



23 February 2024



Senate Standing Committee on Finance and Public Administration  
Inquiry into Access to Australian Parliament House by lobbyists

To the committee,

On 13 November 2023 I introduced the *Lobbying (Improving Government Honest and Trust) Bill 2023*, a Private Member's Bill seeking to regulate lobbyists by expanding the Lobbyist Code of Conduct, publishing Ministerial diaries, shutting the revolving door of Ministerial and senior public service appointments, and ensuring that these new measures are enforceable and enforced.

Alongside the Centre for Public Integrity, Transparency International and the Australian Democracy Network, I launched a national grassroots campaign to pass this *#CleanUpPoliticsAct* to improve regulation of lobbying activities at the Federal level.

On 6 December 2023, the Senate referred an inquiry into access to Australian Parliament House by lobbyists and the adequacy of current transparency arrangements relating to the lobbyist register to the Senate Finance and Public Administration Reference Committee, for inquiry and report by 30 April 2024.

There is a trust deficit in Federal politics in Australia. Our communities commonly believe that the political system has no interest in being transparent and open because its actions are subverted by politicians and those with vested interests. The pervasive influence of lobbyists over political decision-making has become increasingly troubling to electorates like Kooyong. Advocacy is a legitimate contribution to the democratic process, bringing diverse perspectives to government representatives, and informing policy development and decision making. However, the practice of lobbying, and its role in decision-making, must be made more transparent to ensure that Government decisions are taken in the public interest and not unduly influenced by private interests or by external directions unknown to the public.

In this submission, I briefly explain the key elements of my #CleanUpPoliticsAct, which was developed in consultation with several peak integrity bodies. I am available to be a witness at the inquiry should the committee wish to call on me.

### **Improving the Federal Code of Conduct**

The current Federal Code of Conduct for lobbyists is severely limited. It applies to registered professional lobbyists acting on behalf of third-party clients, but it does not apply to most lobbying activities - for instance, that undertaken by businesses and industry bodies. It does not apply to in-house lobbyists. The Bill will expand the register to include in-house lobbyists.

Furthermore, while the identities of registered lobbyists and their clients are published on a register, there is little transparency regarding their lobbying activity and access to government. There are no meaningful consequences for breaching the Federal Code of Conduct. The responsibility for making the impact of lobbying transparent, and decision-makers accountable for their actions, must be borne by both the Government and by lobbyists themselves. The Bill would enable the National Anti-Corruption Commissioner to investigate potential contraventions of the Code. The Commissioner may refer breaches to the Australian Federal Police, who under the Bill may fine individuals if the breaches are proven.

### **Publication of Ministerial diaries**

There is presently no consistent or visible way of knowing which corporate or stakeholder groups are meeting with Ministers. The risk of conflicts of interest, and bias in decision-making, are further heightened when former politicians, senior political staff or high-ranking government officials take on roles in the private sector and then engage in Government lobbying on behalf of a private entity. This Bill would require Ministers publish their diaries each month, detailing who they or their advisers met, when the meeting was, and what the key matters discussed were.

The publication of Ministerial diaries is a vital transparency — and accountability — measure. Voters should know who their Ministers and senior Ministerial advisers are meeting with and why those meetings are occurring. Unlike New South Wales, Queensland, and the Australian Capital Territory, there is currently no Commonwealth legislative requirement to publish Ministerial diaries. This Bill would address that deficit in governmental transparency.

### **Publication of lobbyists' diaries**

The publication of lobbyists' meetings with government Ministers, and other MPs, is another important transparency measure which will militate against secrecy in government decision making. The public deserves to be able to see who is lobbying, to whom, when, and about what. At present, that is not possible. This Bill would require lobbyists to regularly publish this information. It will provide a means of cross-checking against Ministerial diaries and also reveal which non-Ministerial MPs and Senators are being lobbied, by whom, and on what issue.

### **Shutting the revolving door**

When former politicians, senior political staff and high-ranking government officials take on roles in the private sector upon leaving Government, and then engage in lobbying on behalf of a private entity, this heightens the public perception of possible conflicts of interests and bias. At present, the Federal Code of Conduct provides that Ministers must not engage in lobbying activities relating to any matter in which they had official dealings for 18 months after leaving office. For Ministerial adviser level and above, members of the Australian Defence Force at Colonel level or above, agency heads, and persons employed under the Public Service Act 1999 in the Senior Executive Service, that period is 12 months.

In recent decades the Code has repeatedly been breached by senior figures from the government and the public service. This fact is a source of frustration and disappointment to many, who believe that politicians hold themselves to a different set of standards than the public — sadly, not standards which inspire trust in the political process or their representatives' motivations. This Bill will extend the cooling-off period to three years and create enforcement mechanisms. It will hold Ministers and senior public servants to account for their decision making prior to and after they leave office. It will, hopefully, reverse some of the cynicism felt by our electorates and the fourth estate about our motivations while we hold and after we relinquish senior offices in our Federal government.

### **Preventing senior campaign advisors from lobbying**

At present, lobbyists can work in senior campaign advisory positions during an election period, then — immediately after the election — return to the private sector to lobby the Government on behalf of commercial and other interests. At a minimum, this practice creates an unavoidable perception of bias in the mind of the public and contributes to the diminution of faith in our democracy by corroding community confidence in government. This Bill requires senior campaigners to wait until six months after a Federal election before working as lobbyists.

Thank you for taking the time to consider this Bill, and for your careful review of Australia's inadequate lobbying regulations. I have attached the *Lobbying (Improving Government Honest and Trust) Bill 2023* and its Explanatory Memorandum for your consideration. I would greatly appreciate an opportunity to speak to the committee in person.

Sincerely,

Dr Monique Ryan MP  
Independent Member for Kooyong

**2022 — 2023**

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**HOUSE OF REPRESENTATIVES**

**Lobbying (Improving Government Honesty and Trust)**

**Bill 2023**

**EXPLANATORY MEMORANDUM**

**and**

**STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

Circulated by authority of

Dr Monique Ryan MP

## **Lobbying (Improving Government Honesty and Trust) Bill 2023**

### **Background to the Bill**

1. There is increasing public concern that our Government and its representatives lack honesty and integrity. Our communities commonly believe that the political system has no interest in being open because it operates for politicians and those with vested interests. These concerns and beliefs have led to louder calls for Government decision-making to be made transparent, and for those individuals making the decisions to be held accountable.
2. Perceptions have worsened in recent years about the pervasive influence that lobbyists have over political decision-making. Certainly, advocacy in and of itself is a legitimate contribution to the democratic process, bringing diverse perspectives to government representatives to inform policy development and decision making. However, the practice of lobbying and its role in decision-making must be made more transparent to ensure that Government decisions are taken in the public interest and not unduly influenced by private interests or by external direction unknown to the public.
3. The current Federal Code of Conduct for lobbyists is severely limited. It applies to registered professional lobbyists acting on behalf of third-party clients, but it does not apply to most lobbying activity; for instance, that undertaken by businesses and industry bodies. It does not apply to in-house lobbyists.
4. Furthermore, while the identities of registered lobbyists and their clients are published on a register, there is a lack of transparency regarding their lobbying activity and access to government.
5. There are no meaningful consequences for breaching the Federal Code of Conduct.
6. The responsibility for making the impact of lobbying transparent, and decision-makers accountable for their actions, must be borne by both Government and lobbyists themselves.

7. There is presently no consistent or visible way of knowing which corporate or stakeholder groups are meeting with Ministers. The risk of conflicts of interest, and bias in decision-making, are further heightened when former politicians, senior political staff or high-ranking government officials take on roles in the private sector and then engage in Government lobbying on behalf of a private entity.
8. The publication of Ministerial diaries is a vital transparency — and accountability — measure. Voters should know who their Ministers and senior Ministerial advisers are meeting with and why those meetings are occurring. However, unlike New South Wales, Queensland, and the Australian Capital Territory, there is currently no Commonwealth legislative requirement to publish Ministerial diaries.
9. The publication of lobbyists' meetings with government is also an important transparency measure which will militate against secrecy in government decision-making. The public deserves to be able to see who is lobbying, to whom, when, and about what. At present, that is not possible.
10. When former politicians, senior political staff and high-ranking government officials take on roles in the private sector upon leaving Government, and then engage in lobbying on behalf of a private entity, this heightens the perception of possible conflicts of interests and bias. At present, the Federal Code of Conduct provides that Ministers must not — for 18 months after leaving office — engage in lobbying activities relating to any matter in which they had official dealings. For Ministerial adviser level and above, members of the Australian Defence Force at Colonel level or above, an agency head, or person employed under the *Public Service Act 1999* in the Senior Executive Service, that period is 12 months.
11. At present, lobbyists can work in senior campaign advisory positions during an election period, then — immediately after the election — return to the private sector to lobby the Government. At a minimum, this practice creates an unavoidable perception of bias in the mind of the public, and more broadly contributes to the diminution of our democracy by corroding community confidence in Government.

