

Law Enforcement (Controlled Operations) Amendment Act 2013 No 16

[2013-16]



New South Wales

Status Information

Currency of version

Repealed version for 3 April 2013 to 3 April 2013 (accessed 28 December 2024 at 21:22)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Repeal**

The Act was repealed by sec 30C of the [Interpretation Act 1987 No 15](#) with effect from 4.4.2013.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Law Enforcement (Controlled Operations) Amendment Act 2013 No 16



New South Wales

An Act to amend the *Law Enforcement (Controlled Operations) Act 1997* to make provision for the role of a secondary law enforcement officer in controlled operations and to amend the *Surveillance Devices Act 2007* to make further provision with respect to the use of listening devices in controlled operations.

1 Name of Act

This Act is the *Law Enforcement (Controlled Operations) Amendment Act 2013*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of *Law Enforcement (Controlled Operations) Act 1997 No 136*

[1] Section 3 Definitions

Omit the definition of ***principal law enforcement officer*** from section 3 (1).

Insert instead:

principal law enforcement officer for an authorised operation means the law enforcement officer who is identified by the authority for the operation as the principal law enforcement officer.

[2] Section 3 (1), definition of “secondary law enforcement officer”

Insert in alphabetical order:

secondary law enforcement officer for an authorised operation means the law enforcement officer who is identified by the authority for the operation as the secondary law enforcement officer.

[3] Section 5 Applications for authorities

Insert after section 5 (2A) (d):

- (e) the names and ranks of the law enforcement officers nominated to be the principal law enforcement officer and the secondary law enforcement officer for the proposed operation.

[4] Section 8 Form of authority

Omit section 8 (2) (b). Insert instead:

- (b) must identify the principal law enforcement officer who is the person who is to conduct, and to have responsibility for, the operation, and
- (b1) must identify the secondary law enforcement officer who is the person who is to conduct, and to have responsibility for, the operation whenever the principal law enforcement officer is unavailable to do so, and

[5] Section 8 (3)

Insert “, (b1)” after “subsection (2) (b)”.

[6] Section 10 Variation of authority

Insert after section 10 (1) (b):

- (b1) to provide for an alternative secondary law enforcement officer for the operation,

[7] Section 13B

Insert after section 13A:

13B Functions of secondary law enforcement officer

A function that is conferred on a principal law enforcement officer for an authorised operation under Part 3 or 3A or the regulations is taken to be conferred on the secondary law enforcement officer for the authorised operation whenever the principal law enforcement officer is unavailable to exercise the function.

[8] Section 19 Exclusion of civil liability

Insert “or the secondary law enforcement officer” after “officer” wherever occurring in section 19 (b) and (d) (ii).

[9] Section 19

Insert “secondary law enforcement officer,” after “principal law enforcement officer,”.

[10] Section 20I Documents relating to cross-border controlled operations

Omit “of a principal law enforcement officer of the agency” from section 20I (f).

Insert instead “given to the chief executive officer”.

[11] Section 20J Register relating to cross-border controlled operations

Omit “the principal law enforcement officer for the operation made a report” from section 20J (2) (b) (viii).

Insert instead “a report on the operation was made”.

[12] Schedule 2 Savings and transitional provisions

Insert at the end of clause 1 (1):

any other Act that amends this Act

**Schedule 2 Consequential amendment of Law Enforcement
(Controlled Operations) Regulation 2012**

[1] Clause 12 Written notice to Ombudsman of variation of authority: section 21

Insert “or secondary law enforcement officer” after “officer” in clause 12 (d).

**[2] Clause 13 Written notice to Ombudsman of receipt of report of authorised operation:
section 21**

Omit “from the principal law enforcement officer for the operation” from clause 13 (a).

[3] Schedule 1 Forms

Insert after item 6 (a) in Form 1:

(a1) [Name], a law enforcement officer within the meaning of the Act (the **secondary law enforcement officer**), may conduct the controlled operation in accordance with the plan of the proposed operation accompanying the Application whenever the principal law enforcement officer is unavailable to conduct, and to have responsibility for, the operation.

[4] Schedule 1, Form 2

Insert after item 6 (a):

- (a1) [*Name*], a law enforcement officer within the meaning of the Act (the **secondary law enforcement officer**), may conduct the cross-border controlled operation:
- (i) whenever the principal law enforcement officer is unavailable to conduct, and to have responsibility for, the operation, and
 - (ii) in accordance with the plan of the proposed operation accompanying the Application, in participating jurisdictions namely:
[*List the participating jurisdictions in which the controlled conduct is, or is likely, to be engaged in*]

[5] Schedule 1, Form 3

Insert after item 3 (b):

- *(b1) to authorise [*name*] as the alternative secondary law enforcement officer for the controlled operation.

[6] Schedule 2 Code of conduct

Omit “the principal law enforcement officer for the operation” from clause 4 (b).

Insert instead “the law enforcement officer who is conducting, and has responsibility for, the operation”.

Schedule 3 Amendment of [Surveillance Devices Act 2007 No 64](#)

Section 7 Prohibition on installation, use and maintenance of listening devices

Omit section 7 (4). Insert instead:

- (4) Subsection (1) does not apply to the use of a listening device to record, monitor or listen to a private conversation if:
- (a) a party to the private conversation is a participant in an authorised operation and, in the case of a participant who is a law enforcement officer, is using an assumed name or assumed identity, and
 - (b) the person using the listening device is that participant or another participant in that authorised operation.

(5) In this section:

authorised operation and **participant** in an authorised operation have the same meanings as in the [Law Enforcement \(Controlled Operations\) Act 1997](#).

Note—

The definition of **participant** in an authorised operation includes a **civilian participant** within the

meaning of the *Law Enforcement (Controlled Operations) Act 1997*.