



New South Wales

# Court Security and Surveillance Devices Amendment (Body-Worn Recording Devices) Regulation 2023

Her Excellency the Governor, with the advice of the Executive Council, has made the following regulation under—

- (a) the *Court Security Act 2005*, and
- (b) the *Surveillance Devices Act 2007*.

MICHAEL DALEY, MP  
Attorney General

## Explanatory note

The objects of this regulation are as follows—

- (a) to provide for the trial of body-worn recording devices by sheriff's officers, including while in a court,
- (b) to permit the use of body-worn video by police officers in court premises,
- (c) to permit the transmission and distribution of recordings of court proceedings obtained from the use of body-worn video by police officers in certain circumstances,
- (d) to provide that a person entering court premises may be required to surrender remotely piloted aircraft.

The trial of body-worn recording devices by sheriff's officers will commence on 1 December 2023 and end on 30 November 2024.

## **Court Security and Surveillance Devices Amendment (Body-Worn Recording Devices) Regulation 2023**

### **1 Name of regulation**

This regulation is the *Court Security and Surveillance Devices Amendment (Body-Worn Recording Devices) Regulation 2023*.

### **2 Commencement**

This regulation commences on 1 December 2023.

## **Schedule 1 Amendment of Court Security Regulation 2021**

### **[1] Section 5 Permissible uses of recording devices**

Insert after section 5(b)—

- (c) the use of body-worn video by a police officer in court premises in accordance with—
  - (i) the *Surveillance Devices Act 2007*, section 50A, and
  - (ii) a written agreement between the Commissioner of Police and the Sheriff and in consultation with the head of the court concerned, however described.

### **[2] Section 5A**

Insert after section 5—

#### **5A Use of body-worn recording device by sheriff's officer**

- (1) For the Act, section 9(2)(e), the use of a body-worn recording device by a sheriff's officer is permitted in court premises if—
  - (a) the use of the device is governed by a written agreement between the Sheriff and the head of the court concerned, however described, and
  - (b) the officer is using the device while acting in the execution of the officer's duties, and
  - (c) the device is prominently attached to the officer's uniform, and
  - (d) at least one of the following applies to the use of the device by the officer—
    - (i) before making a recording, the officer made a reasonable attempt to ensure the person likely to be recorded by the device was aware the device was capable of recording images or sound, or both,
    - (ii) in the opinion of the officer, there is a significant risk of harm to the officer or another person,
    - (iii) the recording of images or sound, or both, by the device is inadvertent or unexpected.
- (2) This section is repealed at the end of 30 November 2024.

### **[3] Section 6A**

Insert after section 6—

#### **6A Exemption from restriction on transmission or distribution of court recording**

- (1) For the Act, section 9B(2)(c), the transmission or distribution of a recording of court proceedings is prescribed if—
  - (a) the recording was obtained by a police officer using body-worn video in accordance with section 5(c), and
  - (b) the transmission or distribution is in connection with the exercise of a law enforcement function by a police officer.
- (2) For the Act, section 9B(2)(c), the transmission or distribution of a recording of court proceedings is prescribed if the recording was obtained by a sheriff's officer using a body-worn recording device in accordance with section 5A.
- (3) Subsection (2) and this subsection are repealed on 30 November 2024.

**[4] Section 7 Things required to be surrendered for safekeeping**

Insert after section 7(g)—

- (h) remotely piloted aircraft within the meaning of the *Crimes (Administration of Sentences) Act 1999*, Part 13A.

## Schedule 2      **Amendment of Surveillance Devices Regulation 2022**

### Section 6B

Insert after section 6A—

#### **6B    Sheriff's officer's use of body-worn recording devices—~~trial—the Act, s 59(2)~~**

- (1) A sheriff's officer is exempt from the Act, sections 7 and 8, in relation to the installation, use and maintenance of a body-worn recording device if—
  - (a) the officer uses the device while acting in the execution of the officer's duty, and
  - (b) the device is prominently attached to the officer's uniform, and
  - (c) at least one of the following apply to the use of the device by the officer—
    - (i) before making a recording, the officer made a reasonable attempt to ensure the person likely to be recorded by the device was aware the device was capable of recording images or sound, or both,
    - (ii) in the opinion of the officer, there is a significant risk of harm to the officer or another person,
    - (iii) the recording of images or sound, or both, by the device is inadvertent or unexpected.
- (2) In this section—

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

***sheriff's officer*** has the same meaning as in the *Sheriff Act 2005*.
- (3) This section is repealed at the end of 30 November 2024.