## Outline of the Bill

This Bill introduces several measures.

1. It enhances the integrity of Government decision-making by extending the Register of Lobbyists to include registered professional lobbyists acting on behalf of third parties, services firms, and lobbyists acting on behalf of businesses and industry bodies ('in house lobbyists').
2. It enhances transparency and accountability by setting out the information that must be included on the Register of Lobbyists. The Register must include names of lobbyists, and it requires that a person be identified as a professional lobbyist, an in-house lobbyist and/or a former Government representative.
3. It enhances transparency by prohibiting lobbying by an unregistered lobbyist. It makes it an offence for a person who is not registered to engage in lobbying activities with a Government representative, if that person is a professional lobbyist, or employed or engaged by a professional lobbyist.
4. It enhances transparency and accountability by requiring lobbyists to prepare a quarterly return that must be uploaded to the publicly searchable online Register of Lobbyists. It must detail all meetings with members of parliament and their senior advisers must, note the key issues discussed, and specify those persons in attendance.
5. It promotes the integrity of lobbying activities by requiring lobbyists to disclose details such as the ownership structure and major shareholders of the entities being represented, and ordinarily (with some exceptions) the names of the third-party clients.
6. It restricts the giving of gifts and hospitality by lobbyists to Government representatives.
7. It restricts lobbying activities in circumstances where a lobbyist has a close relationship with the Government representative being lobbied, and, a sense of



obligation towards the lobbyist could reasonably be expected to subsist because of that close relationship.

8. It requires the publication of Ministers' diaries, such that meetings with both registered and non-registered lobbyists are disclosed. All meetings with stakeholders, external organisations and lobbyists that relate to the Minister's responsibilities must be listed. This includes meetings held at office and offsite, scheduled phone calls, and events where a Minister attends in an official capacity. All events and functions attended by the Minister (or Parliamentary Secretary) that relate to their Ministerial responsibilities must also be included in their diaries. (This clause extends the publication requirement to Parliamentary Secretaries because a Parliamentary Secretary is a Minister under s4 of the *Ministers of State Act 1952*.)
9. It extends the post-employment cooling-off period for former Ministers and senior government officials and advisers to three years, in keeping with international best practice.
10. It provides the National Anti-Corruption Commission with the ability to investigate alleged breaches of the legislation.
11. It imposes sanctions for breaches including fines and suspension or revocation of registration.

## **Financial Impact**

The Bill will have no financial impact.

## **Notes on Clauses**

### **Part 1 Preliminary**

#### **Clause 1 Short Title**

This clause provides for the Bill, when enacted, to be cited as the *Lobbying (Improving Government Honesty and Trust) Act 2023*.

## **Clause 2 Commencement**

Subsection 2(1) provides that each provision of the Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Item 1 in the Table provides that the whole of the Act will commence the day after the day on which the Consolidated Revenue Fund is appropriated under an Act to the Department in which the Act is administered for payment for the purposes of the Act.

Subsection 2(2) provides that any information in column 3 of the table is not part of the Act. Information may be inserted in this column, or information in it may be edited, in any published version of the Act.

## **Clause 3 Objects of the Act**

The principal aim of the Act is to promote and enhance transparency, integrity, and honesty in dealings between lobbyists and the Government.

The Act:

- a. provides for the registration of lobbyists, with details to be made publicly available on an online register
- b. requires detailed quarterly lobbying returns to be prepared and uploaded to the register by all registered lobbyists
- c. ensures that registered lobbyists comply with appropriate standards of conduct when engaging in lobbying activities with Government representatives
- d. requires the publication of Ministerial diaries on a periodic basis
- e. requires the Australian Government Directory to include entries for current and former senior Ministerial staffers
- f. restricts lobbying by certain former Government representatives
- g. restricts lobbying and inappropriate practices of Ministers after ceasing to be Ministers
- h. restricts lobbying and inappropriate practices of senior Government advisers after ceasing to be senior Government advisers

- i. provides for enforcement of the Act, including through the imposition of appropriate penalties.

#### **Clause 4 Simplified outline of this Act**

This clause provides a simplified outline of the Act.

#### **Clause 5 Crown to be bound**

This clause provides that the Act binds the Crown in right of the Commonwealth.

#### **Clause 6 Application**

This clause provides that the Act applies both within and outside Australia, and only applies to lobbying activities after the commencement of the Act.

The Act does not require a Government representative to have dealings with a lobbyist/s and it does not limit communication with a person if a law requires a Government representative to take account of the views advanced by a person.

#### **Clause 7 Extended geographical jurisdiction for offences**

This clause provides that section 15.1 of the Criminal Code will apply to all offences under the Act.

### **Part 2 Definitions**

#### **Clause 8 Definitions**

This clause defines terms and expressions used throughout the Act to avoid doubt and to clarify the intended meaning of each word for the specific purposes of the Act.

Critical definitions that apply to the operation of the Act and may assist in the reading of this Explanatory Memorandum include:

- a. **Government decision-making** includes the making of a decision in relation to: the proposing, making, or amending of legislation; the proposing, developing, or amending of an Australian government policy or program; the awarding of an Australian government contract; and the granting or allocation of funding.
- b. **Government representative** means any of the following: a parliamentarian; a person employed or engaged by a parliamentarian under the *Members of Parliament (Staff) Act 1984*; an Agency Head or a person employed under the *Public Service Act 1999*; a person engaged as a contractor or consultant by a Commonwealth entity, or a member of the Australian Defence Force.

### **Clause 9 Meaning of lobbying activity**

This clause defines the meaning of *lobbying activity* for the purposes of the Act. It provides that it means any activity undertaken with a Government representative for the purpose of influencing Government decision-making.

This clause excludes various activities from the definition of lobbying activity, including such things as: communicating with a committee of Parliament; communicating in one's capacity as a constituent; responding to tender or submission requests; and communicating as part of an activity of a grassroots campaign nature in an attempt to influence an Australian government policy or decision.

### **Clause 10 Meaning of lobbyist**

This clause defines the meaning of *lobbyist*. It provides that lobbyist includes professional lobbyists and in-house lobbyists.

A **professional lobbyist** is a person who undertakes lobbying activities on behalf of a third-party client, or the person employs or engages another person to undertake lobbying activities on behalf of a third-party client.

The meaning of an **in-house lobbyist** is dependent upon an *entity* meeting certain requirements as well as the *person* employed as a lobbyist by that entity.

The *entity* must incur expenditure of at least \$100,000 for the current financial year, or for any of the last 3 financial years, on remuneration for officers, employees, or contractors who, as a significant part of their role, undertake or direct lobbying activities for the entity **or** have an annual revenue of at least \$5 million for the current financial or for any of the last 3 financial years; **or** be an industry association.

The *person* must be an officer, employee, or contractor of the entity. They must spend at least 8 hours in a calendar month undertaking or directing lobbying activities for the entity for at least 3 calendar months in the current financial year, or in any of the last 3 financial years.

Importantly, a member of a trade delegation visiting Australia is not regarded as a lobbyist.

Similarly, a person who provides technical or professional services as a member of a technical or professional occupation — such as medicine, law, or accountancy — is not regarded as a lobbyist if the undertaking of lobbying activities is occasional and incidental only.

### **Part 3 Regulation of lobbying activities and related practices**

#### **Clause 11 Lobbying activity by unregistered lobbyists prohibited**

This clause provides that a person commits an offence if they undertake lobbying activities with or in relation to a Government representative and they are a professional lobbyist or an in-house lobbyist and are not registered.

#### **Clause 12 Certain former Government representatives must not engage in lobbying activities or related practices**

This clause provides — amongst other things — that a person commits an offence if for 3 years after ceasing to be a Minister they engage in lobbying activities with a Government representative on matters on which they had official dealings in their Ministerial role. It is also an offence to provide advice or information to assist a lobbyist on an aspect of work for a department or agency for which they held Ministerial responsibility. Moreover, it is an

offence for the Minister to provide advice or information about projects or contracts for which they held Ministerial responsibility for their own financial or commercial advantage.

Similar provisions exist in this clause for senior Government advisers. They are defined as senior Ministerial advisers, Agency Heads, SES employees of a Commonwealth entity, or a member of the ADF with a rank of Colonel or above. A senior Ministerial adviser is someone classified as a member of senior staff under the *Members of Parliament (Staff) Act 1984*

## **Clause 13 Undertaking lobbying activities**

### **Principles**

This clause provides that a lobbyist must observe several principles. They include that the lobbyist:

- a. must not engage in conduct that is corrupt, dishonest or illegal
- b. must not engage in conduct that unlawfully causes or threatens detriment to another person
- c. must use all reasonable endeavours to satisfy themselves of the truth and accuracy of all statements and information provided by them to their clients, members of the public, or Government representatives
- d. must keep their lobbying activities separate from any activities the lobbyist or person engages in in a personal capacity or on behalf of a political party
- e. must inform the Government representative before engaging in lobbying activities that:
  - i. the person is a registered lobbyist
  - ii. the names of each client on behalf of whom the person is engaging in the lobbying activities
  - iii. the nature of the matters that each client wishes them to raise with the Government representative; and
  - iv. if the lobbyist or person is prohibited from engaging in certain lobbying activities under section 12

- f. must not provide a gift or hospitality directly or indirectly to the Government representative, unless the gift is of low value and is given as a token of appreciation or as a promotional item
- g. any other principle prescribed by the rules.

