

Explanatory Notes

FOR

Amendments to be moved during consideration in detail by the Honourable Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence

Crime and Corruption and Other Legislation Amendment Bill 2024

Objectives of the Amendments

Changes to lobbying framework

The primary objective of the amendments is to extend parts of the lobbying framework under the *Integrity Act 2009* (Integrity Act) to opposition spokespersons and opposition assistant spokespersons, to meet public expectations of visibility over lobbying activity and ensure decisions and policies made by political parties are free from undue influence. This will bring those opposition members into line with how the lobbying framework applies to government ministers.

The lobbying framework applies to government and opposition representatives. For government representatives, this captures the Premier, Ministers and Assistant Ministers, and their staff members. However, for opposition representatives, it only extends to the Leader and Deputy Leader of the Opposition, and staff members in the Office of the Leader of the Opposition. It does not capture an opposition spokesperson or opposition assistant spokesperson.

Opposition spokespersons, colloquially known as 'Shadow Ministers', are opposition Members of Parliament who are appointed by the Leader of the Opposition to represent a particular area of public business or policy. Through a current Determination under the *Queensland Independent Remuneration Tribunal Act 2013*, some opposition spokespersons are paid a salary in addition to their normal entitlements and those appointments become effective when the Leader of the Opposition formally notifies the Speaker, Clerk or the Legislative Assembly.

The Leader of the Opposition may also establish Opposition Assistant Spokesperson roles ('Shadow Assistant Ministers'). These roles may be notified to the Legislative Assembly through the tabling of a structure for the Opposition.

Lobbyists may influence an opposition spokesperson in the same way they influence the Leader and Deputy Leader of the Opposition, and the government.

Under the lobbying framework in the Integrity Act, a registered lobbyist must comply with the Lobbyists Code of Conduct, which contains a requirement for lobbyists to disclose monthly, the contact (meetings) they have with government and opposition representatives during the previous month. The information to be disclosed includes:

- the name of the registered lobbyist;
- confirmation the lobbyist has complied with other aspects of the Code of Conduct relating to initial communication with a government or opposition representative;
- the date of the lobbying activity;
- the name of the lobbyist's client;
- the title and/or name of the government or opposition representative; and
- the purpose of the communication (e.g. allocation of funding; awarding of a government contract; making or amending legislation; development or amendment of a government policy or program etc.).

The amendments will apply the lobbying framework to opposition spokespersons and opposition assistant spokespersons, to the extent that lobbying activity with that cohort will also be publicly available on the Lobbying Register. These amendments ensure the lobbying framework remains focused on transparency around lobbying of those government and opposition members with decision-making or potential decision-making powers.

The amendments will complement changes to Legislative Assembly sessional orders and *The Queensland Opposition Handbook* in March 2024, to require the monthly publication of opposition spokesperson and Deputy Leader of the Opposition diary extracts (respectively) outlining meetings with external parties, including the date, name of the organisation or person and purpose of the meeting. Those changes brought opposition spokespersons and the Deputy Leader of the Opposition into line with the requirements for the monthly publication of diary extracts for government ministers, assistant ministers and their chiefs of staff under *The Queensland Ministerial Handbook*, and the Leader of the Opposition and chief of staff under *The Queensland Opposition Handbook*.

Since the changes to the sessional orders and *The Queensland Opposition Handbook* in March 2024, the prevalence of lobbying of the Opposition – beyond the Leader and Deputy Leader of the Opposition – has become more apparent. While this is not a reflection on registered lobbyists, it is important for the public to have a holistic view of who the Opposition is meeting with and how it is developing policies. Therefore, coupled with other recent legislative and sessional order enhancements, the amendments will ensure Queenslanders have greater access to a more detailed suite of information about their elected officials.

Addressing minor technical errors

The amendments will also correct certain minor technical errors in the Crime and Corruption and Other Legislation Amendment Bill 2024 (the Bill).

Achievement of the Objectives

Changes to lobbying framework

The amendments are achieved by expanding the definition of ‘opposition representative’ in the Integrity Act to include an opposition spokesperson or opposition assistant spokesperson. As a result, elements of the lobbying framework will apply to this cohort. Notably this will:

- capture communication with opposition spokespersons and opposition assistant spokespersons as ‘lobbying activity’, thus requiring registered lobbyists to disclose lobbying activity involving meetings and contact with those persons; and
- require the Integrity Commissioner to provide education and training to opposition spokespersons and opposition assistant spokespersons about the operation of the lobbying framework in Chapter 4 of the Integrity Act.

