

FACT SHEET

Surveillance Legislation Amendments (Personal Police Cameras) Bill 2018

The Government has introduced legislation into Parliament to provide for the use of body-worn cameras by police officers. Currently the *Listening Devices Act 1991* prohibits the recording of private conversations in certain circumstances, and the amendments made by this Bill ensure the overt use of body-worn and hand-held cameras by police is lawful in a range of policing contexts.

The Bill amends both the *Listening Devices Act 1991* and the *Police Powers (Surveillance Devices) Act 2006*.

The amendments to the *Listening Devices Act 1991* provide exemptions to prohibitions on recording of private conversations, and to the subsequent use of those recordings, where they are obtained in accordance with requirements for the use of personal cameras by police set out in amendments to the *Police Powers (Surveillance Devices) Act 2006*.

The amendments to the *Police Powers (Surveillance Devices) Act 2006* require that the use of a personal camera by an on-duty police officer be overt and that either:

- the police officer is in uniform; or
- all of the parties to a conversation have been informed of the use of the personal camera; or
- the circumstances are such that the conversation ought reasonably be expected to be recorded.

Those recordings are then classified as protected information to restrict the uses that may be made of the recordings, while allowing for genuine law enforcement purposes.

In making the amendments to the *Police Powers (Surveillance Devices) Act 2006*, two existing issues with the Act were also addressed. One of these is to remove the caveat on the permitted uses that requires the use be *necessary*. Use of this phrase was determined to be undesirable as it can invite legal argument as to the necessity for the use, when the uses are already constrained to a set of allowable purposes.

The second issue addressed is an error in the existing section 33(4)(a) of the Act. This provision currently allows for the use of protected information for the investigation of a relevant offence under a corresponding law (that is an offence under the law of another jurisdiction), but it does not provide for the use of protected information for the investigation of a relevant offence in Tasmania. This is clearly a fundamental error, which has been a part of the Act since its commencement. It appears to have been an accidental omission, as the Act is based on national model legislation and the equivalent legislative provision in other jurisdictions includes 'a relevant offence within the meaning of this Act'. This covers the use of protected information for the investigation of offences within the jurisdiction. Given the nature of this error, the amendment has also been made retrospective.

The Bill will become law on the date it receives Royal Assent.