### **Close relationship**

This clause also requires that a registered lobbyist or listed person must not undertake lobbying activities with, or in relation to, a Government representative if the Government representative would reasonably be seen to have a close relationship with the lobbyist and a sense of obligation towards the lobbyist because of that close relationship would be expected.

### **Role in Election Campaign**

The section requires that an in-house lobbyist or listed person must not perform both a substantial role in an election campaign, and work as an in-house lobbyist or as listed person of a professional lobbyist during the period from the time the writs are issued for a general election until 6 months after the election. If an in-house lobbyist or listed person does choose to undertake a substantial role in an election campaign, then they may request that the Commissioner suspend their registration as a registered lobbyist for that period.

### **Clause 14 Obligations of Government representatives**

This clause provides that a Government representative cannot engage in lobbying activities with a person unless that person is registered or listed as a lobbyist, and that person has told the Government representative the names of the client/s on whose behalf they are representing.

A Government representative who becomes aware of a contravention of this Bill must refer the matter to the Commissioner.

## **Part 4 Registration**

### **Division 1 — Register of Lobbyists**

## **Clause 15 Establishment of Register**

This clause provides that the Commissioner must establish an electronic Register of Lobbyists that is published on the website of the Department administered by the Attorney General.

## **Clause 16 Information to be included on the Register**

This clause sets out the information that must be contained in the Register for each registered lobbyist. It also includes the circumstances in which such information need not be included.

## **Clause 17 Information from quarterly returns to be included on the Register**

This clause establishes the requirement for a lobbyist to give the Commissioner a quarterly return that discloses the number of lobbying activities undertaken by a lobbyist or listed person for the preceding quarter. For each activity the following must be disclosed:

- a. details about the topic of the activity and the desired outcome
- b. the name of each Government representative the activity was with, or relates to
- c. the form of any communication as part of the activity
- d. the day or days the activity happened
- e. the names of the persons directing and undertaking the activity.

There are further obligations if the lobbyist is a professional lobbyist. They include the disclosure of the name and ABN of their third-party clients as well as, in the case of those clients that are body corporates, the details of any controlled entities of those clients.

## **Division 2 — Registration Process**

### **Clause 18 Application for Registration**

This clause sets out the method by which a lobbyist applies for registration and the documentation required to support the application. It includes a requirement for a statutory declaration that, among other things, requires a person to declare that they have not previously committed a serious contravention of the Act.



## **Clause 19 Registration**

This clause sets out when the Commissioner is required to register a lobbyist and the circumstances in which a lobbyist may be refused registration.

## **Division 3 — Updating the Register**

### **Clause 20 Notification of changes to registration details**

This clause requires that an amendment to the register be notified by the lobbyist to the Commissioner within 10 business days and that a person commits an offence if they fail to do so.

### **Clause 21 Periodic confirmation of registration details**

This clause provides that confirmation of lobbyist registration details will occur each year in February and July. In July there is an additional requirement for lobbyists to complete a new statutory declaration as per clause 18.

## **Division 4 — Variation, suspension, or cancellation of registration**

### **Clause 22 Variation, suspension, or cancellation of registration**

This clause provides that a lobbyist's registration can be varied, suspended, or cancelled at the initiative of the Commissioner, or by the Minister as directed to the Commissioner. The Minister must state the reasons why they are proposing this course of action and request that the lobbyist show cause as to why the change should not take place.

## **Part 5 Other transparency requirements**

### **Clause 23 Requirement to publish Ministerial diaries**

This clause provides that Ministers must publish their diaries each calendar month.

The information that must be contained in the diaries includes all meetings with stakeholders, external organisations and lobbyists that relate to the Minister's responsibilities, including:

- a. meetings held in person, by videoconference, teleconference, or telephone call
- b. meetings attended by the Minister or by an adviser to the Minister
- c. details of who attended each meeting and the key matters discussed.

The diary must also disclose all events and functions attended by the Minister that relate to the Minister's responsibilities.

#### **Clause 24 Requirement for Australian Government Directory to include entries for current and former senior Ministerial staffers**

This clause provides that the Australian Government Directory show the name of each senior Ministerial staffer and former senior Ministerial staffer in such a way that links the staff to the Minister's entry in the Australian Government Directory. For former senior Ministerial staffers, their employment cessation date must be noted, and these details must be maintained for 3 years post-cessation.

### **Part 6 Enforcement**

#### **Clause 25 Referral of alleged contravention**

This clause provides that, if a person reasonably believes someone has contravened the Act, they must refer the matter to the Commissioner.

#### **Clause 26 Investigations by the Commissioner**

This clause provides that the Commissioner may instigate an investigation on its own initiative or in response to a referral under s25.

### **Part 7 Miscellaneous**

#### **Clause 27 Review of decisions**

This clause provides that a lobbyist may make an application to the Administrative Appeals Tribunal for review of a decision by the Commissioner not to register a lobbyist, or to vary, suspend, or cancel a lobbyist's registration.

Similarly, such an application can be made to review a decision of the Minister to direct the Commissioner not to register a lobbyist or to vary, suspend or cancel a lobbyist's registration.

### **Clause 28 Treatment of partnerships**

This clause provides how a partnership, and its partners, are to be regarded under the Act.

### **Clause 29 Treatment of unincorporated associations**

This clause provides how unincorporated associations are to be regarded under the Act.

### **Clause 30 Annual report**

This clause provides that when the Commissioner is preparing a report under the *Public Governance, Performance and Accountability Act 2013* in relation to the National Anti-Corruption Commission for a particular period, it must include information about the operation of this Act for the same period.

### **Clause 31 Review of the Operation of the Act by an expert panel**

This clause provides that the Minister must cause an independent review of the Act by an expert panel within three years of the commencement of the Act.

It must also include an opportunity for members of the public to make written submissions about the operation of the Act.

The report of the review must be tabled before each House of Parliament within 7 days of the House having reviewed the Report.

### **Clause 32 Appointment of members of the expert panel**

This clause provides that a three-person expert panel must conduct the independent review of the operation of the Act. Those appointed to the panel must have expertise or experience in one or more of the following areas: community advocacy and engagement; legal and regulatory compliance; or contemporary issues relating to lobbying.

However, none of the following is permitted to be on the panel: a current officer or employee of a registered political party, a registered lobbyist or listed person, or a current or former parliamentarian.

The Minister must first propose the expert members they intend to appoint to a parliamentary committee — whose role covers the kinds of matters set out in the objects of the Act. This committee must notify the Minister if it supports or vetoes the appointments and, if it vetoes an appointment/s, it must propose two alternatives for each person vetoed.

### **Clause 33 Rules**

This clause provides that a Minister may make rules prescribing matters, amongst other things, that are necessary or convenient for carrying out or giving effect to the Act.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

### **Lobbying (Improving Government Honesty and Trust) Bill 2023**

The Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Bill**

This Bill introduces several measures.

1. It enhances the integrity of Government decision-making by extending the Register of Lobbyists to include registered professional lobbyists acting on behalf of third parties, services firms, and lobbyists acting on behalf of businesses and industry bodies ('in house lobbyists').
2. It enhances transparency and accountability by setting out the information that must be included on the Register of Lobbyists. The Register must include names of lobbyists, and it requires that a person be identified as a professional lobbyist, an in-house lobbyist and/or a former Government representative.
3. It enhances transparency by prohibiting lobbying by an unregistered lobbyist. It makes it an offence for a person who is not registered to engage in lobbying activities with a Government representative, if that person is a professional lobbyist, or employed or engaged by a professional lobbyist.
4. It enhances transparency and accountability by requiring lobbyists to prepare a quarterly return that must be uploaded to the publicly searchable online Register of Lobbyists. It must detail all meetings with members of parliament and their senior advisers must, note the key issues discussed, and specify those persons in attendance.

