



New South Wales

Claim Farming Practices Prohibition Bill 2025

Explanatory note

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

Overview of Bill

The object of this Bill is to prohibit claim farming practices by making it an offence to—

- (a) make certain contact with a potential claimant in relation to civil proceedings for personal injury damages, or
- (b) pay or receive referral fees in relation to civil proceedings for personal injury damages.

Outline of provisions

Part 1 Preliminary

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.

Part 2 Certain contact and referral payments prohibited

Clause 4 provides that the proposed Act, Part 2—

- (a) applies to claims for personal injury damages other than certain types of claims excluded from the general application of the *Civil Liability Act 2002*, and
- (b) is intended to have extraterritorial application.

Clause 5 makes it an offence to contact a person to solicit the person to make a claim for personal injury damages or to refer the person to a third party to provide services in relation to a claim. The clause also makes it an offence to arrange for prohibited contact using a third party. The offences apply to contact if the person making the contact receives, or agrees or expects to receive, consideration because of the contact or asks for someone else to receive, or agrees to someone else receiving, consideration because of the contact. The proposed offences do not apply if the person is contacted—

- (a) by a notice given in relation to representative proceedings under the *Civil Procedure Act 2005* or the law of another Australian jurisdiction, or
- (b) by a law practice that has previously supplied the claimant with legal services and reasonably believes the claimant will not object to the contact, or
- (c) by a law practice at the request of a representative of a community legal service or industrial organisation who reasonably believes the claimant will not object to the contact.

Clause 6 makes it an offence to provide or receive consideration for the referral of a claim in civil proceedings or enter into agreements or arrangements relating to referrals of claims for consideration. The proposed offence does not apply if a law practice, in acting for a claimant, refers a matter to another person providing a service for the claim or if a law practice is sold to another law practice.

Clause 7 provides that a person does not commit an offence under the proposed part in relation to public advertising of a law practice.

Part 3 Miscellaneous

Clause 8 provides for the time within which proceedings may be commenced.

Clause 9 provides that proceedings for offences under the proposed Act may be dealt with summarily before the Local Court.

Clause 10 requires the Attorney General to review the proposed Act as soon as practicable after 2 years after the commencement of the proposed Act.

Clause 11 enables the Governor to make regulations for the purposes of the proposed Act.

Schedule 1 Savings, transitional and other provisions

Schedule 1 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Legal Profession Uniform Law Application Act 2014 No 16

Schedule 2[1] inserts proposed section 61A into the *Legal Profession Uniform Law Application Act 2014*. The proposed section provides that, if a law practice or an associate of a law practice is convicted of an offence under the proposed Act, Part 2, the practice or associate is not entitled to charge or recover legal costs in relation to the claim to which the conviction relates and must refund legal costs already received in relation to the claim.

Schedule 2[2] amends the *Legal Profession Uniform Law Application Act 2014*, section 165B to provide that a lawyer's contravention of the proposed Act, Part 2 is capable of constituting unsatisfactory professional conduct or professional misconduct, whether or not the lawyer has been convicted of an offence in relation to the contravention.



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

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Claim Farming Practices Prohibition Bill 2025

No , 2025

A Bill for

An Act to prohibit certain contact with potential civil liability claimants and the payment and receipt of referral fees; and for related purposes.

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

Legislative Council

Clerk of the Parliaments

The Legislature of New South Wales enacts— 1

Part 1 Preliminary 2

1 Name of Act 3

This Act is the *Claim Farming Practices Prohibition Act 2025*. 4

2 Commencement 5

This Act commences on the date of assent to this Act. 6

3 Definitions 7

(1) In this Act— 8

associate, of a law practice, has the same meaning as in the *Legal Profession Uniform Law (NSW)*. 9
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claim includes a potential claim. 11

consideration means a fee or other benefit. 12

law practice has the same meaning as in the *Legal Profession Uniform Law (NSW)*. 13

legal services has the same meaning as in the *Legal Profession Uniform Law (NSW)*. 14

