

Lobbying Disclosure and Accountability Bill 2007

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Western Australia

LEGISLATIVE ASSEMBLY

(Introduced by Dr Constable, MLA)

**Lobbying Disclosure and Accountability
Bill 2007**

A Bill for

An Act to provide for the registration of lobbyists, to establish a register of lobbyists, to provide for the disclosure of lobbying activities intended to inform and influence Members of Parliament, Ministers of the Crown and other public officers, to establish a register of activities so disclosed, to provide for investigations of lobbying activities and for incidental purposes.

The Parliament of Western Australia enacts as follows:

Part 1 — Definitions and interpretation

1. Short title

This is the *Lobbying Disclosure and Accountability Act 2007*.

2. Commencement

5 This Act comes into operation on a date to be fixed by proclamation.

3. Interpretation

In this Act, unless the contrary intention appears —

10 **“appropriate authority”** means a person, body or organization who or which is empowered by a law of the State to take investigatory or other action and includes (without limiting the foregoing) —

- (a) a member of the Police Service;
- (b) the Director of Public Prosecutions; and
- 15 (c) the Commissioner for Public Sector Standards;

“Commissioner” means the Commissioner for Public Sector Standards appointed under the *Public Sector Management Act 1994*;

20 **“Corporations Act”** means the *Corporations Act 2001* of the Commonwealth;

“consultant lobbyist” has the meaning given by section 23;

“employed lobbyist” has the meaning given by section 20;

25 **“judicial proceedings”** includes any proceeding had or taken in or before any court, tribunal, or person, in which evidence may be given on oath;

“lobbying activity” has the meaning given by section 4;

“lobbyist” means a person who is an employed lobbyist, a consultant lobbyist or both;

“**statutory authority money**” has the same meaning as in the *Financial Management Act 2006*;

“**person**” includes a body corporate or association or body of persons, whether incorporated or unincorporated;

5 “**public authority**” means any body, whether incorporated or unincorporated, that is established or continued for a public purpose under a written law;

“**public money**” has the same meaning as in the *Financial Management Act 2006*;

10 “**public official**” means —

(a) a Minister of the Crown;

(b) a Parliamentary Secretary appointed under section 44A of the *Constitution Acts Amendment Act 1899*;

(c) member of either House of Parliament;

15 (d) ministerial officer within the meaning of the *Public Sector Management Act 1994*;

(e) a member of the Senior Executive Service constituted under the *Public Sector Management Act 1994*;

20 (f) a chief executive officer within the meaning of the *Public Sector Management Act 1994*;

(g) a chief employee within the meaning of the *Public Sector Management Act 1994*;

25 (h) a body or holder of an office referred to in paragraph (a) of the definition of non-SES organisation in the *Public Sector Management Act 1994*;

(i) a body or holder of an office referred to in paragraph (a) of the definition of SES organisation in the *Public Sector Management Act 1994*; or

30 (j) the holder of such other office, post or position as is prescribed;

“**Register of Lobbying Activity**” means the register compiled and maintained under section 26;

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“Register of Lobbyists” means the register compiled and maintained under section 12;

“related entity” has the same meaning as in the Corporations Act;

5 **“remuneration”** has the same meaning as in the *Salaries and Allowances Act 1975*.

4. Lobbying activity defined

(1) For the purposes of this Act, but subject to this section, **“lobbying activity”** means —

- 10 (a) any oral or written communication (including an electronic communication) with a public official in respect of —
- 15 (i) the development of any legislative proposal by the Government or by a member of either House of Parliament;
 - (ii) the introduction of any Bill in either House of Parliament or the passage or amendment of any Bill that is before either House of Parliament;
 - 20 (iii) the making or amendment of any subsidiary legislation;
 - (iv) the introduction or change of any Government policy or programme;
 - (v) the exercise of any authority or power conferred under a written law; or
 - 25 (vi) the expenditure of public moneys or moneys of a statutory authority; and
- (b) arranging or attending a meeting between a public official and any other person.

