

CLAUSE NOTES

Surveillance Legislation Amendments (Personal Police Cameras) Bill 2018

Background:

The Bill amends the *Listening Devices Act 1991* and the *Police Powers (Surveillance Devices) Act 2006* to allow for the use of body-worn cameras by police officers.

PART 1 – PRELIMINARY

Clause 1: Short title

Specifies the name of the proposed Act.

Clause 2: Commencement

Specifies that the Act commences on the day on which it receives the Royal Assent.

PART 2 – LISTENING DEVICES ACT 1991 AMENDED

Clause 3: Principal Act

Identifies the *Listening Devices Act 1991* as the Act amended by this Part.

Clause 4: Section 3 amended (Interpretation)

Amends section 3(1) of the Principal Act by inserting a definition of personal camera, by reference to the definition to be inserted into the *Police Powers (Surveillance Devices) Act 2006*.

Clause 5: Section 5 amended (Prohibition on use of listening devices)

Amends section 5(2) of the Principal Act to exempt the use of a personal camera, in accordance with the *Police Powers (Surveillance Devices) Act 2006*, from the prohibition on the use of a listening device to record a private conversation.

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

Amends section 9 of the Principal Act to allow for the communication or publication of private conversations recorded through the use of a personal camera by a police officer, where such use is permitted under sections 33(3) and (4) of the *Police Powers (Surveillance Devices) Act 2006*.

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

Amends section 10 of the Principal Act to allow for the communication or publication of a private conversation obtained through the use of a personal camera by a police officer, where such use is permitted by sections 33(3) or (4) of the *Police Powers (Surveillance Devices) Act 2006*.

Clause 8: Section 11 amended (Possession of record of private conversation)

Amends section 11 of the Principal Act by inserting to allow for the possession of a record of a private conversation obtained through the use of a personal camera by a police officer in accordance with section 44A of the *Police Powers (Surveillance Devices) Act 2006*.

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

Clause 9: Principal Act

Identifies the *Police Powers (Surveillance Devices) Act 2006* as the Act amended by this Part.

Clause 10: Long title amended

Amends the long title of the Principal Act to recognise the amended Act also caters for the use of personal cameras that are hand-held or worn by police officers.

Clause 11: Section 3 amended (Interpretation)

Amends the Principal Act by inserting a definition of a personal camera, that provides for body-worn cameras and cameras that a usually hand held.

Clause 12: Section 7 amended (Types of warrant)

Amends section 7 of the Principal Act to make clear the use of a personal camera, in accordance with section 44A, is not required to be authorised by a warrant.

Clause 13: Section 32 amended (Interpretation)

Expands the definition of protected information in section 32 of the Principal Act to include any information obtained from the use of a personal camera used by a police officer in accordance with section 44A.

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

Omits from subsection 33(4) the words 'if it is necessary to do so...' to allow for the use, communication or publication of protected information in the specified circumstances without the requirement for it to be necessary.

Amends subsection (4)(a) to allow the communication or publication of protected information in relation to the investigation of a relevant offence within the meaning of this Act, as well as a relevant offence within the meaning of a corresponding law.

Adds to subsection (4) the training of police officers as a permitted use for the use, communication or publication of protected information.

Inserts subsection (4A) to allow for the use, communication or publication of protected information obtained by the use of a personal camera by a police officer where the information does not contain a record of a private conversation.

Inserts subsection (7) to provide that the exemptions allowing the use, communication or publication of protected information obtained by the use of a personal camera in accordance with section 44A, applies to all offences and is not limited to relevant offences, as is the case for protected information obtained by other means.

Clause 15: Section 44A inserted

Inserts a new section 44A into the Principal Act, which stipulates the requirements for use of a personal camera by a police officer who is on duty, including that the presence of the camera 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.

The section also further provides that the *Right to Information Act 2009* and the *Personal Information Protection Act 2004* apply in relation to information obtained by means of a personal camera used by a police officer, if the information may be used, communicated or published in accordance with sections 33(3) or (4) of the Act.

Clause 16: Section 45A inserted

Inserts a new section 45A to provide that the amendment to section 33(4)(a) made by clause 14(b) is retrospective to the commencement of the Principal Act.

PART 4 – CONCLUDING PROVISION

Clause 16: Repeal of Act

Repeals this amendment Act 365 days after it commences.