



New South Wales

Law Enforcement and National Security (Assumed Identities) Regulation 2016

under the

Law Enforcement and National Security (Assumed Identities) Act 2010

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Law Enforcement and National Security (Assumed Identities) Act 2010*.

TROY GRANT, MP
Minister for Justice and Police

Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Law Enforcement and National Security (Assumed Identities) General Regulation 2010*, which is repealed on 1 September 2016 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the agencies that are law enforcement agencies for the purposes of the *Law Enforcement and National Security (Assumed Identities) Act 2010 (the Act)*,
- (b) the chief officers, law enforcement officers and supervisors of law enforcement agencies,
- (c) the offices within an authorised agency to which a chief officer of an agency may delegate his or her functions,
- (d) corresponding laws for the purposes of the Act,
- (e) savings and formal matters.

This Regulation is made under the *Law Enforcement and National Security (Assumed Identities) Act 2010*, including sections 4 (definitions of **chief officer**, **corresponding law**, **law enforcement agency** and **law enforcement officer**), 6 (4) (g), 39 (4) and 42 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Law Enforcement and National Security (Assumed Identities) Regulation 2016

under the

Law Enforcement and National Security (Assumed Identities) Act 2010

1 Name of Regulation

This Regulation is the *Law Enforcement and National Security (Assumed Identities) Regulation 2016*.

2 Commencement

This Regulation commences on 1 September 2016 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Law Enforcement and National Security (Assumed Identities) General Regulation 2010* which is repealed on 1 September 2016 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

officer of Customs has the same meaning as it has in the *Customs Act 1901* of the Commonwealth.

the Act means the *Law Enforcement and National Security (Assumed Identities) Act 2010*.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Law enforcement agencies

For the purposes of paragraph (g) of the definition of ***law enforcement agency*** in section 4 (1) of the Act, the following agencies are prescribed as law enforcement agencies for the purposes of the Act:

- (a) the Australian Federal Police,
- (b) the Australian Security Intelligence Organisation,
- (c) the Australian Secret Intelligence Service,
- (d) the Department of Immigration and Border Protection,
- (e) the Australian Taxation Office.

5 Chief officers of certain law enforcement agencies

For the purposes of paragraph (g) of the definition of ***chief officer*** of a law enforcement agency in section 4 (1) of the Act, the following officers are prescribed as the chief officers in respect of the following law enforcement agencies:

- (a) in respect of the Australian Federal Police—the Commissioner of the Australian Federal Police,
- (b) in respect of the Australian Security Intelligence Organisation—the Director-General of Security,

- (c) in respect of the Australian Secret Intelligence Service—the Director-General of that Service,
- (d) in respect of the Department of Immigration and Border Protection—the Secretary of the Department,
- (e) in respect of the Australian Taxation Office—the Commissioner of Taxation.

6 Law enforcement officers

For the purposes of paragraph (g) of the definition of *law enforcement officer* in section 4 (1) of the Act, the following are prescribed as law enforcement officers in respect of the following law enforcement agencies:

- (a) in respect of the Australian Federal Police—a Deputy Commissioner of the Australian Federal Police, an AFP employee or a special member of the Australian Federal Police (within the meaning of the *Australian Federal Police Act 1979* of the Commonwealth),
- (b) in respect of the Australian Security Intelligence Organisation—a member of staff of the Australian Security Intelligence Organisation, whether an employee, a consultant or contractor, or a person who is made available by another Commonwealth, State or Territory agency or another body or person to perform services for the Australian Security Intelligence Organisation,
- (c) in respect of the Australian Secret Intelligence Service—a staff member of the Service,
- (d) in respect of the Department of Immigration and Border Protection—an officer of Customs,
- (e) in respect of the Australian Taxation Office—a person engaged under the *Public Service Act 1999* of the Commonwealth and performing duties in the Australian Taxation Office.

7 Supervisors

For the purposes of section 6 (4) (g) of the Act, the following ranks and positions are prescribed in respect of the following law enforcement agencies:

- (a) in respect of the Australian Federal Police—the rank of sergeant or an equivalent or higher rank,
- (b) in respect of the Australian Security Intelligence Organisation—the position of ASIO Executive Employee Level 1 or an equivalent or higher position,
- (c) in respect of the Australian Secret Intelligence Service—the position of ASIS Executive Level 1 or an equivalent or higher position,
- (d) in respect of the Department of Immigration and Border Protection—an APS employee who holds or performs the duties of an Executive Level 1 position, or an equivalent or higher position, in that Department,
- (e) in respect of the Australian Taxation Office—the position of an Australian Public Service Executive Level 2 or an equivalent or higher position.

8 Delegations

For the purposes of paragraph (f) of the definition of *senior officer* in section 39 (4) of the Act, the following ranks or positions are prescribed in respect of the following law enforcement agencies:

- (a) in respect of the Australian Federal Police:
 - (i) any senior executive AFP employee within the meaning of section 4 (1) of the *Australian Federal Police Act 1979* of the Commonwealth, or

- (ii) any Deputy Commissioner within the meaning of section 4 (1) of that Act, or
- (iii) a person occupying a position in the Australian Federal Police that is equivalent to or higher than a position referred to in subparagraph (i) or (ii),
- (b) in respect of the Australian Security Intelligence Organisation—any senior position-holder within the meaning of the *Australian Security Intelligence Organisation Act 1979* of the Commonwealth,
- (c) in respect of the Australian Secret Intelligence Service—Deputy Director-General—Operations,
- (d) in respect of the Department of Immigration and Border Protection—any SES employee in that Department,
- (e) in respect of the Australian Taxation Office—an Assistant Commissioner.

9 Corresponding laws

For the purposes of the definition of **corresponding law** in section 4 (1) of the Act, the following laws are declared to correspond to the Act:

- (a) the *Crimes (Assumed Identities) Act 2009* of the Australian Capital Territory,
- (b) Part IAC of the *Crimes Act 1914* of the Commonwealth,
- (c) Chapter 12 of the *Police Powers and Responsibilities Act 2000* of Queensland,
- (d) Part 3 of the *Criminal Investigation (Covert Operations) Act 2009* of South Australia,
- (e) the *Police Powers (Assumed Identities) Act 2006* of Tasmania,
- (f) the *Crimes (Assumed Identities) Act 2004* of Victoria,
- (g) the *Criminal Investigation (Covert Powers) Act 2012* of Western Australia,
- (h) the *Police (Special Investigative and Other Powers) Act 2015* of the Northern Territory.