5. It promotes the integrity of lobbying activities by requiring lobbyists to disclose details such as the ownership structure and major shareholders of the entities being represented, and ordinarily (with some exceptions) the names of the third-party clients.
6. It restricts the giving of gifts and hospitality by lobbyists to Government representatives.
7. It restricts lobbying activities in circumstances where a lobbyist has a close relationship with the Government representative being lobbied, and, a sense of obligation towards the lobbyist could reasonably be expected to subsist because of that close relationship.
8. It requires the publication of Ministers' diaries, such that meetings with both registered and non-registered lobbyists are disclosed. All meetings with stakeholders, external organisations and lobbyists that relate to the Minister's responsibilities must be listed. This includes meetings held at office and offsite, scheduled phone calls, and events where a Minister attends in an official capacity. All events and functions attended by the Minister (or Parliamentary Secretary) that relate to their Ministerial responsibilities must also be included in their diaries. (This clause extends the publication requirement to Parliamentary Secretaries because a Parliamentary Secretary is a Minister under s4 of the *Ministers of State Act 1952*.)
9. It extends the post-employment cooling off period for former Ministers and senior government officials and advisers to three years, in keeping with international best practice.
10. It provides the National Anti-Corruption Commission with the ability to investigate alleged breaches of the legislation.
11. It imposes sanctions for breaches including fines and suspension or revocation of registration.

## Human rights implications

1. The amendments proposed in this Bill may engage the following rights under the *International Covenant on Civil and Political Rights (ICCPR)*:

- the right to freedom of expression (Part III, Article 19, Section 2); and
- the right to take part in public affairs (Part III, Article 25).

### *The right to freedom of expression*

2. The right to freedom of expression is contained in Article 19 of the ICCPR. It includes the ‘freedom to seek, receive and impart information and ideas of all kinds,’ regardless of medium (Article 19(1), ICCPR).
3. This right may be engaged because the Bill seeks to limit freedom of expression by:
- a. imposing limitations on the ability of parties to undertake lobbying activities — and thereby impart and receive information — in circumstances where they are not registered to do so; and
  - b. otherwise, by imposing limits on the giving of gifts and hospitality which may reduce the influence that might otherwise be exerted.
4. It is well established at law that the right to freedom of expression is not absolute and may be limited by law.
5. The right of a person to express their view, in circumstances where those views may influence government decision-making in such a way that is not transparent, must be balanced against the need to protect the public from a diminution in confidence in the political system, a perception of a lack of integrity in Government, and an actual lack of transparency in the decision-making of Government. Each of these factors contributes to the corrosion of democracy and faith in democratic principles and must be avoided.

6. The lobbying measures in the Bill — whilst imposing reporting requirements upon parties who meet with Government representatives — do not limit the ability of those parties to express their views in circumstances where they meet those reporting requirements. Neither do they otherwise impose restrictions on individuals expressing political views or contributing to public discourse.
7. The registration and reporting requirements imposed by the Bill, to the extent that they limit a party's freedom of expression, are reasonable and proportionate.

*The right to take part in public affairs*

8. The right to take part in public affairs is contained in Article 25 of the ICCPR. This right provides that 'every citizen shall have the right and the opportunity, without any of the distinctions mentioned in Article 2 and without unreasonable restrictions, to take part in the conduct of public affairs directly or through freely chosen representatives.' None of the distinctions mentioned in Article 2 of the IPCC are relevant to the provisions of this Bill.
9. This right is closely related to the right to freedom of expression. This Bill seeks to limit the right to take part in public affairs to the extent that it prohibits certain parties from lobbying — which is to say meeting with Government representatives if they are not registered or do not otherwise comply with the initial and ongoing requirements of registration.
10. It does not otherwise impose restrictions on individuals expressing political views or contributing to public discourse on elections.
11. As is the case with a limitation on the freedom of expression, this limitation is necessary because the right to take part in public affairs must be balanced against the need to protect the public from a diminution in confidence in the political system, a perception of a lack of integrity in Government, and a lack of transparency in governmental decision-making. Each of these factors contributes to the corrosion of democracy and a loss of belief in democratic principles.



12. When balanced against these factors, the registration and reporting requirements imposed by the Bill which create limitations on the ability of parties to freely take part in the conduct of public affairs, are reasonable and proportionate.

### **Conclusion**

This Bill is compatible with human rights because to the extent that it may limit human rights, those limitations are reasonable, necessary, and proportionate.

**Dr Monique Ryan, MP**

2022-2023

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

## **Lobbying (Improving Government Honesty and Trust) Bill 2023**

**No.     , 2023**

*(Dr Ryan)*

**A Bill for an Act to establish a scheme to promote  
and enhance transparency, integrity and honesty in  
dealings between lobbyists and Government  
representatives, and for related purposes**



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1 **A Bill for an Act to establish a scheme to promote**  
2 **and enhance transparency, integrity and honesty in**  
3 **dealings between lobbyists and Government**  
4 **representatives, and for related purposes**

5 The Parliament of Australia enacts:

6 **Part 1—Preliminary**  
7

8 **1 Short title**

9 This Act is the *Lobbying (Improving Government Honesty and*  
10 *Trust) Act 2023*.

**Part 1 Preliminary**

**Section 2**

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1 **2 Commencement**

2 (1) Each provision of this Act specified in column 1 of the table  
3 commences, or is taken to have commenced, in accordance with  
4 column 2 of the table. Any other statement in column 2 has effect  
5 according to its terms.  
6

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day after the day on which the Consolidated Revenue Fund is appropriated under an Act to the Department in which this Act is administered for payment for the purposes of this Act.	

7 Note: This table relates only to the provisions of this Act as originally  
8 enacted. It will not be amended to deal with any later amendments of  
9 this Act.

10 (2) Any information in column 3 of the table is not part of this Act.  
11 Information may be inserted in this column, or information in it  
12 may be edited, in any published version of this Act.

13 **3 Objects of this Act**

14 The objects of this Act are to promote and enhance transparency,  
15 integrity and honesty in dealings between lobbyists and  
16 Government representatives by:  
17 (a) providing for the registration of lobbyists; and  
18 (b) restricting lobbying by certain former Government  
19 representatives; and  
20 (c) ensuring that registered lobbyists comply with appropriate  
21 standards of conduct when engaging in lobbying activities  
22 with Government representatives; and  
23 (d) requiring the publication of Ministerial diaries on a periodic  
24 basis; and  
25 (e) requiring the Australian Government Directory to include  
26 entries for current and former senior Ministerial staffers; and

- 1 (f) restricting lobbying and inappropriate practices of Ministers  
2 after ceasing to be Ministers; and  
3 (g) restricting lobbying and inappropriate practices of senior  
4 Government advisers after ceasing to be senior Government  
5 advisers; and  
6 (h) providing for the enforcement of this Act, including through  
7 the imposition of appropriate penalties.

8 **4 Simplified outline of this Act**

9 This Act establishes a scheme to promote and enhance  
10 transparency, integrity and honesty in dealings between lobbyists  
11 and Government representatives.

12 ***Lobbying activity*** and ***lobbyist*** are defined in Part 2.

13 Part 3 regulates lobbying activities by:

14 (a) prohibiting lobbying activity by unregistered lobbyists;  
15 and  
16 (b) restricting lobbying, and inappropriate work practices,  
17 by certain former Government representatives after they  
18 cease to hold office; and  
19 (c) requiring registered lobbyists to comply with  
20 appropriate standards of conduct when engaging in  
21 lobbying activities with Government representatives;  
22 and  
23 (d) imposing obligations on Government representatives  
24 who are party to lobbying activities.

25 Part 4 provides for the establishment of a Register of Lobbyists and  
26 sets out processes for registering lobbyists, for keeping the Register  
27 up-to-date and for varying, suspending or cancelling registrations.  
28 The processes for keeping the Register up-to-date include requiring  
29 registered lobbyists to give quarterly returns.

30 Part 5 makes provision for the publication of Ministerial diaries on  
31 a periodic basis, and for the Australian Government Directory to  
32 include entries for current and former senior Ministerial staffers.



**Part 1** Preliminary

Section 5

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Part 6 provides for alleged contraventions of the Act to be referred to the National Anti-Corruption Commissioner and for the investigation of alleged contraventions by the National Anti-Corruption Commissioner.

Part 7 makes provision for a review of the operation of the Act and deals with other miscellaneous matters.

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**5 Crown to be bound**

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to a pecuniary penalty or to be prosecuted for an offence.

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**6 Application**

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- (1) This Act applies both within and outside Australia and extends to the external Territories.
- (2) This Act applies in relation to lobbying activities engaged in on or after the commencement of this Act.
- (3) Nothing in this Act:
  - (a) requires a Government representative to have dealings with:
    - (i) a particular lobbyist; or
    - (ii) lobbyists in general; or
  - (b) limits communication by a person (whether personally or through a lobbyist) with a Government representative if a law requires a Government representative to take account of the views advanced by the person.

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**7 Extended geographical jurisdiction for offences**

Section 15.1 (extended geographical jurisdiction—category A) of the *Criminal Code* applies to all offences against this Act.

1 **Part 2—Definitions**  
2

3 **8 Definitions**

4 In this Act:

5 **ABN** (short for **Australian Business Number**) has the meaning  
6 given by the *A New Tax System (Australian Business Number) Act*  
7 *1999*.

8 **Agency Head** has the same meaning as in the *Public Service Act*  
9 *1999*.

10 **approved form** means a form approved in writing by the  
11 Commissioner for the purposes of the provision in which the  
12 expression appears.

