations.

Why do we have powers to inspect, monitor and investigate?

The department has powers and functions that enable us to assess applications, monitor compliance and investigate non-compliance with the RVSA and related legislation to achieve our regulatory outcomes.

As we are involved in the regulation of the design, manufacture and importation of road vehicles into Australia, it is important that we have powers necessary to ensure that all relevant rules are followed.

We exercise these powers and functions within clearly defined boundaries that protect your rights and provide transparency regarding our actions. This also provides you with certainty about how we interact with you.

What do we inspect, monitor and investigate?

We may inspect vehicles, vehicle components and premises that are relevant to an application to assist us in making the correct decision on an application.

We also monitor compliance and investigate non-compliance related to Road Vehicle Standards legislation (RVS legislation). This includes:

- the *Road Vehicles Standards Act 2018* and any instruments made under it
- the *Road Vehicles Standards Rules 2019* (the RVSR) and any instruments made under it
- the *Road Vehicles Standards (Consequential and Transitional Provisions) Act 2018*
- the *Motor Vehicles Standards Act 1989* (the MVSA) and Motor Vehicle Standards Regulations 1989 (the MVSR)
- some provisions of the *Crimes Act 1914* and the *Criminal Code Act 1995* as they relate to RVS legislation

Most of our monitoring and investigation activities will involve companies and individuals who design, manufacture, import or provide road vehicles to the Australian market.

Our inspectors and delegated officers

We have three categories of people involved in inspections, monitoring and investigation activities. These categories are:

- delegated officers
- inspectors; and
- persons assisting.

Delegated officers have the appropriate training and experience to undertake inspection activities to support making decisions on applications. Delegated officers do not undertake compliance monitoring or investigation activities and are not appointed inspectors.

Our inspectors are appointed to exercise powers and functions associated with inspection, monitoring and investigation activities. Inspectors have a range of different skills. Skills may include automotive mechanics, engineering, investigation, auditing or law.

When undertaking monitoring or investigation activities (but not inspections). Inspectors may be accompanied by people who assist them, including subject matter experts, technical specialists or interpreters. These people are persons assisting.

You are most likely to meet our delegated officers, inspectors and persons assisting when they come to undertake an inspection, compliance monitoring or investigation activity at your premises.

How can you identify our inspectors or delegated officers?

Our inspectors or delegated officers will always introduce themselves, show you their inspector identity cards ¹ and explain the purpose of their visit before starting any inspection, monitoring or investigation activity.

If the activity is an inspection related to an application, arrangements will have been made with you in advance, so you will know the inspectors or delegated officers are coming. Monitoring activities may be pre-arranged or without notice. Advance notice is generally not given for investigations.

If you are concerned about the identity of someone claiming to be one of our inspectors or delegated officers you can call the department on 1800 075 001 or +61 2 6274 7111 (if outside of Australia) to confirm their identity. Ask to speak with the Director – Compliance and Enforcement or Assistant Director – Compliance and Monitoring in the Vehicle Safety Operations Branch.

What to expect when inspectors or delegated officers attend to inspect, monitor or investigate

When our inspectors or delegated officers arrive at your premises they will always do the following:

- introduce themselves
- show their departmental inspector identity cards (if the departmental employee is an inspector)
- explain the purpose of the visit.

More information on inspections, monitoring and investigation is below. However, all of these activities usually involve:

- examining things
- asking questions
- asking for and reviewing documents
- taking photos or video
- taking copies of documents
- making notes.

Generally, the final outcome of the inspection, monitoring or investigation activity will not be provided during an on-site activity. However, an on-site activity will be closed out via a short meeting with the relevant site representatives when the inspectors or delegated officers are leaving the premise. The inspectors or delegated officers will advise site representatives of the next steps or actions during that meeting.

Any information collected during an on-site activity will be reviewed and assessed by inspectors or delegated officers upon their return to the department. Final disposition of the inspection, monitoring or investigation activity will be discussed and provided in writing to the company or individual concerned as soon as practical.

