

Passed by both Houses



New South Wales

Surveillance Devices Amendment (Police Body-Worn Video) Bill 2014

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2014



New South Wales

Surveillance Devices Amendment (Police Body-Worn Video) Bill 2014

Act No , 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.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

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.