



New South Wales

Surveillance Devices Amendment (Public Interest Exceptions) Bill 2026

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Surveillance Devices Act 2007* (the **SD Act**) to—

- (a) make it an offence in certain circumstances to possess a record of a private conversation or the carrying on of an activity obtained in contravention of the SD Act, and
- (b) provide exceptions to certain offences relating to the communication or publication of a surveillance device record.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Surveillance Devices Act 2007 No 64

Schedule 1[1] inserts definitions of *investigative body* and *surveillance device record*.

Schedule 1[2] substitutes section 12 to provide that a person must not possess a record of a private conversation or the carrying on of an activity if the record was made in contravention of the requirements for the use of surveillance devices under the SD Act, Part 2 and the person—

- (a) made the record or caused the record to be made, or

- (b) knows the record was made in contravention of the part and fails to promptly give the record to an investigative body.

Paragraph (b) does not apply to an officer of the investigative body in particular circumstances.

Failure to comply with the proposed section is an offence, with a maximum penalty of 100 penalty units or imprisonment for 5 years, or both, for an individual or 500 penalty units otherwise.

Schedule 1[3] inserts proposed sections 14A and 14B.

Proposed section 14A provides that it is not an offence to communicate or publish a surveillance device record if the record—

- (a) is communicated or published to an investigative body in certain circumstances, or
- (b) has previously been communicated or published to the public.

Proposed section 14B provides that it is not an offence for a person to communicate or publish a surveillance device record if—

- (a) the communication or publication is done in the exercise of a function of the person as an officer of an investigative body, and
- (b) the person does not know the surveillance device record was obtained in contravention of the SD Act, Part 2 by a current or former officer of the investigative body.

Schedule 1[4] provides for a statutory review of the provisions amended or inserted by the proposed Act.