



New South Wales

# Surveillance Devices Amendment (ICAC) Regulation 2023

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*.

MICHAEL DALEY, MP  
Attorney General

## Explanatory note

The object of this regulation is to exempt the Independent Commission Against Corruption from certain provisions of the *Surveillance Devices Act 2007* in relation to the use of surveillance device recordings unlawfully obtained by a person other than the Independent Commission Against Corruption.

This regulation is made under a Henry VIII provision that allows the regulations to exempt a person from certain provisions of the *Surveillance Devices Act 2007*.

## **Surveillance Devices Amendment (ICAC) Regulation 2023**

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Surveillance Devices Act 2007

### **1 Name of regulation**

This regulation is the *Surveillance Devices Amendment (ICAC) Regulation 2023*.

### **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 2022**

### Section 6A

Insert after section 6—

#### **6A ICAC's use of unlawful surveillance device recordings—the Act, s 59(2)**

- (1) This section applies to a private conversation, a record or report of a private conversation or a record or report of the carrying on of an activity that is obtained by the use of a surveillance device in contravention of the Act, Part 2 by a person other than ICAC (*relevant material*).
- (2) ICAC is exempt from the Act, Part 2 in relation to ICAC obtaining, possessing, publishing or communicating relevant material in accordance with the *Independent Commission Against Corruption Act 1988*.
- (3) If ICAC relies on the exemption in subsection (2) in the course of an investigation under the *Independent Commission Against Corruption Act 1988*, any report relating to the investigation prepared by ICAC under that Act, section 74 must include a statement to that effect.
- (4) This section is repealed at the end of 31 December 2025.
- (5) In this section—

**ICAC** means the Independent Commission Against Corruption and includes an officer of the Commission.

**Note—** The Act, section 59(3) provides that this section, as inserted by the *Surveillance Devices Amendment (ICAC) Regulation 2023*, takes effect on and from the expiry of the period during which either House of Parliament may, under the *Interpretation Act 1987*, section 41, disallow that regulation.