(2) **“Lobbying activity”** does not include oral or written communication (including an electronic communication) that is —

- 5 (a) made by a public official, a public authority, or any other person holding office under a written law in his, her or its official capacity;
- (b) made on behalf of the government of the Commonwealth or a State, other than the State of Western Australia;
- 10 (c) made on behalf of the government of a foreign country;
- (d) constituted by any application required or authorized by a written law;
- (e) made by a representative or employee of a media organization for the purposes of gathering and disseminating news and information to the public;
- 15 (f) made in a speech, article, publication or other medium of mass communication;
- (g) made in a petition to the either House of Parliament or in evidence or submissions to a committee of either of those Houses, or a joint committee of both Houses of Parliament; or
- 20 (h) made in the course of any judicial proceedings.

(3) **“Lobbying activity”** does not include arranging or attending a meeting with a public official —

- 25 (a) that is open to members of the public; or
- (b) by a representative or employee of a media organization for the purposes of gathering and disseminating news and information to the public.

5. Act not to affect personal lobbying activity

30 Nothing in this Act shall be interpreted so as to apply to lobbying activity engaged in by a natural person on his or her own behalf.

Part 2 — Registration of lobbyists

Division 1 — Registration

6. Natural persons may be registered

5 Registration under this Act may be granted only to a natural person.

7. Registration

- (1) Subject to this section, the Commissioner is to register an applicant if satisfied that the applicant has —
- 10 (a) complied with the requirements of subsection (2); and
 - (b) paid the registration fee, if any, prescribed by the regulations.
- (2) The requirements for registration are that the applicant —
- 15 (a) is of good fame and character;
 - (b) is a fit and proper person to be registered as a lobbyist; and
 - (c) has not been convicted of an offence the nature of which renders the person unfit to be a lobbyist.
- (3) The Commissioner must not register an applicant if, at any time within the period of one year before the date of the application, the applicant was a public official.
- 20 (4) On application in the prescribed form, the Commissioner may, on any condition which the Commissioner specifies, exempt an applicant from the application of subsection (3) if the Commissioner is of the opinion that the exemption would not
- 25 be contrary to the purposes of this Act having regard to any circumstance or factor that the Commissioner considers relevant, including whether the applicant —
- (a) was a public official for a short period;
 - (b) was a public official on an acting basis;

- (c) was employed as a public official under a program of student employment; or
- (d) had administrative duties only as a public official.

8. Application

- 5 (1) An application is to be —
- (a) in writing;
 - (b) made in an approved manner and form; and
 - (c) accompanied by the application fee, if any, prescribed by the regulations.
- 10 (2) The applicant must provide the Commissioner with such further information as the Commissioner requires, in any particular case, and if required by the Commissioner must verify the information by statutory declaration.
- 15 (3) The Commissioner may, in writing, require an applicant for registration to attend before the Commissioner for the purpose of satisfying the Commissioner as to a matter relevant to the application and, if the person fails to attend, may refuse the application.
- 20 (4) The Commissioner may refuse to register a person who does not comply with this section.

9. Effect of registration

Subject to this Act, registration confers on the person registered the right to engage in lobbying activity in the State.

10. Duration of registration

- 25 Subject to this Act, registration —
- (a) has effect for the period prescribed by the regulations; and
 - (b) may be renewed in accordance with the regulations for a further period prescribed by the regulations.

11. Fee for registration

- 5 (1) A lobbyist must pay to the Commissioner a fee prescribed by the regulations for the renewal of registration, and if the fee is not paid on or before the day on which it falls due under the regulations —
- (a) the person ceases to be registered; and
- (b) the person's name must be removed from the Register of Lobbyists.
- 10 (2) A person whose name is removed from the Register of Lobbyists under subsection (1) may at any time pay to the Commissioner all fees that are in arrears, and all fees that would be in arrears if the person had continued to be registered, together with any additional amount prescribed by the regulations for the purposes of this subsection, and is then to be
- 15 entitled, subject to this Act, to have his or her registration renewed and the name restored to the register.
- (3) The Commissioner is to give written notice of the renewal fee to a lobbyist, sent to that lobbyist's address as recorded in the register, at least 42 days before the fee falls due under the
- 20 regulations.
- (4) A person may apply to the Commissioner for the remission of fees payable by the period under this section that are in arrears, and that Commissioner may remit those fees in whole or in part.