What we expect from you

When we carry out an inspection, monitoring or investigation activity at your premises we do expect several things from you. For example:

- a safe work environment
- courtesy and respect
- that you are prepared for the activity (if it was pre-arranged)
- if you have concerns or questions, that you raise them with the inspectors or delegated officers

We also ask that you do not give, or attempt to give, any of our officer's gifts. As public servants it is not appropriate for us to receive or accept gifts.

¹ Inspector identity cards are only issued to appointed inspectors, delegated officers do not have inspector identity cards.

Inspections

Before we make a decision on an application under the RVS legislation we may decide to send out inspectors or delegated officers to collect additional specific information, or confirm the information you have provided in your application.

If we do this, you will be contacted in advance so we can organise the inspection. Our officers will attend at an appropriate agreed time to collect the additional information related to the application you have made.

The information they collect will be used to assist in making a decision on your application.

Do you have to agree to an inspection?

You can decline an inspection. However, if you do so, your application may not be able to be considered further and may not be granted. If we have asked to conduct an inspection it is because we require more information than is available from your application.

Monitoring and investigation powers

There may be instances where we need to access a premises to undertake a compliance monitoring or investigation activity. The RVSA provides our inspectors a standard set of monitoring and investigation powers through the *Regulatory Powers (Standard Provisions) Act 2014* (the RPA).

Only appointed inspectors can exercise monitoring or investigation powers under the RPA. Delegated officers cannot exercise these powers as they are not appointed inspectors.

Before our inspectors can exercise monitoring or investigation powers under the RPA they must first gain entry to your premises. The RPA requires that entry to premises must either be by consent or under a warrant.

Usually the inspectors will seek your consent to enter the premises to undertake the activity. They will provide you with information on your rights and obligations, what it means to give consent, and how and when you can refuse or withdraw consent. They will ask you to document your consent (or refusal) on a form. If the activity has been pre-arranged we will also provide you with this material in advance for you to review, consider and ask any questions.

It is important that if you give consent for our inspectors to enter, you are informed and give your consent willingly. If you do not give your consent, the inspectors may ask you to complete a short form and then they will leave.

If the inspectors have a monitoring or investigation warrant they will not ask for your consent. They will explain the purpose of their visit, explain the warrant and provide a copy.

During the visit inspectors will exercise their powers and functions to undertake the monitoring or investigation activity. If you have given your consent for them to enter and exercise their powers, they do not need your further consent to exercise particular powers or functions. What the inspectors will do and how they will do it will vary depending on the purpose of the visit.

Once our inspectors have entered, they are able to exercise monitoring powers for the purpose of confirming your compliance with the RVS legislation. Investigation powers can only be exercised if we suspect on reasonable grounds that there may be material on your premises that is evidence of a contravention of the RVS legislation.

Once inspectors have entered a premise they may:

- observe and examine activities
- inspect, examine, measure or test things
- inspect and take extracts or copies of documents
- make photo, audio or video records
- ask questions or request documents
- search the premises
- secure or seize things which evidence non-compliance

For more details on monitoring powers, see **Attachment A**. For more details on investigation powers, see **Attachment B**.

Entering a premises with consent

We prefer to enter premises with the consent of the occupier. Our inspectors will seek the consent of the occupier of the premises in order to enter the premises and exercise their monitoring or investigation powers. The occupier of the premises generally includes the person in occupation, charge or control of the premises or of that part of the premises at the time.

To obtain your consent our inspectors will provide you with information on giving and withdrawing consent, how we will use any information collected, and your rights and obligations. If you have been notified of the activity in advance, you will be provided with this information in writing before the activity. If we are conducting a monitoring or investigation activity without giving you advance notice, an inspector will provide the above information when they arrive.

Can you decline to provide consent?

If we ask for your consent to enter your premises to exercise our monitoring or investigation powers, you can decline. Giving your consent is voluntary.

You can choose to decline to provide consent when we arrive, and importantly if you give consent you can also withdraw that consent at any time during our visit. If you withdraw your consent, our inspectors will cease their activities and leave as soon as practicable.

It is important to understand that giving consent is a yes or no answer. You either agree to the inspectors entering your premises to exercise their monitoring or investigation powers or not. You cannot make your consent conditional on which powers or functions may or may not be exercised.

