

Amendments to the *Integrity Act 2009* – effective 28 May 2024

Amendments to the *Integrity Act 2009* (Qld) (**the Act**) will come into effect in May 2024.

There are four key changes to the Commissioner’s advice function under Chapter 3 (Advice on ethics or integrity issues) of the Act. These changes govern processes for ministerial staff members to seek advice from the Commissioner on ethics and integrity issues, and gives the Premier the power to temporarily nominate a person or class of persons who can receive ethics or integrity advice (i.e. as a ‘designated person’ under the Act).

Chapter 4 (Regulation of lobbying activities) will be replaced entirely. The replacement replicates many existing provisions of the chapter, but with several changes that broaden the Commissioner’s regulatory function and require that more detailed information be provided in applications to become a registered lobbyist in Queensland.

More details about these changes are provided below.

Changes to the integrity and advice function (Chapter 3)

Changes to the Commissioner’s advice function

A minister’s chief of staff can currently ask for the Commissioner’s advice on an ethics or integrity issue involving themselves, however, the chief of staff must now give notice of the request to their minister.

A chief of staff for a minister or assistant minister may also ask the Commissioner for advice on an ethics or integrity issue involving a person who gives advice to the minister or assistant minister. And they must notify the relevant minister or assistant minister of their request.

Also, a ministerial advisor may now seek ethics and integrity advice relating to their post-separation obligations before they separate from their ministerial role (previously they could only seek this advice after they had separated).

The Queensland Premier has new powers to nominate a person to receive ethics and integrity advice

The Premier may nominate a person or class of persons to receive ethics and integrity advice (i.e. be a ‘designated person’ under the Act). The nomination will lapse after

28 business days. If it is considered the person or class or persons should continue to be designated, the 28 days provides sufficient time for a regulation to be made to prescribe the person or class of persons, under section 12(g) of the Act, if required.

Changes relevant to the lobbying regulation function (Chapter 4)

Dual hatting¹ is prohibited

A registered lobbyist must not perform a substantial role² in the election³ campaign of a political party. They cannot wear two hats – of lobbyist and political campaigner – at the same time.

A registered lobbyist must immediately give the Integrity Commissioner notice if they intend to perform a substantial role in an election campaign. The Commissioner must then immediately remove the individual’s name from the Lobbying Register.

To address public concerns about the risk of lobbyists exercising inappropriate influence on government, a former lobbyist who has played a substantial role in a successful election campaign is disqualified from being a registered lobbyist throughout the term of government. This stops a

1. The dual hatting provisions commenced on 19 April 2024; however, for completeness, the new sections are included as part of the broader changes relating to Chapter 4 of the Act.
2. A ‘substantial role’ means a role at a senior level, whether paid or unpaid, that involves employment or engagement by the party, and incorporates significant involvement in the party’s election strategy or policy development. It does **not** include any of the following: general membership of the party; volunteering for or advising a particular candidate; door knocking, placing documents in letter boxes or other campaign communications; media liaison; handing out how-to-vote material.
3. ‘Election’ means an election of a member or members of the Legislative Assembly (Queensland).

lobbyist who has helped guide a political party to office, from then lobbying the government on behalf of their clients.

If the political party doesn't win the election, the former lobbyist is eligible to be re-registered as a lobbyist. This is because they will have no actual or perceived influence with the incoming government as they had no involvement in helping to win the election campaign.

Officers and employees who carry out lobbying activities must now be registered lobbyists

Changes to the Act mean that individual officers or employees who conduct lobbying activity must now register as lobbyists, in addition to the registered lobbying entity they work for. Previously, only a lobbying entity (for example, a sole trader, a company or a partnership) could be registered as a lobbyist in Queensland. Officers and employees who carried out lobbying activities⁴ were *listed* on the Lobbying Register, but they were not separately registered as lobbyists.