Division 2 — The Register of Lobbyists

25 **12. The Register of Lobbyists**

- (1) The Commissioner is required to keep an accurate and up to date register of all lobbyists to be known as the "Register of Lobbyists" and in respect of each registered lobbyist is to record —
- 30 (a) the name of that lobbyist;

- 5
- (b) whether the lobbyist is registered as an employed lobbyist or a consultant lobbyist;
 - (c) the business, or other, address of that lobbyist;
 - (d) in the case of a public official, the public office or offices formerly held by the lobbyist;
 - (e) in the case of an employed lobbyist, the name and business address of the employer; and
 - (f) such other information, if any, as is prescribed by the regulations.
- 10
- (2) The Register of Lobbyists may be compiled in such manner and form as the Commissioner considers convenient, including by electronic means.
- (3) The Register of Lobbyists shall be open to inspection by any person at such place and at such reasonable times as the Commissioner may determine.
- 15

13. Certificate of registration

- (1) On the registration of a person the Commissioner is to issue to that person a certificate of registration in an approved form.
- (2) In the absence of evidence to the contrary a certificate of registration is evidence that the person to whom the certificate is issued is registered.
- 20

14. Voluntary removal from the Register of Lobbyists and cancellation of registration

- (1) A lobbyist may, in writing, request the Commissioner to remove the name of that lobbyist and cancel the lobbyist's registration.
- (2) Upon receipt of a request under subsection (1) the Commissioner must remove the name of the lobbyist from the Register of Lobbyists and cancel the lobbyist's registration.
- 25

15. Cancellation of registration

- (1) Any person may, at any time, make a complaint in writing to the Commissioner about the registration of a lobbyist if the complaint complies with subsection (2).
- 5 (2) For a complaint to comply with this subsection —
- (a) the complaint has to specify the lobbyist and the ground of complaint; and
 - (b) the ground of complaint has to be a ground described in subsection (3).
- 10 (3) The Commissioner may, on receiving a complaint under subsection (1) or on the Commissioner's own initiative, make any investigation or inquiry that the Commissioner considers necessary to decide whether to make an allegation under subsection (4) —
- 15 (a) on the ground that the lobbyist improperly obtained registration contrary to the provisions of this Act;
 - (b) on the ground that the lobbyist has been convicted of any offence against this Act;
 - 20 (c) on any of the grounds on which the Commissioner may refuse to register a lobbyist under section 7.
- (4) If the Commissioner decides that it is appropriate to do so, the Commissioner may make an allegation to the State Administrative Tribunal that there is ground for it to make an order under subsection (6).
- 25 (5) If the Commissioner decides not to make an allegation concerning a lobbyist about whom a complaint was made under subsection (1) the Commissioner is required to notify the person who made the complaint and the reason for it.
- 30 (6) Where the State Administrative Tribunal, on dealing with an allegation under subsection (4) is satisfied that any of the grounds under subsection (3) is proved, it may order that the Commissioner cancel the lobbyist's registration and that the

lobbyist be disqualified either permanently or for such period as the Tribunal specifies in the order from being registered under this Act.

- 5 (7) During the period for which the lobbyist is disqualified from being registered, the lobbyist shall be deemed not to be registered.

16. Review of Commissioner's decision

10 Where the Commissioner refuses to grant registration as a lobbyist to an applicant under section 7, the applicant may apply to the State Administrative Tribunal for a review of the decision.

Division 3 — Notifications to Commissioner

17. Change of address

- 15 (1) A lobbyist must give the Commissioner written advice of any change to the address that is recorded in the Register of Lobbyists in relation to the person.

Penalty: \$1,000.

- (2) The advice referred to in subsection (1) must be given no later than 30 days after the change to the address.

18. Insolvency

20 A lobbyist must, within 7 days of becoming a person who is an insolvent under administration as defined in the Corporations Act section 9, give the Commissioner written advice of the insolvency.

Penalty: \$5,000.