Are there consequences for not providing consent?

If you do not give consent or withdraw it during an activity our inspectors will leave. We may ask you to explain your reasons for not providing consent or withdrawing consent.

Depending on your reason for not providing consent or withdrawing consent we will consider:

- returning at another time
- undertaking alternative compliance activities
- seeking a warrant to enter your premises and exercise our powers

It is important that if you have been granted an approval under the RVSr it may include statutory conditions related to allowing inspector access to information or premises for the purpose of monitoring compliance. Failing to comply with a condition of an approval may lead to an enforcement response.

Entering a premises under a warrant

We may apply to a court for a warrant that will allow us to enter a premises to exercise our powers. If we have a warrant we do not need your consent to enter the premises to exercise monitoring or investigation powers. You may be present but you should not interfere with the proper execution of the warrant.

A monitoring warrant allows inspectors to enter the premises and exercise monitoring powers in a similar manner as we would do so with the consent of the occupier. See **Attachment A** for details on monitoring powers.

If we enter the premises under an investigation warrant, an inspector can search for and seize evidence related to alleged breaches of RVS legislation. See **Attachment B** for more details on investigation powers.

If we have a warrant we will clearly explain it to you, including your rights and obligations. You will also be given copy of the warrant.

Your rights and obligations

If our inspectors exercise monitoring or investigation powers at your premises, you have rights and obligations under the RPA. Your rights and obligations will be explained before the activity, as they vary depending on whether the activity is for monitoring or for an investigation, or whether or not we are entering under a warrant.

You are entitled to be present and observe the monitoring or investigation activity.

Requesting information under conditions of approval

If you hold an approval granted under the RVSR, you may be required to provide us with information relating to your compliance with RVS legislation as a condition of your approval. This request may be made by either an inspector or a delegated officer.

We will make any requests for information in writing. This will set out relevant information you need to know, including why we are making the request, a reasonable timeframe to respond, what power, provision or condition we are using to make the request, and an overview of consequences that might apply if you refuse to provide the information.

What if you cannot provide the requested information?

If you are not able, or believe you should not have to provide the requested information, you should contact the person who made the request to discuss further.

What if you do not want to provide the requested information?

You must generally comply with requests made by us within a reasonable timeframe stated in our request.

Failing to provide the requested information may be a contravention of a condition of your approval. Contravening a condition of approval could be a breach of the RVSA and may lead to an enforcement response.

The following is an example of what we may ask for when requesting information (i.e. for a road vehicle type approval under section 29 of the RVSR):

It is a condition of a road vehicle type approval that the holder of the approval, when requested in writing by the Secretary or an inspector, and within such reasonable time as is specified in the request:

- (a) provide, or arrange for the Secretary or an inspector to access, the original and any subsequent versions of the supporting information for the approval; and**
- (b) provide any information that the Secretary or inspector reasonably requires for the purposes of assessing whether the holder of the approval is complying with the Act, this instrument, or an instrument made under the Act or this instrument; and**
- (c) provide any other information or documents, specified in the request, about vehicles to which the approval applies; and**
- (d) provide written answers to questions, specified in the request, about vehicles entered on the RAV under the approval; and**
- (e) for the purpose of assessing whether vehicles entered on the RAV under the approval comply with the applicable national road vehicle standards—allow or arrange for the Secretary or an inspector to inspect:**
 - (i) premises where road vehicle components of those vehicles are designed or manufactured; or**
 - (ii) premises where those vehicles are designed or manufactured; or**
 - (iii) things associated with the design or manufacturing process, including documents, vehicles and componentry.**

What do we do with the information we collect?

Any information collected by our inspectors (or delegated officers) is used for the purpose for which it was collected:

- inspection – generally to assist in making a decision on an application
- monitoring powers – confirming compliance
- investigation powers – identifying and collecting evidence of alleged contraventions
- requesting information in writing – supporting compliance monitoring and/or investigation

Information collected may be used for compliance monitoring purposes or investigation purposes if potential contraventions are identified. The information collected may also be used to support enforcement action or provided to other agencies under section 65 of the RVSA .

