



New South Wales

Lobbying of Government Officials Bill 2011

Explanatory note

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

Overview of Bill

The object of this Bill is to prohibit the giving or receipt of success fees for lobbying by lobbyists who lobby Ministers, Parliamentary Secretaries and other Government officials.

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 a day or days to be appointed by proclamation.

Clause 3 defines certain words and expressions used in the proposed Act. A **Government official** is defined as a Minister, a Parliamentary Secretary, a staff member of a Minister or Parliamentary Secretary, a chief executive officer or senior executive officer within the meaning of the *Public Sector Employment and Management Act 2002* or a person employed under Chapter 1A of that Act, a member of a statutory body and a contractor providing services to or on behalf of a Division

* Amended in committee—see table at end of volume.

of the Government Service. **Lobbying** a Government official means communicating with the official for the purpose of representing the interests of another person or body in relation to certain specified Government activities or decisions. A **lobbyist** is defined as a person or body that carries on the business of lobbying Government officials on behalf of third parties and that generally does so for money or other valuable consideration.

Part 2 Ban on success fees for lobbying

Clause 4 defines a *success fee* for the lobbying of a Government official as an amount of money or other valuable consideration the giving or receipt of which is contingent on the outcome of the lobbying of a Government official by or on behalf of a lobbyist or on the outcome of a matter about which such lobbying is carried out.

Clause 5 makes it an offence to give, or agree to give, a success fee for the lobbying of a Government official to a lobbyist or any other person at the direction or with the agreement of the lobbyist. It will also be an offence for a lobbyist or any other person to receive, or agree to receive, such a success fee and for a lobbyist to agree that another person is to receive such a success fee.

Clause 6 provides for a success fee to be forfeited to the Crown if a person is found guilty of an offence under the proposed Part, unless the court otherwise orders. A court may, in proceedings or on appeal, order that a success fee not be forfeited or that a forfeited success fee be returned.

Clause 7 excludes fees paid primarily for the provision of professional advice or services from the effect of the proposed Part.

Part 3 Miscellaneous

Clause 8 enables the Governor to make regulations for the purposes of the proposed Act.

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

Clause 10 makes directors of a corporation or persons concerned in the management of a corporation liable for offences by the corporation under the proposed Act if they knowingly authorise or permit the relevant contraventions.

Clause 11 provides for the review of the proposed Act after 5 years.

Schedule 1 Savings, transitional and other provisions

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