



New South Wales

Lobbying of Government Officials (Lobbyists Code of Conduct) Amendment Regulation 2018

under the

Lobbying of Government Officials Act 2011

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Lobbying of Government Officials Act 2011*.

GLADYS BEREJIKLIAN, MP
Premier

Explanatory note

The objects of this Regulation are as follows:

- (a) to clarify that members of professions, such as lawyers, doctors and accountants, are excluded from the definition of *third-party lobbyist* for the purposes of the *Lobbying of Government Officials Act 2011* if the lobbying carried on by the person is incidental to the provision of professional services to a client in the course of the person's work,
- (b) to prescribe directors, secretaries and other persons who hold an executive position with a registered third-party lobbyist as persons having a management, financial or other interest in the lobbyist whose names must be included in the Lobbyists Register,
- (c) to require each registered third-party lobbyist to appoint a person having a management, financial or other interest in the lobbyist as the responsible officer of the lobbyist for compliance with its obligations under the *Lobbying of Government Officials Act 2011* and *NSW Lobbyists Code of Conduct*.

The Regulation also amends the *NSW Lobbyists Code of Conduct* to make it clear that third-party lobbyists must disclose to NSW Government officials they lobby the names of persons whose interests they are representing (rather than merely the name of their client).

This Regulation is made under the *Lobbying of Government Officials Act 2011*, including sections 3 (1) (definition of *third-party lobbyist*), 5 (1), 10 (1) (c) and 21 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Lobbying of Government Officials (Lobbyists Code of Conduct) Amendment Regulation 2018*.

2 Commencement

This Regulation commences on 1 July 2018 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014

[1] Clause 3A

Insert after clause 3:

3A Persons excluded from definition of “third-party lobbyist”

- (1) For the purposes of paragraph (b) of the definition of *third-party lobbyist* in section 3 (1) of the Act, a person is excluded from the definition if:
 - (a) the person is a member of a profession (such as an Australian legal practitioner, medical practitioner or qualified accountant), and
 - (b) the lobbying by the person is incidental to the provision of professional services to a client in the course of the person’s work.
- (2) In this clause, *qualified accountant* means:
 - (a) a Certified Practising Accountant member of CPA Australia, New South Wales Division, or
 - (b) a member of Chartered Accountants Australia and New Zealand, New South Wales Branch, who holds a Certificate of Public Practice issued by that organisation, or
 - (c) a member of the Institute of Public Accountants who holds a Professional Practice Certificate issued by that Institute.

[2] Clause 4A

Insert after clause 4:

4A Information in the Lobbyists Register: persons having a management, financial or other interest in third-party lobbyists

For the purposes of section 10 (1) (c) of the Act, a director, secretary or other person who holds an executive position with a registered third-party lobbyist is prescribed as having a management, financial or other interest in the lobbyist.

[3] Schedule 1 NSW Lobbyists Code of Conduct

Insert after clause 9 of the Schedule:

9A Third-party lobbyists required to appoint responsible officer

Third-party lobbyists must:

- (a) appoint, in the manner and form approved by the Electoral Commission, a person having a management, financial or other interest in the lobbyist as the officer of the lobbyist responsible for compliance with its obligations under the *Lobbying of Government Officials Act 2011* and this Code, and
- (b) give the Electoral Commission a copy of any such appointment, and
- (c) ensure that the officer annually undertakes and completes the online training approved by the Electoral Commission for the purposes of this clause.

Note. Section 9 (7) (a) of the *Lobbying of Government Officials Act 2011* provides that the Electoral Commission may cancel or suspend the registration of a third-party lobbyist (or any individual engaged to undertake lobbying for a third-party lobbyist) if the lobbyist (or an individual so engaged) contravenes this Code.

[4] Schedule 1, clause 10 (1) (c)

Omit the paragraph. Insert instead:

- (c) the name of the person whose interests the lobbyist is representing.