Information we collect will not be disclosed without a lawful reason to do so. Lawful reasons may include: subpoena, the *Freedom of Information Act 1982* or a coronial inquest.

The *Privacy Act 1988* also applies to any personal information we collect.

More information

For more information on the introduction of the RVS legislation, please see the department's website <https://www.infrastructure.gov.au/vehicles/rvs/index.aspx>. Content related to various aspects of the new regulatory regime and what it means for regulated entities is being added regularly.

Our compliance and enforcement activities are the operational face of a risk-based framework of policies, strategies, processes and plans developed to:

- provide a cohesive approach to meeting our legislated responsibilities; and
- assist industry stakeholders in consistently meeting their legislated obligations.

Information regarding our risk-based framework will be progressively published and updated on the department's website at https://www.infrastructure.gov.au/vehicles/compliance_and_enforcement/index.aspx. [This currently includes Our Compliance Approach and Model and Compliance and Enforcement Strategy 2021-23.](#)

The relevant legislation is:

- for inspections, various application decision-making provisions in the [RVSR \(sections 17, 33, 56, 69, 91, 109, 160, 175 of the RVSR\)](#)
- for monitoring powers sections 50 and 51 of the [RVSA](#) and Part 2 of the [RPA](#)
- for investigation powers sections 52 and 53 of the [RVSA](#) and Part 3 of the [RPA](#)
- for requesting information in writing under conditions of approval, see various statutory conditions in the [RVSR \(sections 29, 49, 67, 86, 104, 124, 146N, 158, 169, 188 of the RVSR\)](#)

Feedback and complaints

Should you have any feedback, including complaints regarding your interaction with the department related to inspection, monitoring and investigation activities, you can contact the department's client services area. You can find more information on providing feedback or making a complaint on the department's website <https://infrastructure.gov.au/utilities/contact.aspx>.

You may also discuss any concerns with the Commonwealth Ombudsman. The Ombudsman's office considers and investigates complaints from people who believe they have been treated unfairly or unreasonably by an Australian Government department or agency. You can find out more on the Commonwealth Ombudsman's website <http://www.ombudsman.gov.au/making-a-complaint>.

Glossary

Term	Meaning
Compliance monitoring	A broad term referring to any form of information collection, or contact with a regulated entity by inspectors for the purposes of identifying issues relating to that entity's compliance with the legislation and/or any conditions of an approval they hold.
Delegated officer	An officer of the department with delegated authority to undertake various functions conferred on the Secretary by the RVS legislation.
Inspection	Inspections may assess whether or not a regulated entity complies with the RVS legislation and any conditions of the approval they hold. Inspections may also be undertaken for the purposes of collection of, or confirmation of, information provided as part of an application.
inspector	A person appointed by the Secretary under section 49 of the RVSA to exercise the functions and powers conferred on them, subject to conditions and restrictions specified in the person's instrument of appointment.
MVSA	<i>Motor Vehicle Standards Act 1989</i> - legislation replaced by the <i>Road Vehicle Standards Act 2018</i> from 1 July 2021
MVSR	<i>Motor Vehicle Standards Regulations 1989</i>
RPA	<i>Regulatory Powers (Standard Provisions) Act 2014</i> – An act providing monitoring, investigation and enforcement powers.
RVSA	<i>Road Vehicle Standards Act 2018</i> – An Act to provide for the regulation of road vehicles and road vehicle components, to set national road vehicle standards, and for other purposes. For more information, refer to the Federal Register of Legislation.
RVSR	<i>Road Vehicle Standards Rules 2019</i> – Rules made under the RVSA.
The department	Department of Infrastructure, Transport, Regional Development and Communications
Warrant	Document issued by a judge or magistrate authorising an inspector ('authorised person'), entry to a premises and the seizure of things relevant to the purpose of the warrant. A warrant may be issued for monitoring or investigative purposes.

Attachment A – Monitoring powers

These powers can only be exercised by an appointed inspector or a person assisting under the direction of an inspector.

A delegated officer cannot exercise monitoring powers.

Examine or observe activity

We can examine or observe any activity that is subject to the RVSA and related legislation.