13 **Commissioner** means the National Anti-Corruption Commissioner.

14 **Commonwealth entity** has the same meaning as in the *Public*  
15 *Governance, Performance and Accountability Act 2013*.

16 **communicating** with a Government representative includes oral,  
17 written and electronic communications.

18 **engage in conduct** means:

- 19 (a) do an act; or  
20 (b) omit to perform an act.

21 **entity**:

- 22 (a) means a natural person, a body corporate, a partnership or a  
23 trust; and  
24 (b) includes, in the case of a trust, the trustee of the trust.

25 **Government decision-making** includes the making of decisions in  
26 relation to any of the following:

- 27 (a) the proposing, making or amending of legislation;  
28 (b) the proposing, developing or amending of an Australian  
29 government policy or program;  
30 (c) the awarding of an Australian government contract;

**Part 2** Definitions

**Section 8**

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1 (d) the granting or allocating of funding.

2 Note: Paragraph (a) covers both primary and delegated legislation.

3 ***Government representative*** means any of the following:

4 (a) a parliamentarian;

5 (b) a person employed or engaged by a parliamentarian under the  
6 *Members of Parliament (Staff) Act 1984*;

7 (c) an Agency Head or a person employed under the *Public*  
8 *Service Act 1999*;

9 (d) a person engaged as a contractor or consultant by a  
10 Commonwealth entity;

11 (e) a member of the Australian Defence Force.

12 ***in-house lobbyist***: see subsection 10(3).

13 ***listed person***: see subparagraph 16(1)(b)(iii).

14 ***lobbying activity***: see section 9.

15 ***lobbyist***: see section 10.

16 ***officer*** has the same meaning as in the *Corporations Act 2001*.

17 ***parliamentarian*** has the same meaning as in the *National*  
18 *Anti-Corruption Commission Act 2022*.

19 ***professional lobbyist***: see subsection 10(2).

20 ***quarter*** means a period of 3 months ending on 31 March, 30 June,  
21 30 September or 31 December.

22 ***Register*** means the Register of Lobbyists established under  
23 section 15.

24 ***registered lobbyist*** means a lobbyist that is included in the  
25 Register.

26 ***rules*** means the rules made under section 33.

27 ***senior Government adviser*** means a person who is:

28 (a) a senior Ministerial staffer of a Minister; or

29 (b) an Agency Head; or

Section 9

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- 1 (c) an SES employee (or equivalent) of a Commonwealth entity;  
2 or  
3 (d) a member of the Australian Defence Force with the rank of  
4 Colonel (or equivalent) or higher.

5 Note: *SES employee* is defined in the *Acts Interpretation Act 1901*.

6 **senior Ministerial staffer**, of a Minister, means a person who:

- 7 (a) is employed or engaged by the Minister under the *Members*  
8 *of Parliament (Staff) Act 1984*; and  
9 (b) is classified as a member of senior staff.

10 Note: Attachment A of the *Commonwealth Members of Parliament Staff*  
11 *Enterprise Agreement 2020-23* sets out the classification structure for  
12 these senior staff. In 2023, this agreement could be viewed on the  
13 website of the department administered by the Minister for Finance  
14 (<http://www.finance.gov.au>).

15 **serious contravention** means a contravention of:

- 16 (a) section 11 (lobbying activity by unregistered lobbyists  
17 prohibited); or  
18 (b) section 13 (conduct of lobbying activities).

19 **third-party client**, of a professional lobbyist, means a person or  
20 body that has engaged the lobbyist to make representations to  
21 Government representatives.

22 **9 Meaning of lobbying activity**

- 23 (1) **Lobbying activity** means any activity undertaken with, or in  
24 relation to, a Government representative for the purpose of  
25 influencing Government decision-making.

26 Note 1: Organising a meeting with a Government representative could be a  
27 lobbying activity.

28 Note 2: This subsection covers activities to influence current or future  
29 Government decision-making.

- 30 (2) Despite subsection (1), none of the following is a **lobbying activity**:

- 31 (a) communicating with a committee of the Parliament;  
32 (b) a communication by a person in the person's capacity as a  
33 constituent;

**Part 2** Definitions

**Section 10**

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- 1 (c) communicating as part of an activity of a grassroots  
2 campaign nature in an attempt to influence an Australian  
3 government policy or decision;
- 4 (d) responding to:  
5 (i) a call for submissions; or  
6 (ii) a request for tender;
- 7 (e) making a statement in a public forum;
- 8 (f) providing information in response to a request from a  
9 Government representative;
- 10 (g) communicating about a personal matter on behalf of:  
11 (i) the person making the communication; or  
12 (ii) a friend or relative of that person;
- 13 (h) communications by a person who is registered under an  
14 Australian government scheme regulating the activities of  
15 members of that profession (such as registered tax agents,  
16 customs brokers, company auditors and liquidators), to the  
17 extent that the communications are:  
18 (i) part of the normal day to day work of people in that  
19 profession; and  
20 (ii) not for the purpose of influencing Government decision  
21 making;
- 22 (i) any activity prescribed by the rules.

23 **10 Meaning of *lobbyist***

- 24 (1) A person is a ***lobbyist*** if the person is:  
25 (a) a professional lobbyist; or  
26 (b) an in-house lobbyist of an entity.
- 27 (2) A person is a ***professional lobbyist*** if:  
28 (a) the person undertakes lobbying activities on behalf of a  
29 third-party client; or  
30 (b) the person employs or engages another person to undertake  
31 lobbying activities on behalf of a third-party client.
- 32 (3) A person is an ***in-house lobbyist*** of an entity if:  
33 (a) subsection (4) applies to the entity; and

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- 1 (b) the person is an officer, employee or contractor of the entity;  
2 and  
3 (c) the person has spent at least 8 hours in a calendar month  
4 undertaking or directing lobbying activities for the entity for  
5 at least 3 calendar months:  
6 (i) in the current financial year; or  
7 (ii) in any of the last 3 financial years.
- 8 (4) This subsection applies to the entity if the entity:  
9 (a) incurs expenditure of at least \$100,000:  
10 (i) for the current financial year; or  
11 (ii) for any of the last 3 financial years;  
12 on remuneration for officers, employees or contractors who,  
13 as a significant part of their role for the entity, undertake or  
14 direct lobbying activities for the entity; or  
15 (b) has an annual revenue of at least \$5 million for the current  
16 financial or for any of the last 3 financial years; or  
17 (c) is an industry association.
- 18 (5) However, none of the following is a *lobbyist*:  
19 (a) a member of a trade delegation visiting Australia;  
20 (b) a person who provides technical or professional services:  
21 (i) as a member of a technical or professional occupation  
22 (such as medicine, law or accountancy); and  
23 (ii) to the extent that the undertaking of lobbying activities  
24 by that person is occasional only and incidental to the  
25 provision of the technical or professional services;  
26 (c) a person prescribed by the rules.

**Part 3** Regulation of lobbying activities and related practices

Section 11

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1 **Part 3—Regulation of lobbying activities and**  
2 **related practices**  
3

4 **11 Lobbying activity by unregistered lobbyists prohibited**

- 5 A person commits an offence if:
- 6 (a) the person undertakes lobbying activities with, or in relation  
7 to, a Government representative; and
  - 8 (b) the person is:
    - 9 (i) a professional lobbyist; or
    - 10 (ii) an officer of a professional lobbyist; or
    - 11 (iii) employed, contracted or engaged by a professional  
12 lobbyist to conduct lobbying activities; or
    - 13 (iv) an in-house lobbyist of an entity; and
  - 14 (c) the person is not:
    - 15 (i) a registered lobbyist; or
    - 16 (ii) a listed person for a registered lobbyist.

17 Penalty: 100 penalty units.

18 **12 Certain former Government representatives must not engage in**  
19 **lobbying activities or related practices**

- 20 (1) A person commits an offence if, after ceasing to hold office as a  
21 Minister:
- 22 (a) the person does either of the following during the next 3  
23 years for the person's financial or commercial advantage:
    - 24 (i) undertake lobbying activities with a Government  
25 representative relating to a matter that the person had  
26 official dealings with in the person's last 3 years of  
27 holding that office;
    - 28 (ii) provide advice or information to assist a person  
29 engaging in a lobbying activity on an aspect of the work  
30 of a department or agency for which the person had  
31 ministerial responsibility in the person's last 3 years of  
32 holding that office; or

- 1 (b) the person provides advice or information:  
2 (i) on an aspect of a project, contract or commercial  
3 arrangement for which the person had ministerial  
4 responsibility in the person's last 3 years of holding that  
5 office; and  
6 (ii) for the person's financial or commercial advantage.