19. Civil or criminal proceedings

(1) A lobbyist must give to the Commissioner written advice of any of the following matters within 14 days after —

- 5 (a) any civil proceedings claiming damages or other compensation arising out of engaging in lobbying activity;
- (b) any criminal proceedings for an offence arising out of engaging in lobbying activity; or
- 10 (c) any proceedings for contempt of parliament arising out of engaging in lobbying activity,

are commenced against the lobbyist.

Penalty: \$5,000.

(2) A lobbyist must give to the Commissioner written advice of any of the following matters within 14 days after —

- 15 (a) any proceedings of a kind referred to in subsection (1) commenced against the lobbyist are withdrawn or settled;
- (b) any such proceedings are determined by a court, the Parliament or other tribunal.

20 Penalty: \$5,000.

Part 3 — Disclosure of Lobbying

Division 1 — Employed Lobbyists

20. Application of Division 1

- 5 (1) This Division applies to any natural person (referred to in this Act as an “**employed lobbyist**”) —
- (a) who is employed by another person (referred to in this Act as an “employer”); and
 - (b) whose duties or activities with the employer include lobbying activity on behalf of —
 - 10 (i) the employer;
 - (ii) where the employer is a corporation within the meaning of the Corporations Act, the employer and any related entity of the employer; or
 - 15 (iii) any profession, business, trade, vocation or calling in relation to which the employer is a representative body.
- (2) Without limiting subsection (1) an employee of an organization within the meaning of the *Industrial Relations Act 1979* who engages in lobbying activity shall be deemed to be an employed lobbyist.
- 20

21. Employed lobbyists to lodge returns

- (1) An employed lobbyist must, lodge a quarterly return with the Commissioner setting out the information referred to in subsection (2) in respect of the periods —
- 25
- (a) 1 January to 31 March;
 - (b) 1 April to 30 June;
 - (c) 1 July to 30 September;

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Part 3 Disclosure of Lobbying

Division 1 Employed Lobbyists

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(d) 1 October to 31 December,

and the quarterly return must be lodged within 28 days of the end of each applicable period referred to in paragraphs (a), (b), (c) and (d) of this subsection.

5 Penalty: \$10,000, and a daily penalty of \$1,000.

(2) A return lodged in accordance with subsection (1) shall set out the following information in relation to all of the lobbying activity carried out by the employed lobbyist in the preceding quarter —

10 (a) the name and business address of the employed lobbyist;

(b) the name and business address of the employer;

(c) where the employer is a corporation within the meaning of the Corporations Act, the name and business address of any related entity of the employer that, to the knowledge of the employed lobbyist, has a direct interest in the outcome of the employed lobbyist's lobbying activity;

(d) any other person that, to the knowledge of the employed lobbyist, has a direct interest in the outcome of the employed lobbyist's lobbying activity;

(e) a description in summary form of the employer's business or activities and such other information to identify the nature of the employer's business or activities as is prescribed;

(f) a description, in summary form, of the subject matter of the lobbying activity, and such other information regarding the subject matter as is prescribed;

(g) particulars to identify any legislative proposal, Bill, subsidiary legislation, policy, programme, authority, power or expenditure to which the lobbying activity related;

(h) where the public officials in relation to whom lobbying activity was directed are persons within paragraphs (a),

(b) or (c) of the definition of “**public official**”, the name of the public officials;

5 (i) where the public officials in relation to whom lobbying activity was directed are persons within paragraphs (d), (e), (f), (g), (h), (i) or (j) of the definition of public official, the titles of the public officials; and

(j) such other information in relation to the lobbying activity as is prescribed.

10 (3) The Commissioner may, on the application of an employed lobbyist, extend the time within which a quarterly return required by subsection (1) must be lodged.

15 (4) Where an employed lobbyist has not engaged in any lobbying activity in a particular quarter, the employed lobbyist must lodge an annual return stating that he or she has not engaged in any lobbying activity in that quarter.

22. Commissioner may require further information

20 (1) The Commissioner may, by notice in writing served on the employed lobbyist, require an employed lobbyist to provide such further written information in relation to a return lodged pursuant to section 21 as the Commissioner considers is necessary to clarify the information set out in that return.