potential claimant—see section 5(1). 15

Note— The *Interpretation Act 1987* contains definitions and other provisions that affect the interpretation and application of this Act. 16
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(2) In this Act, a reference to a law practice, other than a reference to a purchasing law practice, includes a reference to an associate of a law practice. 18
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Part 2	Certain contact and referral payments prohibited	1
4	Application of part	2
	This part—	3
	(a) applies to claims for personal injury damages, within the meaning of the <i>Civil Liability Act 2002</i> , section 11, other than claims related to a kind of civil liability referred to in that Act, section 3B(1)(b)–(h), and	4 5 6
	(b) is intended to have extraterritorial application as far as the legislative powers of the State permit.	7 8
5	Prohibited contact in relation to potential claims	9
(1)	A person commits an offence if the person—	10
	(a) contacts another person (a <i>potential claimant</i>) to solicit the potential claimant to make a claim, and	11 12
	(b) the person making the contact—	13
	(i) receives consideration because of the contact, or	14
	(ii) agrees or expects to receive consideration because of the contact, or	15
	(iii) asks for someone else to receive consideration because of the contact, or	16
	(iv) agrees to someone else receiving consideration because of the contact.	17
	Maximum penalty—500 penalty units.	18
(2)	A person commits an offence if the person—	19
	(a) contacts a potential claimant to refer the potential claimant to another person to provide a service in relation to a claim, and	20 21
	(b) the person making the contact—	22
	(i) receives consideration because of the contact, or	23
	(ii) agrees or expects to receive consideration because of the contact, or	24
	(iii) asks for someone else to receive consideration because of the contact, or	25
	(iv) agrees to someone else receiving consideration because of the contact.	26
	Maximum penalty—500 penalty units.	27
(3)	A person must not arrange for a third party to contact a potential claimant in contravention of subsection (1) or (2).	28 29
	Maximum penalty—500 penalty units.	30
(4)	This section does not apply—	31
	(a) if a potential claimant is contacted by a notice given under the <i>Civil Procedure Act 2005</i> , section 175, or a corresponding law, in relation to representative proceedings, however described, or	32 33 34
	(b) if a law practice—	35
	(i) contacts a potential claimant that the practice has provided legal services to, and	36 37
	(ii) reasonably believes the potential claimant will not object to the contact, or	38 39
	(c) if a law practice contacts a potential claimant after receiving—	40
	(i) a request to do so by a representative of a community legal service or industrial organisation, and	41 42
	(ii) confirmation the representative reasonably believes the potential claimant will not object to the contact.	43 44

(5)	Subsection (4) places an evidential burden on the accused.	1
(6)	This section applies regardless of whether the potential claimant—	2
	(a) is entitled to make a claim, or	3
	(b) has decided to make, or has made, a claim.	4
(7)	In this section—	5
	<i>community legal service</i> has the same meaning as in the <i>Legal Profession Uniform Law (NSW)</i> .	6
	<i>contact</i> a potential claimant includes personally approaching or contacting the claimant—	7
	(a) in person or by mail, telephone, email or another form of electronic communication, and	8
	(b) individually or as a member of a class of persons.	9
	<i>corresponding law</i> means the following—	10
	(a) the <i>Federal Court of Australia Act 1976</i> of the Commonwealth, Part IVA,	11
	(b) a law of another State or Territory that relates to representative proceedings, however described,	12
	(c) another law prescribed by the regulations.	13
	<i>industrial organisation</i> has the same meaning as in the <i>Industrial Relations Act 1996</i> .	14
	<i>solicit</i> includes induce.	15
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6	Claim referrals for consideration prohibited	21
(1)	A person must not—	22
	(a) receive consideration for referring a claim to another person, or	23
	(b) agree to receive consideration for referring a claim to another person, or	24
	(c) arrange for a third party to receive consideration for the person referring a claim to another person.	25
	Maximum penalty—500 penalty units.	26
(2)	A person (the <i>payer</i>) must not—	27
	(a) provide consideration to another person for the referral of a claim, or	28
	(b) agree to provide consideration to another person for the referral of a claim, or	29
	(c) arrange for a third party to provide consideration to another person for the referral of a claim.	30
	Maximum penalty—500 penalty units.	31
(3)	Subsection (2) applies whether a claim is referred for the purpose of—	32
	(a) the payer providing a service in relation to the claim, or	33
	(b) someone else providing a service for the claimant.	34
(4)	This section does not apply—	35
	(a) if, in acting for a claimant, a law practice refers a matter relating to a claim to another person to provide a service in relation to the claim, or	36
	(b) if all or part of a law practice is being sold to a purchasing law practice and—	37
	(i) the referral, including details of the consideration, is disclosed to the claimant, and	38
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(ii)	the consideration provided by the purchasing law practice is not more than the unbilled legal costs of the claimant at the time of the sale of all or part of the practice, and	1 2 3
(iii)	the claimant is advised the referral may be refused, and	4
(iv)	the claimant approves the referral.	5
(5)	Subsection (4) places an evidential burden on the accused.	6
(6)	In this section—	7
	<i>claimant</i> includes a potential claimant.	8
	<i>legal costs</i> has the same meaning as in the <i>Legal Profession Uniform Law (NSW)</i> .	9
	<i>referral</i> , in relation to a claim, includes—	10
(a)	a referral arising from services provided to a claimant, and	11
(b)	the disclosure of a claimant’s personal details.	12
	<i>sale</i> , of a law practice, includes the referral of the files of a retiring associate of the law practice.	13 14
7	Exceptions for advertisements of legal services	15
	A person does not commit an offence under this part by—	16
(a)	advertising, marketing or promoting a law practice to the public, or	17
(b)	providing or receiving consideration relating to advertising, marketing or promoting a law practice to the public.	18 19