7 Note: A Parliamentary Secretary is a Minister (see section 4 of the *Ministers*  
8 *of State Act 1952*).

9 Penalty: 100 penalty units.

10 (2) A person commits an offence if, after ceasing to hold office as a  
11 senior Government adviser:

- 12 (a) the person does either of the following during the next 3  
13 years for the person's financial or commercial advantage:  
14 (i) undertake lobbying activities with a Government  
15 representative relating to a matter that the person had  
16 official dealings with in the person's last 3 years of  
17 holding that office;  
18 (ii) provide advice or information to assist a person  
19 engaging in a lobbying activity on an aspect of the work  
20 of a department or agency for which the person had  
21 official dealings with in the person's last 3 years of  
22 holding that office; or

- 23 (b) the person provides advice or information:  
24 (i) on an aspect of a project, contract or commercial  
25 arrangement for which the person had official dealings  
26 with in the person's last 3 years of holding that office;  
27 and  
28 (ii) for the person's financial or commercial advantage.

29 Penalty: 100 penalty units.



**Part 3** Regulation of lobbying activities and related practices

Section 13

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1 **13 Obligations of registered lobbyists and listed persons**

2 *Principles when undertaking lobbying activities*

- 3 (1) In undertaking lobbying activities with, or in relation to, a  
4 Government representative, a registered lobbyist or listed person  
5 must observe the following principles:
- 6 (a) the lobbyist or person must not engage in conduct that is  
7 corrupt, dishonest or illegal;
  - 8 (b) the lobbyist or person must not engage in conduct that  
9 unlawfully causes or threatens detriment to another person;
  - 10 (c) the lobbyist or person must use all reasonable endeavours to  
11 satisfy themselves of the truth and accuracy of all statements  
12 and information provided by them to:
    - 13 (i) their clients; or
    - 14 (ii) members of the public; or
    - 15 (iii) Government representatives;
  - 16 (d) the lobbyist or person must keep their lobbying activities  
17 separate from any activities the lobbyist or person engages in  
18 in a personal capacity or on behalf of a political party;
  - 19 (e) before engaging in the lobbying activities, the lobbyist or  
20 person must inform the Government representative:
    - 21 (i) that the person is a registered lobbyist or a listed person  
22 for a registered lobbyist; and
    - 23 (ii) of the names of each client on behalf of whom the  
24 person is engaging in the lobbying activities (including  
25 the name of any third-party client that is not included in  
26 the Register because of subsection 16(2)); and
    - 27 (iii) the nature of the matters that each such client wishes  
28 them to raise with the Government representative; and
    - 29 (iv) if the lobbyist or person is prohibited from engaging in  
30 certain lobbying activities under section 12—the  
31 information included in the Register in relation to the  
32 lobbyist or person for the purposes of  
33 paragraph 16(1)(d);
  - 34 (f) the lobbyist or person must not provide a gift directly or  
35 indirectly to the Government representative, unless the gift is

- 1 of low value and is given as a token of appreciation or as a  
2 promotional item;
- 3 (g) the lobbyist or person must not provide hospitality directly or  
4 indirectly to the Government representative, unless the  
5 hospitality is of low value and is for consumption during an  
6 in-person gathering;
- 7 (h) any other principle prescribed by the rules.

8 Note: Paragraph (f) and (g) include providing a gift or hospitality to a  
9 Government representative for the purposes of influencing future  
10 Government decision-making (see subsection 9(1))

11 *No lobbying activities with a Government representative if in a*  
12 *close relationship*

- 13 (2) A registered lobbyist or listed person must not undertake lobbying  
14 activities with, or in relation to, a Government representative if the  
15 Government representative would reasonably be seen to have:
- 16 (a) a close relationship with the lobbyist or person; and  
17 (b) a sense of obligation towards the lobbyist or person because  
18 of that close relationship.

19 *No lobbying activities if performing a substantial role in an*  
20 *election campaign for a political party*

- 21 (3) An in-house lobbyist or a listed person must not, during the period:  
22 (a) starting when the writs are issued for a general election  
23 (within the meaning of the *Commonwealth Electoral Act*  
24 *1918*) or for the election of a member of the House of  
25 Representatives; and  
26 (b) ending 6 months after the day of that election;  
27 perform a substantial role in the election campaign of a political  
28 party (within the meaning of that Act).

29 Note 1: A substantial role includes, for example, an election campaign  
30 manager or a senior role in the party's headquarters.

31 Note 2: If the in-house lobbyist or listed person wishes to perform such a role,  
32 the Commissioner should be requested to vary, suspend or cancel the  
33 relevant registration beforehand (see subsection 22(6)).

**Part 3** Regulation of lobbying activities and related practices

Section 14

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1                                    *Offence*

2                                    (4) A person commits an offence if the person contravenes  
3                                    subsection (1), (2) or (3).

4                                    Penalty: 100 penalty units.

5                                    **14 Obligations of Government representatives**

6                                    (1) A Government representative must not be a party to lobbying  
7                                    activities with a person who is:

8                                    (a) a professional lobbyist; or

9                                    (b) an officer of a professional lobbyist; or

10                                   (c) employed, contracted or engaged by a professional lobbyist  
11                                   to conduct lobbying activities; or

12                                   (d) an in-house lobbyist of an entity;

13                                   unless:

14                                   (e) the person is a registered lobbyist or listed person for a  
15                                   registered lobbyist; and

16                                   (f) the person has informed the Government representative:

17                                   (i) that the person is a registered lobbyist or a listed person  
18                                   for a registered lobbyist; and

19                                   (ii) of the names of each client on behalf of whom the  
20                                   person is engaging in the lobbying activities (including  
21                                   the name of any third-party client that is not included in  
22                                   the Register because of subsection 16(2)).

23                                   (2) If a Government representative becomes aware of a contravention  
24                                   of a provision of this Act, the Government representative must  
25                                   refer the matter to the Commissioner under section 25 as soon as  
26                                   practicable and within 7 days.

1 **Part 4—Registration**

2 **Division 1—Register of Lobbyists**

3 **15 Establishment of Register**

- 4 (1) The Commissioner must establish and maintain a Register of  
5 Lobbyists.
- 6 (2) The Register must be kept by electronic means.
- 7 (3) The Register is not a legislative instrument.
- 8 (4) The Register must be published on the website of the Department  
9 administered by the Attorney-General.

10 **16 Information to be included in the Register**

- 11 (1) The Register must contain, for each registered lobbyist, the  
12 following information:
- 13 (a) the lobbyist's name;
- 14 (b) if the lobbyist is a professional lobbyist—the following:
- 15 (i) the lobbyist's business registration particulars;
- 16 (ii) the name of each owner of the lobbyist's business and  
17 any partners or major shareholders in the business;
- 18 (iii) the name and position of each person (a *listed person*)  
19 who is an officer of the lobbyist, or who is employed,  
20 contracted or engaged by the lobbyist to conduct  
21 lobbying activities;
- 22 (c) if the lobbyist is an in-house lobbyist of an entity—the  
23 entity's name;
- 24 (d) if the lobbyist, or a listed person, is a former Government  
25 representative—the following:
- 26 (i) a statement that the lobbyist or listed person is a former  
27 Government representative;
- 28 (ii) the date the person became a former Government  
29 representative;

**Part 4** Registration  
**Division 1** Register of Lobbyists

**Section 17**

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- 1 (iii) the title of the most recent position the person held as a  
2 Government representative;
- 3 (e) subject to subsection (2), the information included in each  
4 quarterly return given under section 17 by the lobbyist;
- 5 (f) any other information that the Commissioner considers  
6 appropriate to include in the Register.
- 7 (2) The Register must not include any information about a third-party  
8 client of a professional lobbyist if the lobbyist has notified the  
9 Commissioner, in writing:
- 10 (a) that including information about the third-party client in the  
11 Register would, or could, reasonably be expected to result in  
12 speculation about a pending transaction involving the  
13 third-party client; and
- 14 (b) that the transaction has not previously been disclosed by the  
15 third-party client in accordance with its continuous disclosure  
16 obligations under Chapter 6CA of the *Corporations Act*  
17 *2001*; and
- 18 (c) of the date when it would reasonably be expected that the  
19 information about the third-party client can be included in the  
20 Register.
- 21 Note: A lobbyist who has given the Commissioner a notice for the purposes  
22 of this subsection is required to notify the Commissioner of any  
23 change to the information included in the notice within 10 business  
24 days after the change occurs (see section 20).

25 **17 Information from quarterly returns to be included in the Register**

- 26 (1) A registered lobbyist must give the Commissioner a return by the  
27 end of the fifth business day after the end of each quarter that ends  
28 after the day the lobbyist is registered.
- 29 Note: A failure to give the return may result in the suspension or  
30 cancellation of the lobbyist's registration (see paragraph 22(1)(a)).
- 31 (2) The return must state the number of lobbying activities undertaken,  
32 or directed, during the quarter by:
- 33 (a) the lobbyist; or  
34 (b) a listed person for the lobbyist.

