



New South Wales

# Non-profit Bodies (Freedom to Advocate) Bill 2015

## Explanatory note

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

## Overview of Bill

The object of this Bill is to prohibit and invalidate content (*prohibited content*) in State agreements with non-profit bodies that restricts or prevents those bodies from advocating on State law, policy or practice.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

**Clause 3** defines certain words and expressions used in the proposed Act.

**Clause 4** prohibits an agency of the State from including prohibited content in a State agreement and also provides that where such content has been included in a State agreement, that content is void.

**Clause 5** contains the definition of prohibited content.

**Clause 6** provides that the proposed Act will apply to all State agreements regardless of whether they were entered into prior to the commencement of the proposed Act. The clause also provides that where a State agreement contains prohibited content immediately before the commencement of the proposed Act, the prohibited content will become void on the commencement of the proposed Act and any right, privilege, obligation or liability acquired in relation to that content will continue to exist.

**Clause 7** provides a regulation-making power for the purposes of savings or transitional requirements.



New South Wales

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New South Wales

# Non-profit Bodies (Freedom to Advocate) Bill 2015

No. , 2015

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## A Bill for

An Act to prohibit State agreements from restricting or preventing non-profit bodies from commenting on, advocating support for or opposing changes to State law, policy or practice.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Non-profit Bodies (Freedom to Advocate) Act 2015</i> .	3
<b>2 Commencement</b>	4
This Act commences on the date of assent to this Act.	5
<b>3 Definitions</b>	6
In this Act:	7
<b>agency</b> means an agency within the meaning of the <i>Government Information (Public Access) Act 2009</i> other than a court or a local authority.	8
<b>confidential information</b> means information the disclosure of which:	10
(a) would found an action for breach of confidence, or	11
(b) would disclose:	12
(i) trade secrets, or	13
(ii) any other information having commercial value that would be, or could be reasonably expected to be, destroyed or diminished if the information were disclosed.	14
<b>non-profit body</b> means a body that is not carried on for the purposes of profit or gain to its individual members and is, by the terms of the body's constitution, prohibited from making any distribution, whether in money, property or otherwise, to its members.	17
<b>prohibited content</b> —see section 5.	18
<b>State agreement</b> means a legally binding agreement between an agency (on behalf of the State) and a non-profit body.	19
<b>4 Agency not to include prohibited content in State agreement</b>	20
(1) An agency must not include prohibited content in a State agreement.	21
(2) If a State agreement includes prohibited content, that content is void.	22
<b>5 Prohibited content</b>	23
(1) <b>Prohibited content</b> is any requirement that restricts or prevents a non-profit body (including staff of the non-profit body) from commenting on, advocating support for or opposing change to any matter established by law, policy or practice of the State.	24
(2) However, a requirement is not prohibited content to the extent that it restricts or prevents a non-profit body from disclosing information that is:	25
(a) confidential information, or	26
(b) personal information (within the meaning of section 4 of the <i>Privacy and Personal Information Protection Act 1998</i> ).	27
<b>6 Application</b>	28
(1) This Act applies to a State agreement entered into before, on, or after the commencement of this Act.	29
(2) Despite subsection (1), section 4 (1) applies only to a State agreement entered into on or after the commencement of this Act.	30
(3) Subsection (4) applies if, immediately before the commencement of this Act, a State agreement includes prohibited content.	31

(4)	Despite subsection (1):	1
(a)	section 4 (2) has the effect that prohibited content in the State agreement becomes void on the commencement of this Act, and	2 3
(b)	paragraph (a) does not affect any right, privilege, obligation or liability acquired, accrued or incurred under the prohibited content before the commencement of this Act.	4 5 6
<b>7</b>	<b>Regulations</b>	7
(1)	The Governor may make regulations that contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.	8 9 10
(2)	Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	11 12
(3)	To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:	13 14 15
(a)	to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	16 17 18
(b)	to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	19 20 21