



New South Wales

Surveillance Devices Amendment (Police Body-Worn Video) Act 2014 No 81

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Surveillance Devices Amendment (Police Body-Worn Video) Act 2014 No 81

Act No 81, 2014

An Act to amend the *Surveillance Devices Act 2007* to make provision with respect to the use of body-worn video by police officers. [Assented to 19 November 2014]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Surveillance Devices Amendment (Police Body-Worn Video) Act 2014*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Surveillance Devices Act 2007 No 64

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

body-worn video means equipment worn on the person of a police officer that is capable of recording visual images or sound or both.

[2] Section 7 Prohibition on installation, use and maintenance of listening devices

Insert after section 7 (2) (f):

(g) the use, in accordance with section 50A, of body-worn video by a police officer.

[3] Section 8 Installation, use and maintenance of optical surveillance devices without consent

Insert after section 8 (2) (e):

(f) the use, in accordance with section 50A, of body-worn video by a police officer.

[4] Section 39 What is protected information?

Insert at the end of paragraph (c) of the definition of *protected information*:

, or

(d) any information obtained from the use, in accordance with section 50A, of body-worn video by a police officer.

[5] Section 40 Prohibition on use, communication or publication of protected information

Insert before the penalty provision in section 40 (2):

If the offence against subsection (1) involves information obtained from the use, in accordance with section 50A, of body-worn video by a police officer, each reference in this subsection to a relevant offence includes a reference to any offence.

[6] Section 40 (4A)

Insert after section 40 (4):

(4A) Information obtained from the use, in accordance with section 50A, of body-worn video by a police officer may also be used, published or communicated:

- (a) in connection with the exercise of a law enforcement function by a member of the NSW Police Force, or
- (b) in connection with education and training of members of the NSW Police Force, or
- (c) for any purpose prescribed by the regulations.

[7] Section 40 (5)

Insert “or (4A)” after “subsection (4)”.

[8] Section 50A

Insert before section 51:

50A Police use of body-worn video

- (1) The use of body-worn video by a police officer is in accordance with this section if:
 - (a) the police officer is acting in the execution of his or her duty, and
 - (b) the use of body-worn video is overt, and
 - (c) if the police officer is recording a private conversation, the police officer is in uniform or has provided evidence that he or she is a police officer to each party to the private conversation.
- (2) Without limiting the ways in which the use of body-worn video may be overt for the purposes of subsection (1) (b), the use of body-worn video is overt once the police officer informs the person who is to be recorded of the use of body-worn video by the police officer.
- (3) The use of body-worn video by a police officer is also in accordance with this section if:
 - (a) it is inadvertent or unexpected, or
 - (b) it is incidental to the use of body-worn video by the police officer in the circumstances set out in subsection (1).

[9] Section 64

Insert after section 63:

64 Review of Surveillance Devices Amendment (Police Body-Worn Video) Act 2014

- (1) The Secretary of the Department of Justice or delegate is to review the operation of the provisions of this Act inserted by the *Surveillance Devices Amendment (Police Body-Worn Video) Act 2014*.
- (2) The review is to be undertaken as soon as practicable after the period of 12 months from the operational commencement of that Act.
- (3) The Secretary or delegate is to prepare a report of the review under this section and furnish a copy of the report to the Minister as soon as practicable after the expiration of that 12-month period.
- (4) The Minister is to lay (or cause to be laid) a copy of any report furnished to the Minister under this section before both Houses of Parliament as soon as practicable after the Minister receives the report.

[Second reading speech made in—

Legislative Assembly on 22 October 2014

Legislative Council on 12 November 2014]