- 1 (3) For each of these lobbying activities, the return must include:  
2 (a) the topic of the activity and the desired outcome; and  
3 (b) the name of each Government representative the activity was  
4 with or relates to; and  
5 (c) the form of any communication with a Government  
6 representative as part of the activity; and  
7 (d) the day or days the activity happened; and  
8 (e) the names of the persons directing and undertaking the  
9 activity.
- 10 (4) If the lobbyist is a professional lobbyist, the return must also  
11 include the following for each of these lobbying activities:  
12 (a) the name of each listed person involved in the activity;  
13 (b) the name, ABN and address of the lobbyist's third party  
14 client for whom the activity was undertaken;  
15 (c) if the third party client is a body corporate—the name, ABN  
16 and address of each related body corporate (within the  
17 meaning of the *Corporations Act 2001*) of the client;  
18 (d) the name, ABN (if any) and address of any entity who  
19 controls (within the meaning of section 50AA of the  
20 *Corporations Act 2001*) the third party client.

**Part 4** Registration

**Division 2** Registration process

Section 18

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1 **Division 2—Registration process**

2 **18 Application for registration**

- 3 (1) A lobbyist may apply to the Commissioner for registration as a  
4 registered lobbyist.
- 5 (2) An application must be in the approved form.
- 6 (3) An application must be accompanied by a statutory declaration:  
7 (a) that is made by the lobbyist and each proposed listed person  
8 for the lobbyist; and  
9 (b) that is to the effect that the lobbyist or listed person (as the  
10 case may be):  
11 (i) has never been sentenced to a term of imprisonment of  
12 30 months or more, or to a fine of 180 penalty units or  
13 more; and  
14 (ii) has not been convicted, in the last 10 years, of an  
15 offence, one element of which involves dishonesty, such  
16 as theft or fraud; and  
17 (iii) is not a member of a State or federal political party  
18 executive, State executive or administrative committee  
19 (or an equivalent body); and  
20 (c) that:  
21 (i) is to the effect that the lobbyist or listed person (as the  
22 case may be) has not previously committed a serious  
23 contravention of this Act; or  
24 (ii) if the lobbyist or listed person has committed such a  
25 contravention—includes the details of each such  
26 contravention.
- 27 (4) Despite subsection (3), if the Commissioner is satisfied that  
28 exceptional circumstances exist that make it impracticable for the  
29 information mentioned in that subsection to be given in a statutory  
30 declaration, the Commissioner may agree to the information being  
31 given in another form.

1 **19 Registration**

- 2 (1) Subject to this section, the Commissioner must register a lobbyist  
3 if the lobbyist has made an application in accordance with  
4 section 18.
- 5 (2) If the Commissioner is satisfied that a lobbyist or a proposed listed  
6 person has, at any time, committed a serious contravention of this  
7 Act, the Commissioner may decide not to register the lobbyist for a  
8 period of up to 12 months.
- 9 (3) The Commissioner must not refuse to register a lobbyist under  
10 subsection (2) unless the Commissioner has given the lobbyist a  
11 written notice that:  
12 (a) states the reasons why the Commissioner is proposing to  
13 refuse to register the lobbyist; and  
14 (b) requests the lobbyist to give the Commissioner, within the  
15 period specified in the notice, a written statement showing  
16 cause why the Commissioner should not refuse to register the  
17 lobbyist.
- 18 (4) The Minister may, in writing, direct the Commissioner to refuse to  
19 register a lobbyist.
- 20 (5) If the Commissioner is given a direction under subsection (4), the  
21 Commissioner must refuse to register the lobbyist.
- 22 (6) The Minister must not give a direction under subsection (4) unless  
23 the Minister has given the lobbyist a written notice that:  
24 (a) states the reasons why the Minister is proposing to give the  
25 direction; and  
26 (b) requests the lobbyist to give the Minister, within the period  
27 specified in the notice, a written statement showing cause  
28 why the direction should not be given.



**Part 4** Registration

**Division 3** Updating the Register

Section 20

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1 **Division 3—Updating the Register**

2 **20 Notification of changes to registration details**

- 3 (1) A person must give a written notice to the Commissioner under  
4 this section if:
- 5 (a) the person is a registered lobbyist; and
  - 6 (b) there is a change in any of the following:
    - 7 (i) the information contained in the Register in respect of
    - 8 the person;
    - 9 (ii) the information included in the original application for
    - 10 registration under section 18;
    - 11 (iii) if the person has given the Commissioner a notice for
    - 12 the purposes of subsection 16(2)—the information
    - 13 included in that notice;
    - 14 (iv) the information included in a statutory declaration made
    - 15 for the purposes of subsection 18(3) or 21(2).

- 16 (2) The notice:
- 17 (a) must be given within 10 business days after the change
  - 18 occurs; and
  - 19 (b) must meet any requirements set out in the rules.

20 Note: A failure to give the notice may result in the suspension or  
21 cancellation of the lobbyist's registration (see paragraph 22(1)(a)).

- 22 (3) A person commits an offence if:
- 23 (a) the person is required to give a notice in accordance with this
  - 24 section; and
  - 25 (b) the person fails to do so.

26 Penalty: 30 penalty units.

27 **21 Periodic confirmation of registration details**

- 28 (1) Within 10 business days after:
- 29 (a) 1 February each year; and
  - 30 (b) 1 July each year;

Section 21

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1 a registered lobbyist must give the Commissioner written notice  
2 confirming that the information contained in the Register in respect  
3 of the lobbyist is up to date.

4 (2) The notice must:

- 5 (a) for a notice mentioned in paragraph (1)(b)—be accompanied  
6 by a new statutory declaration of the kind required to be  
7 made for the purposes of subsection 18(3); and  
8 (b) in any case—meet any requirements set out in the rules.

9 Note: A failure to give the notice may result in the suspension or  
10 cancellation of the lobbyist's registration (see paragraph 22(1)(a)).

11 (3) A person commits an offence if:

- 12 (a) the person is required to give a notice in accordance with this  
13 section; and  
14 (b) the person fails to do so.

15 Penalty: 30 penalty units.

**Part 4** Registration

**Division 4** Variation, suspension or cancellation of registration

Section 22

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1 **Division 4—Variation, suspension or cancellation of**  
2 **registration**

3 **22 Variation, suspension or cancellation of registration**

4 *Variation, suspension or cancellation on the Commissioner’s*  
5 *initiative*

- 6 (1) The Commissioner may vary, suspend or cancel a lobbyist’s  
7 registration if the Commissioner is satisfied that:  
8 (a) the lobbyist, or a listed person for the lobbyist, has  
9 contravened this Act; or  
10 (b) all or some of the information included in the Register in  
11 relation to the lobbyist, or a listed person for the lobbyist, is  
12 incorrect; or  
13 (c) the lobbyist, or a listed person for the lobbyist, fails, within a  
14 reasonable period, to answer a question relating to:  
15 (i) information included in the Register in relation to the  
16 lobbyist or listed person; or  
17 (ii) the lobbying activities engaged in by the lobbyist or  
18 listed person; or  
19 (d) the lobbyist, or a listed person for the lobbyist, gives  
20 inaccurate information in answering a question mentioned in  
21 paragraph (c).

22 Note 1: For paragraph (a), examples of contraventions of this Act that could  
23 result in the suspension or cancellation of a lobbyist’s registration  
24 include the following:  
25 (a) failing to give a quarterly return that includes the information  
26 required by section 17;  
27 (b) failing to notify under section 20 changes to information;  
28 (c) failing to notify under section 21 that the information contained  
29 in the Register is up to date.

30 Note 2: An example of a variation of a professional lobbyist’s registration  
31 would be the removal from the Register of a listed person for the  
32 lobbyist.

- 33 (2) The Commissioner must not vary, suspend or cancel a lobbyist’s  
34 registration under subsection (1) unless the Commissioner has  
35 given the lobbyist a written notice that:

- 1 (a) states the reasons why the Commissioner is proposing to  
2 vary, suspend or cancel the registration; and  
3 (b) requests the lobbyist to give the Commissioner, within the  
4 period specified in the notice, a written statement showing  
5 cause why the variation, suspension or cancellation should  
6 not happen.

7 *Variation, suspension or cancellation at direction of the Minister*

- 8 (3) The Minister may, in writing, direct the Commissioner to vary,  
9 suspend or cancel a lobbyist's registration.  
10 (4) If the Commissioner is given a direction under subsection (3), the  
11 Commissioner must comply with the direction.  
12 (5) The Minister must not give a direction under subsection (3) unless  
13 the Minister has given the lobbyist a written notice that:  
14 (a) states the reasons why the Minister is proposing to give the  
15 direction; and  
16 (b) requests the lobbyist to give the Minister, within the period  
17 specified in the notice, a written statement showing cause  
18 why the Minister should not give the direction.

19 *Variation, suspension or cancellation on request*

- 20 (6) The Commissioner may vary, suspend or cancel a lobbyist's  
21 registration on the lobbyist's request.

22 Note: A professional lobbyist could, for example, request its registration to  
23 be varied to suspend a person's status as a listed person for the  
24 lobbyist while the person performs a substantial role in a party's  
25 election campaign (see subsection 13(3)).