(2) A notice under subsection (1) shall —

- 25 (a) be in writing;
- (b) specify the nature of the further information required;
- (c) specify a time at or within which the further information is to be provided; and
- (d) state that the person receiving the notice is required by this Act to comply with the notice.

- (3) A person who, without reasonable excuse (proof of which shall lie on him or her), fails to comply with a notice served on the person under subsection (1) is guilty of an offence.

Penalty: \$10,000, and a daily penalty of \$1,000.

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Division 2 — Consultant Lobbyists

23. Application of Division 2

- (1) This Division applies to any natural person (referred to in this Act as a “**consultant lobbyist**”) who, directly or indirectly, received money or other remuneration, for engaging in lobbying activity on behalf of any other person (referred to in this Division as “**the client**”), other than as an employed lobbyist.

- (2) To avoid doubt, a consultant lobbyist need not carry on a business of engaging in lobbying activity, or engage in lobbying activity on more than one occasion, for this Division to apply to him or her.

- (3) Where a person acts as an employed lobbyist and a consultant lobbyist, that person shall comply with both Division 1 and this Division.

24. Consultant lobbyists to lodge returns

- (1) A consultant lobbyist must, not later than the 15th day of each month (or such other time as the Commissioner allows under subsection (3)), lodge a monthly return with the Commissioner setting out the information referred to in subsection (2).

Penalty: \$10,000, and a daily penalty of \$1,000.

- (2) A return lodged in accordance with subsection (1) shall set out the following information in relation to each instance of lobbying activity carried out by the consultant lobbyist in the preceding calendar month —

- (a) the name and business address of the consultant lobbyist;

- (b) where applicable, the name and business address of any firm, corporation or other entity through which the consultant lobbyist carried out the lobbying activity (whether as an employee or otherwise);
- 5 (c) the name and business address of the client and the name and business address of any person that, to the knowledge of the consultant lobbyist, controls or directs the activities of the client and has a direct interest in the outcome of the consultant lobbyist's lobbying activity;
- 10 (d) where the client is a corporation within the meaning of the Corporations Act, the name and business address of any related entity of the client that, to the knowledge of the consultant lobbyist, has a direct interest in the outcome of the consultant lobbyist's lobbying activity;
- 15 (e) particulars to identify the subject matter of the lobbying activity, and such other information regarding the subject matter as is prescribed;
- (f) particulars to identify any legislative proposal, Bill, subsidiary legislation, policy, programme, authority, power or expenditure to which the lobbying activity related;
- 20 (g) the date on which the lobbying activity occurred;
- (h) where the public official in relation to whom the lobbying activity was directed is a person within paragraphs (a), (b) or (c) of the definition of "**public official**", the name of the public official;
- 25 (i) where the public official in relation to whom the lobbying activity was directed is a person within paragraphs (d), (e), (f), (g), (h), (i) or (j) of the definition of "**public official**", the title of the public official;
- 30 (j) where applicable, whether the money or other remuneration payable in respect of the lobbying activity is wholly or partly contingent on the consultant lobbyist's degree of success in influencing the matters referred to in Section 4(1)(a)(i) to (vi); and
- 35

(k) such other information in relation to the lobbying activity as is prescribed.

5 (3) The Commissioner may, on the application of a consultant lobbyist, extend the time within which a monthly return required by subsection (1) must be lodged.

(4) Where a consultant lobbyist has not engaged in any lobbying activity in a particular calendar month, the consultant lobbyist must lodge a monthly return stating that he or she has not engaged in any lobbying activity in that calendar month.

10 **25. Commissioner may require further information**

(1) The Commissioner may, by notice in writing served on the consultant lobbyist, require a consultant lobbyist to provide such further written information in relation to a return lodged pursuant to section 24 as the Commissioner considers is necessary to clarify the information set out in that return.

(2) A notice under subsection (1) shall —

- 15 (a) be in writing;
- (b) specify the nature of the further information required;
- 20 (c) specify a time at or within which the further information is to be provided; and
- (d) state that the person receiving the notice is required by this Act to comply with the notice.