Examples of what we could do include:

- examining components to ensure that they have been fitted in accordance with your approval
- observing the process of conducting a stationary noise test

Inspect, examine, measure or test any thing

We can inspect, examine, measure and test any thing on your premises that relates to compliance to the RVSA and related legislation.

Example of what we could do include:

- inspecting components to ensure that they are functioning correctly
- examining workshop equipment
- measuring the dimensions of a vehicle
- testing child restraint anchorage points

Inspect, take extracts from or make copies of documents

We can inspect any documents related to compliance with the RVSA and related legislation. We can take extracts or copies of these documents.

Examples of what we could inspect include:

- quality system documentation and procedures, and take copies of this to demonstrate that you are complying with your requirements
- your purchase order history to verify that you have purchased sufficient parts to complete claimed modifications

Photograph, film or record any thing

We can take photographs, video footage or audio recording of any thing that is taking place on the premises related to compliance with the RVSA and related legislation.

Examples of this includes taking:

- photos to verify that the lighting and reflectors on a vehicle are compliant
- a video of a stationary noise test
- an audio recording of a meeting

Take equipment on the premises

We can take equipment onto the premises if it is required to exercise monitoring powers. This could include electronic equipment for recording information or technical or specialist equipment that might be needed to determine compliance with the RVSA and related legislation.

Examples of what we could bring onto the premises include:

- video and still photography equipment
- laptops or other electronic equipment
- tape measures, laser measures or other measuring equipment
- other specialised equipment

Remove and test samples

We may sample any thing. We may then take samples away and have them tested elsewhere (this power is set out at section 51 of the RVSA).

Operating electronic equipment

We can operate any electronic equipment on the premises including any disk, tapes or other storage devices that are associated with that equipment.

Examples of what we could do include:

- accessing your computer records to locate documents
- operating your security camera system to review footage

This power further extends to allow us to print copies of documents and/or transfer documents or footage to another device to remove them from the premises.

Generally, if we need to use your electronic equipment we will ask you to do so.

Search the premises

We can search the premises and any thing on the premises if we consider that it will assist us in determining whether the requirements of the RVSA and related legislation are being complied with.

Examples of what we could search include:

- a filing cabinet for documents related to compliance with the RVSA and related legislation
- a vehicle on the premises if we believe that it might contain information or things related to compliance with the RVSA and related legislation
- any room on the premises if we believe that it might contain information or any thing related to compliance with the RVSA and related legislation

Securing electronic evidence to obtain expert assistance

If we enter your premises under a monitoring warrant we are able to secure any electronic equipment if we:

- suspect that there is relevant data that can be accessed on the equipment; and
- require expert assistance to operate the equipment; and
- suspect that the relevant data may be destroyed, altered or otherwise interfered with if we do not take appropriate action

We are able to secure this equipment by locking it in a place or by arranging for it to be guarded until it is able to be accessed.

We are able to secure this equipment for an initial period of 24 hours. Under certain circumstances this period may be extended.

Securing evidence of a contravention

We can secure any thing for a period of 24 hours if:

- the thing has been found during the exercise of monitoring powers; and
- we believe that the thing is related to a contravention of the RVSA and related legislation; or
- we believe the thing is evidence of this contravention; or
- we believe that it is necessary to secure the thing to prevent it from being concealed, lost or damaged before a warrant to seize the thing is obtained

We are able to secure the thing by locking it in a place or by arranging for it to be guarded until an investigation warrant can be obtained.

We are able to secure the thing for an initial period of 24 hours. Under certain circumstances this period can be extended.

Answering questions and seeking production of documents

Section 24 of the RPA provides us with the power to ask questions and seek the production of documents when exercising our monitoring powers.

If entry to your premises was gained by consent we can ask any question or ask for documents to be produced in relation to your compliance with the RVSA and related legislation, however you are not obligated to answer these questions or provide these documents.

If we gained entry under a warrant we are able to require you to answer questions or produce documents in relation to your compliance with the RVSA and related legislation. Failure to comply with a request to produce documents or answer questions under warrant is an offence. There are exceptions to this, for example, where the information is protected by legal privilege.