The changes will also impose obligations on opposition spokespersons and opposition assistant spokespersons, as ‘opposition representatives’ to:

- not knowingly permit lobbying in contravention of sections 46 and 62 of the Integrity Act, which prohibit lobbying activity for a third party client by an unregistered lobbyist (s46) and prohibit lobbying activity for a third party client by a former government or opposition representative, if the activity relates to official dealings in which the person engaged in their official capacity in the two years prior to becoming a former representative (s62);
- report to the Integrity Commissioner, via a responsible person for the representative, any instances of an unregistered lobbyist seeking to carry out, or having carried out, lobbying activity with the representative (s66B);
- provide to the Integrity Commissioner, via a responsible person for the representative, information about lobbying activity with the representative, if the responsible person reasonably believes the information may be relevant to the functions or powers of the Integrity Commissioner (s66C); and
- upon request by the Integrity Commissioner by notice, provide the Integrity Commissioner with information or a document relating to a suspicion by the Integrity Commissioner that a registered lobbyist may have failed to comply with a condition of registration, the Lobbyists Code of Conduct or a directive, or elements of the Integrity Act (s66D).

The amendments will also capture contact with an opposition spokesperson or opposition assistant spokesperson as being contact that might form part of a ‘post-separation obligation’. These are obligations under sections 20A and 20D of the Integrity Act that a former ministerial advisor or ‘former designated person’ can continue to ask for the Integrity Commissioner’s advice about, for a period of two years after they ceased being a ministerial advisor or designated person.

The requirement for a registered lobbyist to disclose to the Integrity Commissioner, details of contact (meetings) with a government representative or opposition representative is imposed on registered lobbyists through a code of conduct made under section 55 of the Integrity Act. Compliance with the code of conduct is mandatory for registered lobbyists (s55(6)). The current *Lobbyists Code of Conduct* includes a requirement for registered lobbyists to disclose their lobbying activities to the Integrity Commissioner each month. That information is then published on the Lobbying Register maintained by the Integrity Commissioner.

Addressing minor technical errors

Incorrect section references in the amendments to the *Crime and Corruption Act 2001* (Crime and Corruption Act) contained in Part 2 of the Bill are also corrected.

Alternative Ways of Achieving Policy Objectives

The amendments are the most effective means of achieving the policy objectives.

Currently, the requirements for lobbyists to report monthly is contained in a code of conduct. These reporting requirements are a key feature of the lobbying regulation and provide the necessary transparency to the public about lobbying activity involving government and opposition representatives. The code of conduct adopts terms and concepts in the Integrity Act.

Estimated Cost for Government Implementation

There are no anticipated costs to government for implementing the amendments.

Consistency with Fundamental Legislative Principles

The amendments to the Integrity Act are consistent with the fundamental legislative principles outlined in part 2 of the *Legislative Standards Act 1992*.

The original Explanatory Notes for the Bill address the consistency with the fundamental legislative principles of the amendments to the Crime and Corruption Act. The technical amendments proposed do not raise additional fundamental legislative principles considerations.

Consultation

The Integrity Commissioner was consulted on the proposal and supports the amendments. The Leader of the Opposition has been advised of the proposed amendments.

NOTES ON PROVISIONS

Amendment 1 amends clause 31 of the Bill, which amends section 205 (Legal Assistance) of the Crime and Corruption Act, by replacing the incorrect reference to section 205G(b) with the correct reference to new section 205G(1)(b).

Amendment 2 amends new section 205K (Application of part) of the Crime and Corruption Act inserted by clause 32 of the Bill, by replacing the incorrect reference to section 205G(b) with the correct reference to new section 205G(1)(b).

Amendment 3 amends new section 205ZZB (Application of part) of the Crime and Corruption Act inserted by clause 32 of the Bill, by replacing the incorrect reference to section 205G(b) with the correct reference to new section 205G(1)(b).

Amendment 4 inserts part 2A (Amendment of Integrity Act 2009) into the Bill.

Part 2A consists of clauses 48A to 48C.

Clause 48A states that part 2A amends the Integrity Act.

Clause 48B amends section 45 of the Integrity Act to include an opposition spokesperson and an opposition assistant spokesperson within the meaning of *opposition representative*.

Subsection (1) inserts the two new roles as section 45(ba) and (bb), and subsection (2) renumbers sections 45(ba), (bb) and (c) as sections 45(c), (d) and (e).

Clause 48C amends Schedule 2 (Dictionary) to insert definitions for *opposition assistant spokesperson* and *opposition spokesperson*.

Amendment 5 makes a consequential amendment to the long title of the Bill to include the Integrity Act.

©The State of Queensland 2024