(3) A person who, without reasonable excuse (proof of which shall lie on him or her), fails to comply with a notice served on the person under subsection (1) is guilty of an offence.

25 Penalty: \$10,000, and a daily penalty of \$1,000.

Division 3 — Register of Lobbying Activity

26. Register of Lobbying Activity established

30 (1) The Commissioner shall compile and maintain a register to be called the “Register of Lobbying Activity”.

- (2) The Register of Lobbying Activity shall comprise all of the information set out in returns lodged under this Act and all of the information provided to the Commissioner pursuant to notices served under section 22(1) and section 25(1).
- 5 (3) The Register of Lobbying Activity may be compiled in such manner and form as the Commissioner considers convenient, including by electronic means.
- 10 (4) The Register of Lobbying Activity shall be open to inspection by any person at such place and at such reasonable times as the Commissioner may determine.

Part 4 — Investigation and Offences

Division 1 — Investigations by Commissioner

27. Commissioner may investigate lobbying activity

- 5 (1) The Commissioner may investigate any matter relating to any lobbying activity carried out by a lobbyist.
- (2) In particular, without limiting subsection (1), the Commissioner may investigate whether a lobbyist has in the course of any lobbying activity —
- 10 (a) adequately disclosed to the relevant public official, the person on whose behalf the lobbying activity was being conducted;
- (b) provide accurate and factual information to the relevant public official;
- 15 (c) been accorded any unfairly preferential or discriminatory treatment by the relevant public official;
- (d) attempted to apply any improper influence on the relevant public officer; or
- (e) represented competing or conflicting interests without the consent of those whose interest are involved.
- 20 (3) In this section, “**the relevant public official**” means the public official to whom the lobbying activity was directed.
- (4) The provisions of section 24 of the *Public Sector Management Act 1994* shall apply, with all necessary modifications, to an investigation by the Commissioner pursuant to this section.
- 25 (5) If, during the course of an in investigation under this section, the Commissioner suspects that a person has committed an offence, a breach of discipline or otherwise engaged in conduct which may be the subject of further action, the Commissioner may refer that conduct to an appropriate authority for further action.

28. Report on completion of investigation or generally

- 5 (1) Where the Commissioner conducts an investigation under section 27, the Commissioner shall prepare a report of his or her conclusions, and the reasons for those conclusions, in relation to the matter the subject of the investigation.
- (2) The Commissioner may, if he or she thinks fit, prepare a report in relation to any matter arising out of the administration of this Act generally.
- 10 (3) Notwithstanding the *Financial Management Act 2006*, the Commissioner shall, as soon as practicable, lay before each House of Parliament any report prepared by the Commissioner under subsections (1) or (2).
- (4) If neither House of Parliament is sitting at the time when the Commissioner completes his or her report in accordance with subsections (1) or (2), the Commissioner shall —
- 15 (a) send copies of the report to the Clerks of both Houses of Parliament; and
- (b) make the report available to the public.

Division 2 — Offences and Legal Proceedings

20 **29. Persons who may engage in lobbying activity**

A person must not engage in lobbying activity unless that person is a registered person.

Penalty: \$50,000.

25 **30. Persons who may be employed or engaged to engage in lobbying activity**

A person must not employ or engage a person to engage in lobbying activity unless the person employed or engaged is a registered person.

Penalty: \$50,000.

31. Improper advantage of former public office

A person who formerly was a public official must not engage in lobbying activity in such a manner as to take improper advantage of his or her former public office or offices.

5 Penalty: \$50,000.

32. Prohibition on lobbying activities by former public officials

A person who formerly was a public official must not engage in any lobbying activity concerning a matter in respect of which the person had, or would have had, a duty by reason of holding his or her former public office or offices.

10 Penalty: \$50,000.

33. Improper disclosure

A person who formerly was a public official must not disclose to any person in the course of engaging in any lobbying activity any information that was obtained in his or her capacity as a former public official and is not available to a member of the public.