Attachment B – Investigation powers

These powers can only be exercised by an appointed inspector or a person assisting under the direction of an inspector.

A delegated officer cannot exercise investigation powers.

Search the premises

We can search the premises and any thing on the premises for the evidential material that we believe is on the premises. This material can be any document or thing which we believe to be evidence of a contravention of the RVSA and related legislation.

Examples of searching could be:

- any room on the premises
- a filing cabinet
- a vehicle on the premises

If we enter under an investigation warrant we are also able to seize any evidential material found on the premises during our search.

Inspect, examine, measure or test any thing

We can inspect, examine, measure and test any thing on your premises that we consider to be evidential material.

Examples could be:

- inspecting components
- examining a vehicle
- measuring the dimensions of a vehicle
- testing to confirm seat belts are fitted correctly

Photograph, film or record any thing

We can take photographs, video footage or audio recordings of any thing on the premises that is determined to be evidential material.

Examples could be taking:

- photos that show the lighting on a vehicle is non-compliant
- a video of a stationary noise test
- an audio recording of an interview with staff

Remove and test samples

We may sample any thing. We may then take samples away and have them tested elsewhere (this power is set out at section 53 of the RVSA).

Take equipment on the premises

We can take equipment onto the premises if it is required to exercise investigation powers. This could include electronic equipment for recording information or technical or specialist equipment that might be needed.

Examples of equipment we could bring onto the premises include:

- video and still photography equipment
- laptops or other electronic equipment
- tape measure, laser measure or other measuring equipment
- other specialised equipment

Operating electronic equipment

We can operate any electronic equipment on the premises including any disk, tapes or other storage devices that are associated with that equipment.

Examples include:

- accessing your computer records to locate documents
- operating your security camera system to review footage

If entry to the premises was under an investigation warrant we also have the power to seize electronic equipment and any disk, tape or other storage device that contains evidential material. This power further extends to allow us to print copies of documents and/or transfer documents or footage to another device to remove them from the premises.

Securing electronic evidence to obtain expert assistance

If entry to the premises was under an investigation warrant we are able to secure any electronic equipment if we:

- suspect that there is evidential material on the equipment; and
- require expert assistance to operate the equipment; and
- suspect that the relevant data may be destroyed, altered or otherwise interfered with if we do not take the appropriate action

This equipment can be secured by locking it in a place or by arranging for it to be guarded until it is able to be accessed by an expert.

The equipment is able to be secured for an initial period of 24 hours. Under certain circumstances this period may be extended.

Seizing evidence of related provisions

We can seize any thing that is not evidential material of the kind specified in the warrant if during a search we find any thing and we reasonably believe that:

- the thing is evidential material, or
- a related provision has been contravened with respect to the thing, and
- it is necessary to seize the thing to prevent it from being concealed, lost or damaged

Answering questions and producing documents

Section 54 of the RPA provides us with the power to ask questions and seek the production of documents when exercising our investigation powers.

If we gain entry to your premises by consent we can ask questions or ask that documents are produced in relation to evidential material.

If we gain entry under a warrant we are able to require you to answer questions or produce documents in relation to the evidential material specified in the warrant. Failure to comply with a direction to produce documents or answer questions is an offence and the penalty for contravention is 30 penalty units. There are exceptions, for example, information protected by legal professional privilege.

General provisions relating to seizure

The investigation powers in the RPA include the power to seize one or more things. Sections 64 – 67 of the RPA outlines the provisions once a thing is seized. If the things seized can be readily copied, such as documents or data on a storage device you can ask for a copy of the information seized. We are required to provide you with a copy of this information as soon as practicable as long as we are legally able to do so.

If we seize any thing we will provide you with a receipt outlining the specific details of the thing, or things seized.

Any thing that is seized will be returned to you within 60 days of being seized. Some exemptions may apply, including:

- if a court order prevents its return
- there is a dispute of ownership
- legal proceedings have been initiated
- the thing is to be retained, destroyed or disposed of
- an application has been made by the department to retain the thing beyond the initial 60 days and the application has been approved by a court