An application to register an officer or employee must be made by an entity on behalf of its officers or employees. If approved, individuals will be listed on the Lobbying Register and subject to the obligations imposed on registered lobbyists under the Act. These obligations include undertaking an approved training course; complying with the Registered Lobbyists Code of Conduct and any directives issued by the Integrity Commissioner; and giving notice if they intend to perform a substantial role in the election campaign of a political party.

Training is now mandatory for registered lobbyists

It is now a condition of registration that lobbyists undertake an approved training course within a period specified by the Integrity Commissioner.

Former representatives must provide a statement about their 'official dealings'

The Act continues to prohibit 'former senior government representatives'⁵ and 'former opposition representatives'⁶ from carrying out lobbying activities for payment or reward

if the activities relate to 'official dealings' they engaged in, in their official capacity, in the two years immediately before they ceased being a representative.

The prohibition aims to ensure that former representatives cannot gain inappropriate personal benefit by using information they gained through their previous roles, in areas for which they previously had some official responsibility.

The new requirement is that a former representative applying to become a registered lobbyist must now give the Integrity Commissioner a statement about their 'official dealings' in the two years prior to ceasing their role.

The Act now defines 'official dealings' as any of the following dealings that the person engaged in as part of their ordinary duties on a regular basis:

- government or opposition business or activities
- negotiations, briefings and contracts; and the making or receipt of representations relating to government or opposition business or activities.

More detailed information on lobbyists will be published on the Lobbying Register

Statements by former representatives about their 'official dealings' will now be published on the Lobbying Register. A current government or opposition representative who is approached by a lobbyist who is a former representative will be able to check the lobbyist's 'official dealings' on the Lobbying Register and satisfy themselves that, by communicating with the lobbyist, they will not permit the lobbyist to breach the prohibition on lobbying in relation to official dealings.

In addition to publishing details of all registered lobbyists who work for a registered lobbying entity, the Lobbying Register will now contain details of all 'officers'⁷ of the entity and all employees except those whose roles are purely administrative or who work exclusively outside Queensland.

4. 'Lobbying activity' is communicating with a government or opposition representative in an effort to influence decision-making. For a list of what is not lobbying activity, see section 43 of the Act (as in force on 28 May 2024).

5. 'Former senior government representatives' are individuals who once held, but no longer hold, any of the following offices: premier; minister; assistant minister; councillor; ministerial staff member; assistant minister staff member; an office of a public sector officer that is an office of chief executive, senior executive or senior executive equivalent.

6. 'Former opposition representatives' are individuals who held, but no longer hold, any of the following offices: leader of the opposition; deputy leader of the opposition; staff member in the office of the leader of the opposition.

7. 'Officer' is a person who holds an office or position of authority in the entity; or carries out, or has a duty to carry out, the functions of an office of the entity; or has a right to participate in the administration or management of the affairs of the entity. Examples include a director, a chief executive officer, a chief financial officer, a partner, a manager and a trustee.

The Integrity Commissioner has new functions and powers

The Integrity Commissioner's functions will now include providing education and training to government representatives,⁸ opposition representatives⁹ and registered lobbyists¹⁰ about the operation of Chapter 4 (Lobbying activity) of the Act.

The Commissioner must approve a training course for registered lobbyists. It will be a condition of registration that the registered lobbyist completes the training within the timeframe set by the Commissioner.

The Commissioner will have new powers to issue:

- a directive (which registered lobbyists must comply with)
- a statutory notice, to a registered lobbyist or another person, to produce information or documents (where non-compliance by a registered lobbyist is suspected)
- a compliance notice (where it is appropriate to give a registered lobbyist an opportunity to rectify non-compliance).

8. A 'government representative' is the premier; a minister; an assistant minister; a councillor; a ministerial staff member; an assistant minister staff member; a public sector officer.

9. An 'opposition representative' is the leader of the opposition; the deputy leader of the opposition; a staff member in the office of the leader of the opposition.

10. An individual or a lobbying entity recorded in the lobbying register as a 'registered lobbyist'.