



New South Wales

Surveillance Devices Amendment (Body-Worn Recording Devices) Regulation 2019

under the

Surveillance Devices Act 2007

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Surveillance Devices Act 2007*.

MARK SPEAKMAN, MP

Attorney General, and Minister for the Prevention of Domestic Violence

Explanatory note

The object of this Regulation is to provide for the trial of body-worn recording devices by ambulance officers. During the trial, sections 7 and 8 of the *Surveillance Devices Act 2007*, which prohibit the installation and use of listening devices and optical surveillance devices, will not apply to the installation, use and maintenance of body-worn recording devices used by ambulance officers. The trial will end on 30 November 2020.

This Regulation is made under the *Surveillance Devices Act 2007*, including section 59 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Surveillance Devices Amendment (Body-Worn Recording Devices) Regulation 2019*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Surveillance Devices Regulation 2014

Clause 5

Insert after clause 4—

5 Ambulance officer's use of body-worn recording devices—Trial

- (1) This clause expires on 30 November 2020.
Note. Section 59(3) of the Act provides that this clause takes effect on and from the expiry of the period during which either House of Parliament may, under section 41 of the *Interpretation Act 1987*, disallow the *Surveillance Devices Amendment (Body-Worn Recording Devices) Regulation 2019*.
- (2) An ambulance officer is exempt from sections 7 (Prohibition on installation, use and maintenance of listening devices) and 8 (Installation, use and maintenance of optical surveillance devices without consent) of the Act in relation to the installation, use and maintenance of a body-worn recording device if the device is used in accordance with this clause.
- (3) A body-worn recording device is used in accordance with this clause only if—
 - (a) the ambulance officer using the device is acting in the execution of the ambulance officer's duty, and
 - (b) the device is attached to the uniform of, or is otherwise worn by, an ambulance officer, and
 - (c) at least one of the following apply to the use of the device by the ambulance officer—
 - (i) before making a recording, the ambulance officer made a reasonable attempt to ensure that the persons likely to be recorded by the device are aware that the device is capable of recording images or sound, or both, or
 - (ii) in the opinion of the ambulance officer, there is a significant risk of harm to the ambulance officer or another person, or
 - (iii) the recording of images or sound, or both, by the device is inadvertent or unexpected.

- (4) In this clause—

body-worn recording device means a listening device or optical surveillance device, or both, worn by a person.

ambulance officer means a paramedic or other member of staff of the NSW Health Service who is employed primarily in connection with the provision of ambulance services in the Ambulance Service of NSW (within the meaning of section 67A of the *Health Services Act 1997*).