



Foreign Influence Transparency Scheme

Factsheet 7

December 2018

Former Cabinet Ministers and recent designated position holders

Former Cabinet Minister¹

A former Cabinet Minister must register any activity they undertake on behalf of a foreign principal unless an exemption applies. This extends beyond the categories of 'registrable activity' (parliamentary lobbying, general political lobbying, communications activity or disbursement activity) covered by the scheme. This includes circumstances where a former Cabinet Minister is employed by (or acts in any capacity for) a foreign principal at any time following their departure from their role as Cabinet Minister. This is a lifetime obligation.

The scheme does not prohibit former Cabinet Ministers from undertaking activities on behalf of a foreign principal. Rather, it acknowledges that it is in the public interest that these arrangements are transparent.

Some exemptions apply (see below).

Factsheets 4 and 5 provide more information about acting on behalf of a foreign principal and the concept of a foreign principal.

Example one

Person A was a Cabinet minister from 2005 to 2008.

Person A enters into a contract with a foreign government-related entity to provide advice on its internal governance arrangements. Person A must register this activity, even though it does not fall within one of the 'registrable activities' under the scheme.

Person A also undertakes work for a foreign government, advising on the distribution of humanitarian assistance to the country. This activity is exempt under the Act and Person A does not need to register.

Recent designated position holders²

A recent designated position holder is any person who, **within the last 15 years**, has been:

- a member of the Australian Parliament
- a staffer in a parliamentarian's office who has held the position of senior advisor or above
- a Commonwealth agency head, deputy agency head or statutory office holder equivalent to an agency head or deputy agency head, or
- the holder of a Commonwealth office outside of Australia, such as an Ambassador or High Commissioner.

¹ Section 22 of the *Foreign Influence Transparency Scheme Act 2018* (the Act) deals with the obligations of former Cabinet Ministers.

² Section 23 of the Act deals with recent designated position holders.

A recent designated position holder must register any activity they undertake on behalf of a foreign principal where, in undertaking the activities, the person contributes experience, knowledge, skills or contacts gained in their former position. This extends beyond the categories of 'registrable activity' (parliamentary lobbying, general political lobbying, communications activity or disbursement activity) and includes circumstances where the recent designated position holder is employed by (or acts in any capacity for) a foreign principal at any time following their departure from their role. This obligation extends for 15 years from the date the recent designated position holder leaves the relevant position.

The scheme does not prohibit a recent designated position holder from entering into an arrangement with a foreign principal. Rather it acknowledges that it is in the public interest that these arrangements are transparent.

Example two

Person B was the Secretary of the Australian Government Department responsible for infrastructure policy from 2005 to 2010.

In 2020, Person B accepts a position on the board of a global construction firm. The construction firm is a foreign government-related entity under the scheme.

Person B's role does not involve direct lobbying of the Australian Government or the Australian public. However, the foreign government-related entity expects that when undertaking any activities on their behalf, Person B will use the experience, knowledge, skills and contacts gained in their former position.

Person B must register their role with foreign government-related entity. Person B's obligation to register ceases in 2025.

Special notes

- Registrants under the scheme are exempt from applying if they are undertaking a registrable activity in their role as an employee of a foreign principal as these activities are taken to be sufficiently transparent.³ This exemption does not apply to former Cabinet Ministers and recent designated position holders. Refer to **Factsheet 8** for more information about exemptions.
- Offences under the Act apply extra-territorially in respect of former Cabinet Ministers and recent designated position holders.⁴ This means that the offences apply where former Cabinet Ministers and recent designated position holders may live and work overseas after ceasing their public roles, including in the foreign country they are representing. Refer to **Factsheet 13** on penalties for non-compliance.

³ Section 29(4) of the Act deals with the employee exemption and former Cabinet Ministers and recent designated position holders.

⁴ Section 61A(1) of the Act deals with extraterritoriality for former Cabinet Ministers and recent designated position holders.