Part 3	Miscellaneous	1
8	Time within which proceedings for offences may be commenced	2
(1)	Proceedings for an offence under this Act may be commenced—	3
(a)	within but not later than 2 years after the date on which the offence is alleged to have been committed, or	4 5
(b)	within but not later than 2 years after the date on which evidence of the alleged offence first came to the attention of a police officer.	6 7
(2)	If subsection (1)(b) is relied on, the court attendance notice—	8
(a)	must contain particulars of the date on which evidence of the offence first came to the attention of the police officer, and	9 10
(b)	is not required to contain particulars of the date on which the offence was committed.	11 12
(3)	The date on which evidence first came to the attention of a police officer is the date specified in the court attendance notice unless another date is established.	13 14
(4)	This section applies despite any provision of the <i>Criminal Procedure Act 1986</i> or another Act.	15 16
9	Nature of proceedings for offences	17
	Proceedings for an offence under this Act may be dealt with summarily before the Local Court.	18 19
10	Review of Act	20
(1)	The Minister must review the operation of this Act to determine whether—	21
(a)	the policy objectives of the Act remain valid, and	22
(b)	the terms of the Act remain appropriate for securing the policy objectives.	23
(2)	The review must be undertaken as soon as practicable after the period of 2 years from the commencement of this Act.	24 25
(3)	A report on the outcome of the review must be tabled in each House of Parliament as soon as practicable after the review is undertaken.	26 27
11	Regulations	28
	The Governor may make regulations about a matter that is—	29
(a)	required or permitted by this Act to be prescribed, or	30
(b)	necessary or convenient to be prescribed for carrying out or giving effect to this Act.	31 32

Schedule 1	Savings, transitional and other provisions	1
Part 1	General	2
1	Regulations	3
(1)	The regulations may contain provisions of a savings or transitional nature consequent on the commencement of—	4 5
(a)	a provision of this Act, or	6
(b)	a provision amending this Act.	7
(2)	A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after the commencement.	8 9
(3)	A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after the commencement.	10 11
(4)	A savings or transitional provision made consequent on the commencement of a provision may take effect before the commencement but not before—	12 13
(a)	for a provision of this Act—the date of assent to this Act, or	14
(b)	for a provision amending this Act—the date of assent to the amending Act.	15
(5)	A savings or transitional provision taking effect before its publication on the NSW legislation website does not—	16 17
(a)	affect the rights of a person existing before the publication in a way prejudicial to the person, or	18 19
(b)	impose liabilities on a person for anything done or omitted to be done before the publication.	20 21
(6)	In this section—	22
	<i>person</i> does not include the State or an authority of the State.	23
Part 2	Provision consequent on enactment of Act	24
2	Application of Act to conduct before commencement	25
(1)	This Act applies only in relation to acts done or omitted to be done on or after the commencement of this Act.	26 27
(2)	Despite subsection (1), section 6 does not apply if consideration is provided or received after the commencement of this Act in relation to a written agreement relating to the referral of a claim if—	28 29 30
(a)	the agreement was entered into before the commencement of this Act, and	31
(b)	the referral was completed before the commencement of this Act.	32
(3)	In this section—	33
	<i>referral</i> has the same meaning as in section 6.	34

Schedule 2 Amendment of Legal Profession Uniform Law 1
Application Act 2014 No 16 2

[1] Section 61A 3

Insert after section 61— 4

61A Contravention of claim farming practices prohibition—no costs recoverable 5

(1) This section applies if a law practice or an associate of a law practice is convicted of an offence under the *Claim Farming Practices Prohibition Act 2025*, Part 2. 6
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(2) Despite any other provision of legal costs legislation, the law practice— 9

(a) is not entitled to charge or recover legal costs in relation to the claim to which the conviction relates, and 10
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(b) must immediately refund legal costs received in relation to the claim to the person who paid the costs. 12
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(3) Money owing to a person under subsection (2)(b) is recoverable as a debt in a court of competent jurisdiction. 14
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[2] Section 165B Conduct capable of constituting unsatisfactory professional conduct or professional misconduct 16
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Insert “, the *Claim Farming Practices Prohibition Act 2025*, Part 2” after “local regulations” in section 165B(1). 18
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