



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.



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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Surveillance Devices Amendment (Public Interest Exceptions) Bill 2026

No. _____, 2026

A Bill for

An Act to amend the *Surveillance Devices Act 2007* to provide exceptions to offences for the use of certain surveillance devices and the communication or publication of surveillance device records; to 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 Act; and for related purposes.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

Tabling copy

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Surveillance Devices Amendment (Public Interest Exceptions) Act 2026*.

3

4

2 Commencement

5

This Act commences on a day or days to be appointed by proclamation.

6

Schedule 1	Amendment of Surveillance Devices Act 2007 No 64	1
		2
[1] Section 4 Definitions		3
	Insert in alphabetical order in section 4(1)—	4
	<i>investigative body</i> means—	5
	(a) a law enforcement agency, or	6
	(b) another person, agency, authority or organisation whose functions under a law of the State or the Commonwealth include investigative functions that may result in the person, agency, authority or organisation taking formal action or proceedings against a person in relation to whom the investigative functions are exercised.	7 8 9 10 11
	<i>surveillance device record</i> means—	12
	(a) a private conversation, record or report to which section 11(1) applies, or	13 14
	(b) information to which section 14(1) applies.	15
[2] Section 12		16
	Omit the section. Insert instead—	17
12 Prohibition on possession of records of private conversations or activities in certain circumstances		18 19
(1)	A person must not possess a record of a private conversation or the carrying on of an activity if the person—	20 21
(a)	recorded, or caused to be recorded, the private conversation or carrying on of the activity in contravention of this part, or	22 23
(b)	knows the record was made through the use of a surveillance device in contravention of this part and fails to promptly give the record to an investigative body.	24 25 26
	Maximum penalty—	27
(a)	for an individual—100 penalty units or imprisonment for 5 years, or both, or	28 29
(b)	otherwise—500 penalty units.	30
(2)	Subsection (1)(b) does not apply to an officer of an investigative body who is in possession of a record of a private conversation or the carrying on of an activity if the record is in the officer's possession in connection with the exercise of the investigative body's functions.	31 32 33 34
[3] Sections 14A and 14B		35
	Insert after section 14—	36
14A Exceptions to sections 11 and 14—generally		37
(1)	A person does not commit an offence against section 11 or 14 if the person—	38
(a)	communicates or publishes a surveillance device record to an investigative body in the public interest, or	39 40
(b)	communicates or publishes a surveillance device record to an investigative body in accordance with section 12(1)(b), or	41 42

(c)	communicates or publishes a surveillance device record that has previously been communicated or published to the public, including by—	1 2 3
(i)	broadcast on radio or television, and	4
(ii)	dissemination by other electronic means, including the internet and social media.	5 6
(2)	In this section—	7
	<i>public interest</i> includes the communication or publication of surveillance device records to an investigative body if the records are relevant to the investigative body’s functions under—	8 9 10
(a)	a law of this State, or	11
(b)	a law of the Commonwealth.	12
14B	Exceptions to sections 11 and 14—officers of investigative bodies	13
	A person does not commit an offence against section 11 or 14 if—	14
(a)	the person communicates or publishes a surveillance device record in the exercise of the person’s functions as an officer of an investigative body, and	15 16 17
(b)	the surveillance device record is not known by the person to have been obtained through the use of a surveillance device by a current or former officer of the investigative body in contravention of this part.	18 19 20
[4]	Section 63	21
	Omit the section. Insert instead—	22
63	Review of certain provisions	23
(1)	The Minister must review the relevant provisions to determine whether—	24
(a)	the policy objectives of the relevant provisions remain valid, and	25
(b)	the terms of the relevant provisions remain appropriate for achieving the objectives.	26 27
(2)	The review must be undertaken as soon as practicable after the period of 5 years from the commencement of the amendment Act.	28 29
(3)	A report on the outcome of the review must be tabled in each House of Parliament within 6 years after the commencement of the amendment Act.	30 31
(4)	In this section—	32
	<i>amendment Act</i> means the <i>Surveillance Devices Amendment (Public Interest Exceptions) Act 2026</i> .	33 34
	<i>relevant provisions</i> means the provisions of this Act that are amended or inserted by the amendment Act.	35 36