

# Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014

[2014-753]



New South Wales

## Status Information

### Currency of version

Current version for 1 July 2019 to date (accessed 20 May 2024 at 6:10)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Staged repeal status**

This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2024

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014



New South Wales

## 1 Name of Regulation

This Regulation is the *Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014*.

## 2 Commencement

This Regulation commences on the day on which Schedule 3 to the *Electoral and Lobbying Legislation Amendment (Electoral Commission) Act 2014* commences and is required to be published on the NSW legislation website.

## 3 Definition

In this Regulation:

**the Act** means the *Lobbying of Government Officials Act 2011*.

### 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.

#### **4 Prescription of NSW Lobbyists Code of Conduct**

The code of conduct set out in Schedule 1 is prescribed under Part 2 of the Act as the code of conduct for third-party and other lobbyists.

##### **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.

##### **4B Information in Lobbyists Register: section 10 (1) (e) of Act**

(1) For the purposes of section 10 (1) (e) of the Act, the following information is prescribed in relation to a registered third-party lobbyist whose business consists of or includes lobbying for foreign principals:

- (a) the name of each individual or body that is a foreign principal who has retained the lobbyist to provide, or for whom the lobbyist has provided, lobbying services (whether paid or unpaid),
- (b) the foreign country in respect of which each of these individuals or bodies is a foreign principal.

(2) In this clause:

**foreign country** and **foreign principal** have the same meanings as in the [Foreign Influence Transparency Scheme Act 2018](#) of the Commonwealth.

#### **5 Update of Lobbyists Register by third-party lobbyists**

- (1) For the purposes of section 10 (2) of the Act, a registered third-party lobbyist is required to update the information in the Lobbyists Register within 10 business days after a change occurs to that information.
- (2) Registered third-party lobbyists are also required to provide to the Electoral Commission, on 31 January, 31 May and 30 September each year in a form approved by the Electoral Commission, confirmation that the information in the Lobbyists Register relating to them is up-to-date and such other information relating to them and their registration as is set out in the approved form. The approved form may require the disclosure of information of a kind that may be required to be disclosed in an application for registration as a third-party lobbyist.

##### **Note—**

Section 11 (2) of the Act enables the Electoral Commission to require information submitted to the Electoral

Commission to be verified by statutory declaration.

## **6 Period for which information publicly retained on Lobbyists Register**

For the purposes of section 10 (6) of the Act, information relating to a third-party lobbyist is to be retained in the Lobbyists Register until at least the end of the period of 2 years after the person ceased to be a registered third-party lobbyist.

## **7 Additional grounds for cancellation or suspension of registration**

- (1) 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) contravened the former Lobbyist Code before the commencement of this Regulation.
- (2) This clause does not apply to a contravention of the former Lobbyist Code if, before that commencement, the Secretary had considered the contravention and determined whether or not to take action in relation to the registration of the lobbyist or individual on the former Register of Lobbyists.

- (3) In this clause:

**former Lobbyist Code** means the NSW Government Lobbyist Code of Conduct administered by the Secretary immediately before the commencement of this Regulation.

**former Register of Lobbyists** means the Register of Lobbyists kept by the Secretary immediately before the commencement of this Regulation.

**Secretary** means the Secretary of the Department of Premier and Cabinet.

# **Schedule 1 NSW Lobbyists Code of Conduct**

## **Part 1 Preliminary**

### **1 Name of Code**

This is the *NSW Lobbyists Code of Conduct 2014*.

### **2 Purpose of Code**

This Code sets out the ethical standards of conduct, and other requirements, to be observed by lobbyists in connection with the lobbying of NSW Government officials in order to promote transparency, integrity and honesty.

### **3 Lobbyists to whom Code applies**

This Code applies to third-party lobbyists and to all other individuals and bodies that lobby NSW Government officials (including individuals engaged to undertake lobbying for a

third-party lobbyist).

#### **4 Meaning of “lobbying”**

- (1) For the purposes of this Code, **lobbying** a NSW Government official means communicating with the official for the purpose of representing the interests of others in relation to any of the following:
  - (a) legislation or proposed legislation or a government decision or policy or proposed government decision or policy,
  - (b) a planning application,
  - (c) the exercise by the official of his or her official functions.
- (2) Lobbying extends to:
  - (a) any such communication whether or not in the course of carrying on the business of lobbying NSW Government officials, and
  - (b) any such communication by a person who works for an organisation for the purpose of representing the interests of the organisation or its members, and
  - (c) any such communication for the purpose of representing community interests.
- (3) However, lobbying does not include:
  - (a) any communication by a member of Parliament acting in the ordinary course of his or her duties as a member (or any communication by a constituent of a member of Parliament in the ordinary course of seeking electorate advice or assistance from the member), or
  - (b) any communication by a NSW Government official acting in the ordinary course of his or her duties as a NSW Government official.

## **Part 2 Ethical standards of conduct applying to all lobbyists**

#### **5 Lobbyists to disclose matter to be discussed at proposed meeting**

Lobbyists who seek a meeting to lobby NSW Government officials must disclose to the officials before the meeting the nature of the matter to be discussed.

#### **6 Lobbyists to disclose any interest in matters discussed at meeting**

Lobbyists who meet NSW Government officials must disclose to the officials before the meeting commences any financial or other interest they have in the matter to be discussed at the meeting.