**Part 5** Other transparency requirements

Section 23

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1 **Part 5—Other transparency requirements**  
2

3 **23 Requirement to publish Ministerial diaries**

4 (1) Before the end of each calendar month, a Minister must cause a  
5 copy of the Minister’s diary for the previous calendar month, that  
6 sets out the information covered by subsection (2), to be published  
7 on the website of the department administered by the  
8 Attorney-General.

9 (2) The information is as follows:

- 10 (a) all meetings with stakeholders, external organisations and  
11 lobbyists that relate to the Minister’s responsibilities,  
12 including:  
13 (i) meetings held in person, by videoconference,  
14 teleconference or telephone call; and  
15 (ii) meetings attended by the Minister or by an adviser to  
16 the Minister;  
17 (iii) details of who attended each meeting and the key  
18 matters discussed;  
19 (b) all events and functions attended by the Minister that relate to  
20 the Minister’s responsibilities.

21 Note: A Parliamentary Secretary is a Minister (see section 4 of the *Ministers*  
22 *of State Act 1952*).

23 *Application*

24 (3) The first calendar month in relation to which a diary must be  
25 published under subsection (1) is the first calendar month that  
26 starts on or after the commencement of this Act.

27 **24 Requirement for Australian Government Directory to include**  
28 **entries for current and former senior Ministerial staffers**

- 29 (1) A Minister must promptly cause the name and contact details of  
30 the following persons:  
31 (a) each senior Ministerial staffer of the Minister;  
32 (b) each former senior Ministerial staffer of the Minister;

Section 24

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1 to be kept in the Australian Government Directory in a way that  
2 links that person's entry to the Minister's entry on the Directory.

3 (2) The entry for a former senior Ministerial staffer of the Minister  
4 must:

5 (a) state that the person has ceased to be a senior Ministerial  
6 staffer of the Minister, and the state the day this happened;  
7 and

8 (b) be kept in the Australian Government Directory for at least 3  
9 years after that day.

10 Note: The person's contact details in the entry do not need to be kept  
11 up-to-date after that day.

12 (3) In this section:

13 ***Australian Government Directory*** includes any website of the  
14 Commonwealth that replaces the website that in 2023 is known by  
15 that name.

16 Note: In 2023, this website is <http://www.directory.gov.au/>.

**Part 6** Enforcement

Section 25

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1 **Part 6—Enforcement**  
2

3 **25 Referral of alleged contravention**

- 4 (1) If a person (the *first person*) reasonably believes that another  
5 person has contravened a provision of this Act, the first person may  
6 refer the matter to the Commissioner.
- 7 (2) The Commissioner may request the referral to be:  
8 (a) given in a particular way; or  
9 (b) accompanied or supported by further information.

10 **26 Investigations by the Commissioner**

- 11 (1) The Commissioner may, on its own initiative or in response to a  
12 referral made under section 25, investigate whether a person has  
13 contravened a provision of this Act.
- 14 (2) If a referral made under section 25 relates to an alleged  
15 commission of an offence against this Act, the Commissioner may  
16 refer the matter to the Australian Federal Police.
- 17 (3) If the Commissioner decides to investigate whether a person has  
18 contravened a provision of this Act, the *National Anti-Corruption*  
19 *Commission Act 2022* applies in relation to the investigation as if it  
20 were a corruption investigation (within the meaning of that Act).

1 **Part 7—Miscellaneous**  
2

3 **27 Review of decisions**

4 Applications may be made to the Administrative Appeals Tribunal  
5 for review of the following decisions under this Act:

- 6 (a) a decision of the Commissioner under subsection 19(2) not to  
7 register a lobbyist;
- 8 (b) a decision of the Minister under subsection 19(4) to direct the  
9 Commissioner to refuse to register a lobbyist;
- 10 (c) a decision of the Commissioner under subsection 22(1) to  
11 vary, suspend or cancel a lobbyist's registration;
- 12 (d) a decision of the Minister under subsection 22(3) to direct the  
13 Commissioner to vary, suspend or cancel a lobbyist's  
14 registration;
- 15 (e) a decision of the Commissioner under subsection 22(6) to  
16 refuse to vary a lobbyist's registration.

17 **28 Treatment of partnerships**

- 18 (1) This Act applies to a partnership as if it were a person, but with the  
19 changes set out in this section.
- 20 (2) An obligation that would otherwise be imposed on the partnership  
21 by this Act is imposed on each partner instead, but may be  
22 discharged by any of the partners.
- 23 (3) An offence against this Act that is committed by a partnership is  
24 taken to have been committed by each partner in the partnership, at  
25 the time the offence was committed, who:
- 26 (a) did the relevant act or made the relevant omission; or  
27 (b) aided, abetted, counselled or procured the relevant act or  
28 omission; or  
29 (c) was in any way knowingly concerned in, or party to, the  
30 relevant act or omission (whether directly or indirectly and  
31 whether by any act or omission of the partner).



**Part 7** Miscellaneous

Section 29

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1       **29 Treatment of unincorporated associations**

- 2               (1) This Act applies to an unincorporated association as if it were a  
3               person, but with the changes set out in this section.
- 4               (2) An obligation that would otherwise be imposed on the association  
5               by this Act is imposed on each member of the association's  
6               committee of management instead, but may be discharged by any  
7               of the members.
- 8               (3) An offence against this Act that would otherwise have been  
9               committed by the unincorporated association is taken to have been  
10              committed by each member of the association's committee of  
11              management, at the time the offence was committed, who:  
12              (a) did the relevant act or made the relevant omission; or  
13              (b) aided, abetted, counselled or procured the relevant act or  
14              omission; or  
15              (c) was in any way knowingly concerned in, or party to, the  
16              relevant act or omission (whether directly or indirectly and  
17              whether by any act or omission of the member).

18       **30 Annual report**

- 19               The Commissioner, when preparing the annual report under  
20               section 46 of the *Public Governance, Performance and*  
21               *Accountability Act 2013* in relation to:  
22               (a) the National Anti-Corruption Commission; and  
23               (b) a period;  
24               must include information in that report about the operation of this  
25               Act during the period.

26       **31 Review of operation of Act by an expert panel**

- 27               (1) The Minister must cause an independent review of the operation of  
28               this Act to be undertaken by an expert panel appointed in  
29               accordance with section 32.
- 30               (2) The review must include an opportunity for members of the public  
31               to make written submissions on the operation of this Act.

Section 32

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- 1 (3) The review must:  
2 (a) commence within 3 years after the day this Act commences;  
3 and  
4 (b) be completed, by the expert panel giving the Minister a  
5 written report of the review, within 4 years after the day this  
6 Act commences.
- 7 (4) The Minister must cause a copy of the report of the review to be  
8 laid before each House of the Parliament within 7 sittings days of  
9 that House after receiving the report.

10 **32 Appointment of members of the expert panel**

- 11 (1) The Minister may, in writing, appoint 3 persons to the expert panel  
12 to conduct the review of the operation of this Act. Each person  
13 appointed to the panel must:  
14 (a) satisfy the requirements of subsection (2); and  
15 (b) be supported or nominated by the applicable parliamentary  
16 committee under subsection (4).
- 17 (2) A person satisfies the requirements of this subsection if:  
18 (a) the person has expertise or experience in one or more of the  
19 following areas:  
20 (i) community advocacy and engagement;  
21 (ii) legal and regulatory compliance;  
22 (iii) contemporary issues relating to lobbying; and  
23 (b) the person is none of the following:  
24 (i) a current officer or employee of a registered political  
25 party (within the meaning of the *Commonwealth*  
26 *Electoral Act 1918*);  
27 (ii) a registered lobbyist or listed person;  
28 (iii) a current or former parliamentarian.
- 29 (3) Before appointing any person under subsection (1), the Minister  
30 must propose 3 persons to a parliamentary committee whose role  
31 covers the kinds of matters set out in the objects of this Act.
- 32 (4) The parliamentary committee must notify the Minister that the  
33 committee:

**Part 7** Miscellaneous

**Section 33**

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- 1 (a) supports or vetoes the appointments of the proposed persons;  
2 and  
3 (b) for each veto of an appointment of a proposed person—  
4 nominates 2 alternative persons for appointment, who each  
5 satisfies the requirements of subsection (2).

6 **33 Rules**

- 7 (1) The Minister may, by legislative instrument, make rules  
8 prescribing matters:  
9 (a) required or permitted by this Act to be prescribed by the  
10 rules; or  
11 (b) necessary or convenient to be prescribed for carrying out or  
12 giving effect to this Act.
- 13 (2) To avoid doubt, the rules may not do the following:  
14 (a) create an offence or civil penalty;  
15 (b) provide powers of:  
16 (i) arrest or detention; or  
17 (ii) entry, search or seizure;  
18 (c) impose a tax;  
19 (d) set an amount to be appropriated from the Consolidated  
20 Revenue Fund under an appropriation in this Act;  
21 (e) directly amend the text of this Act.