15 Penalty: \$50,000.

34. Privileged access to Houses of Parliament

A lobbyist who has been a member of either House of Parliament must not exercise any privilege with respect to access to —

- (a) the Houses of Parliament; or
- (b) facilities available to members of Parliament,

25 that is a privilege not available to a member of the public.
Penalty: \$50,000.

35. False or misleading information

A person who —

- 5
- (a) includes any information in a return lodged under this Act that the person knows is false or misleading in a material particular;
- (b) omits any information in a return lodged under this Act without which the return is, to the person's knowledge, false or misleading in a material particular;
- 10
- (c) includes any information in a response to a notice served under section 22(1) or section 25(1) that the person knows is false or misleading in a material particular; or
- (d) omits any information in a response to a notice served under section 22(1) or section 25(1) without which the response is, to the person's knowledge, false or
- 15
- misleading in a material particular,

is guilty of an offence.

Penalty: \$50,000.

36. Contingent fees

- 20
- (1) A lobbyist or the employer of a lobbyist must not receive any payment that is in whole or in part contingent on the outcome of any matter described in section 4(1) or on the lobbyist's success in arranging a meeting referred to in section 4(1)(b).

Penalty: \$50,000.

- 25
- (2) A person must not make a payment referred to in subsection (2) to a lobbyist or the employer of a lobbyist.

Penalty: \$50,000.

37. Proof of returns and information

In any prosecution for an offence against this Act a copy of —

- (a) a return lodged under this Act; or

(b) a response to a notice served under section 22(1) or section 25(1),

purporting to be certified under the Commissioner's signature as a true copy is, without proof of the Commissioner's signature, admissible in evidence.

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38. Proof of intention

In any proceedings for an offence against this Act, an averment in the complaint that any oral or written communication (including electronic communication) was made with a particular intent, must, on proof of the communication having occurred, be taken to be proved, unless the contrary is proved.

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39. Proof that a person is a public official

In any proceedings for an offence against this Act, an averment in the complaint that a person was a public official within the meaning of this Act must be taken to be proved, unless the contrary is proved.

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Part 5 — Miscellaneous

40. Rules of Parliament

- (1) Rules of Parliament may be made for prescribing all matters that —
- 5 (a) are required or permitted to be prescribed; or
- (b) are necessary or convenient to be prescribed, for giving effect to the purposes of this Act.
- (2) The Rules of Parliament referred to in this section are rules that have been agreed upon by each House of Parliament in
- 10 accordance with the Rules and Orders thereof.
- (3) Rules of Parliament made under this Act shall be published in the *Gazette*.
- (4) Section 42 of the *Interpretation Act 1984* does not apply to Rules of Parliament made under this Act.

15 41. Code of conduct

- (1) The Commissioner may issue a code of conduct for lobbyists engaging in lobbying activity.
- (2) The code of conduct may adopt the provisions of other
- 20 publications, whether with or without modification or additional and whether in force at a particular time or from time to time.
- (3) A breach of the code of conduct does not of itself constitute a breach of this Act, but the Commissioner may consider whether such a breach has occurred, and may take into account any such breach that the Commissioner is satisfied has occurred, in
- 25 performing any function under this Act.
- (4) Except as provided in subsection (3), no civil or criminal liability attaches to a person by reason only that the person has committed a breach of the code of conduct.

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- (5) The *Interpretation Act 1984* sections 41, 42, 43 and 44 apply to the code of conduct as if the code of conduct was regulations.

42. Review of Act

- 5 (1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as practicable after the expiry of 5 years from its commencement, having regard to all matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.
- 10 (2) The Minister is to prepare a report based on the review and, as soon as is practicable after the report is prepared, is to cause it to be laid before each House of Parliament.

Part 6 — Consequential amendments

43. The Act amended

The amendments in this Part are to the *Public Sector Management Act 1994*.

5 **44. Section 21A inserted**

After section 21 the following section is inserted —

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21A. Jurisdiction under *Lobbying Disclosure and Accountability Act 2007*

10 Notwithstanding anything in section 21, the
Commissioner shall have jurisdiction, authority and
power to do all things provided for in the *Lobbying
Disclosure and Accountability Act 2007*.

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