

TASMANIA

**SURVEILLANCE LEGISLATION AMENDMENTS
(PERSONAL POLICE CAMERAS) BILL 2018**

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**SURVEILLANCE LEGISLATION AMENDMENTS
(PERSONAL POLICE CAMERAS) BILL 2018**

*(Brought in by the Minister for Police, Fire and Emergency
Management, the Honourable Michael Darrel Joseph
Ferguson)*

A BILL FOR

**An Act to amend the *Listening Devices Act 1991*, and the
Police Powers (Surveillance Devices) Act 2006, to allow for
the use of cameras worn or held by police officers**

Be it enacted by Her Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Surveillance
Legislation Amendments (Personal Police
Cameras) Act 2018*.

2. Commencement

This Act commences on the day on which this
Act receives the Royal Assent.

Surveillance Legislation Amendments (Personal Police Cameras)
Act 2018
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Part 2 – Listening Devices Act 1991 Amended

PART 2 – LISTENING DEVICES ACT 1991 AMENDED

3. Principal Act

In this Part, the *Listening Devices Act 1991** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by inserting after the definition of *party* the following definition:

personal camera has the same meaning as in the *Police Powers (Surveillance Devices) Act 2006*;

5. Section 5 amended (Prohibition on use of listening devices)

Section 5(2) of the Principal Act is amended by inserting after paragraph (ba) the following paragraph:

(bb) the use, in accordance with section 44A of the *Police Powers (Surveillance Devices) Act 2006*, of a listening device consisting of a personal camera; or

*No. 21 of 1991

*Surveillance Legislation Amendments (Personal Police Cameras)
Act 2018
Act No. of 2018*

Part 2 – Listening Devices Act 1991 Amended

s. 6

6. Section 9 amended (Prohibition on communication or publication of private conversations unlawfully listened to)

Section 9 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) Subsection (1)(b) does not apply in relation to a communication, or publication, of information, obtained by the use by a police officer of a personal camera, that is a communication or publication to which section 33(3) or (4) of the *Police Powers (Surveillance Devices) Act 2006* applies.

7. Section 10 amended (Prohibition on communication or publication of records of private conversations by parties thereto)

Section 10 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) Subsection (1) does not apply in relation to a communication, or publication, of a record obtained by the use by a police officer of a personal camera, that is a communication or publication to which section 33(3) or (4) of the *Police Powers (Surveillance Devices) Act 2006* applies.

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Part 2 – Listening Devices Act 1991 Amended

8. Section 11 amended (Possession of record of private conversation)

Section 11 of the Principal Act is amended by inserting after subsection (2) the following subsection:

- (3) Subsection (1)(b) does not apply where the record is of information obtained by the use of a personal camera in accordance with section 44A of the *Police Powers (Surveillance Devices) Act 2006*.

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Act 2018
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Part 3 – Police Powers (Surveillance Devices) Act 2006 Amended

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**PART 3 – POLICE POWERS (SURVEILLANCE
DEVICES) ACT 2006 AMENDED**

9. Principal Act

In this Part, the *Police Powers (Surveillance Devices) Act 2006** is referred to as the Principal Act.

10. Long title amended

The long title of the Principal Act is amended by inserting “, for the use by police officers of personal cameras that are hand-held or worn and of information obtained by the use of such cameras,” after “jurisdiction”.

11. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *participating jurisdiction*:

personal camera means –

- (a) a device that is capable of recording visual images or sound, or both, and that is usually used by being

*No. 22 of 2006

Surveillance Legislation Amendments (Personal Police Cameras)
Act 2018
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held in a person's hand, whether or not the device is being held when the recording takes place; and

(b) a device that is capable of recording visual images or sound, or both, and that is usually worn on the body, whether or not the device is being worn when the recording takes place;

(b) by inserting the following definition after the definition of *premises*:

private conversation has the same meaning as in the *Listening Devices Act 1991*;

12. Section 7 amended (Types of warrant)

Section 7 of the Principal Act is amended by inserting after subsection (2) the following subsection:

(3) Nothing in this Act is to be taken to require the use of a personal camera, in accordance with section 44A, by a police officer to be authorised under a warrant under this Act.

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Act 2018
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Part 3 – Police Powers (Surveillance Devices) Act 2006 Amended

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13. Section 32 amended (Interpretation)

The definition of *protected information* in section 32 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b)(iii) “authorisation.” and substituting “authorisation; or”;
- (b) by inserting the following paragraph after paragraph (b):
 - (c) any information obtained by the use of a personal camera, in accordance with section 44A, by a police officer.

14. Section 33 amended (Prohibition on communication or publication of protected information)

Section 33 of the Principal Act is amended as follows:

- (a) by omitting from subsection (4) “or published if it is necessary to do so” and substituting “, or published,”;
- (b) by inserting in subsection (4)(a) “relevant offence within the meaning of this Act or a” after “investigation of a”;
- (c) by inserting the following paragraph after paragraph (g) in subsection (4):
 - (ga) the training of police officers;

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(d) by inserting the following subsection after subsection (4):

(4A) Protected information may be used, communicated, or published, if –

(a) the protected information is information obtained by the use of a personal camera, in accordance with section 44A, by a police officer; and

(b) the information does not contain a record of a private conversation.

(e) by inserting the following subsection after subsection (6):

(7) A reference in this section to a relevant offence (whether of this jurisdiction or any other jurisdiction) includes, in relation to protected information obtained by the use of a personal camera in accordance with section 44A, a reference to any offence, including an offence that is not punishable by a term of imprisonment of 3 years or more and is not prescribed.

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Part 3 – Police Powers (Surveillance Devices) Act 2006 Amended

s. 15

15. Section 44A inserted

After section 44 of the Principal Act, the following section is inserted in Part 6:

44A. Use of personal cameras, &c.

(1) The use of a personal camera is in accordance with this section if –

(a) it is –

(i) being held and used; or

(ii) being worn and used –

by a police officer who is on duty; and

(b) the presence of the personal camera is overt; and

(c) where the personal camera is being used to record a private conversation to which the police officer is a party –

(i) he or she is in uniform; or

(ii) he or she has informed each other party to the conversation that he or she is using a personal camera; or

(iii) the circumstances are such that the person being

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recorded ought reasonably to be expected to be aware that the private conversation is being recorded.

- (2) Despite section 5(6), the *Right to Information Act 2009* and the *Personal Information Protection Act 2004* apply in relation to information that consists of a recording made, or a transcript or copy of a recording made, by means of a personal camera being held or worn by a police officer, if the information may be used, communicated or published under section 33(3) or (4).

16. Section 45A inserted

After section 45 of the Principal Act, the following section is inserted in Part 6:

45A. Validation of certain actions

If, after the day on which this Act commenced and before the day on which the *Surveillance Legislation (Personal Police Cameras) Amendments Act 2018* commenced, any protected information within the meaning of section 32 was used, communicated or published in relation to a relevant offence, that use, communication or publication is taken to be, and to have always been, lawful, if the use, communication or publication,

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respectively, would have been lawful under this Act as in force after the amendment to section 33(4)(a) made by the *Surveillance Legislation (Personal Police Cameras) Amendments Act 2018* had commenced.

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Part 4 – Concluding Provision

PART 4 – CONCLUDING PROVISION

17. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.