## **7 Lobbyists not to engage in misleading, corrupt etc conduct**

Lobbyists must not engage in any misleading, dishonest, corrupt or other unlawful conduct in connection with a meeting or other communication for the purpose of lobbying NSW Government officials.

## **8 Lobbyists to provide true and accurate information**

Lobbyists must use all reasonable endeavours to satisfy themselves of the truth and accuracy of all material information that they provide in connection with a meeting or other communication for the purpose of lobbying NSW Government officials.

# **Part 3 Third-party lobbyists—additional standards and requirements**

## **9 Third-party lobbyists required to be registered**

Third-party lobbyists must not meet or otherwise communicate with NSW Government officials for the purpose of lobbying unless:

- (a) they are registered on the Register of Third-Party Lobbyists, and
- (b) any individuals they engage to undertake the lobbying for them are registered on the Register, and
- (c) they have provided all other information required to be included in the Register in connection with their lobbying business.

### **Note—**

Conduct obligations that apply to Ministers and other NSW Government officials include an obligation not to permit lobbying of them by unregistered third-party lobbyists, and restrictions on meetings at which they are lobbied by lobbyists on the Lobbyists Watch List.

## **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.

**10 Lobbyists to disclose if they are third-party lobbyists and identity of their clients**

- (1) Third-party lobbyists must disclose to NSW Government officials they lobby:
  - (a) that they are third-party lobbyists, and
  - (b) the names of any individuals they have engaged to undertake the lobbying, and
  - (c) the name of the individual or body whose interests the lobbyist is representing, and
  - (d) if the individual or body whose interests the lobbyist is representing is a foreign principal:
    - (i) that the individual or body is a foreign principal, and
    - (ii) the foreign country in respect of which the individual or body is a foreign principal.
- (2) The information is to be disclosed before any meeting is held, or other communication made, for the purpose of the lobbying.

**11 Third-party lobbyists not to lobby on matters related to Government board or committee of which they are members**

Third-party lobbyists must not lobby on a matter that relates to the functions of a NSW Government board or committee of which they (or the individuals they engage to undertake the lobbying for them) are members.

**12 Third-party lobbyists not to exaggerate or misrepresent their access to political parties or Government**

Third-party lobbyists (and the individuals they engage to undertake the lobbying for them) must not make exaggerated or misleading claims to their clients about the nature or extent of their access to political parties, the Government or Government agencies or to persons associated with them.

**13 Third-party lobbyists to keep party political involvement separate from lobbying activities**

Third-party lobbyists (and the individuals they engage to undertake the lobbying for them) must keep separate from their lobbying activities any personal activity or involvement on behalf of a political party.

**14 Prohibition on success fees for third-party lobbyists**

Third-party lobbyists are, by the [Lobbying of Government Officials Act 2011](#), prohibited from receiving or agreeing to receive (or agreeing that other persons are to receive)



success fees for the lobbying of NSW Government officials.

## Part 4 Definitions

### 15 Meaning of words used in this Code

In this Code:

**communicate** includes communicate in person, in writing, by telephone or by email or other electronic means.

**foreign country** and **foreign principal** have the same meanings as in the [Foreign Influence Transparency Scheme Act 2018](#) of the Commonwealth.

**Note—**

The current version of the Commonwealth Act is available on the Federal Register of Legislation at [www.legislation.gov.au](http://www.legislation.gov.au).

**lobbyist** means:

- (a) a third-party lobbyist, or
- (b) any other individual or body that lobbies NSW Government officials (including an individual engaged to undertake lobbying for a third-party lobbyist).

**meeting** with a NSW Government official, means a meeting held in person with the official or by means of a teleconference.

**NSW Government official** means any of the following:

- (a) a NSW Minister or Parliamentary Secretary,
  - (b) a staff member of a NSW Minister or Parliamentary Secretary (including a staff member in an electorate office),
  - (c) the head of a NSW Public Service agency,
  - (d) a person employed in the Public Service of New South Wales, the Transport Service of New South Wales or any other service of the Crown,
  - (e) an individual who is engaged under a contract to provide services to or on behalf of the Public Service of New South Wales, the Transport Service of New South Wales or any other service of the Crown,
  - (f) a member (however expressed) of, or of the governing body of, a NSW statutory body,
- but does not include a local government official.

**planning application** means an application or request by a person (other than a public authority within the meaning of the [Environmental Planning and Assessment Act 1979](#)):

- (a) to initiate the making of an environmental planning instrument or plan under that Act in relation to any development, project or activity on a particular site, or
- (b) for consent to, or approval of, any development, project or activity under that Act or for the modification of any such consent or approval.

**Register of Third-Party Lobbyists** means the Register of Third-Party Lobbyists established under the [Lobbying of Government Officials Act 2011](#), and (until a register is so established) means the Register of Third-Party Lobbyists kept by the Secretary of the Department of Premier and Cabinet.

**Note—**

Persons registered on the Register of Third-Party Lobbyists kept by the Secretary of the Department of Premier and Cabinet before the commencement of this Regulation are taken to be registered on the Register to be kept by the Electoral Commission under the Act. Officers of registered political parties are not eligible to be registered on the Register of Third-Party Lobbyists.

**third-party lobbyist** means an individual or body carrying on the business (generally for money or other valuable consideration) of lobbying NSW Government officials on behalf of another individual or body.