



New South Wales

Claim Farming Practices Prohibition Bill 2025

Explanatory note

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

Overview of Bill

The object of this Bill is to prohibit claim farming practices by making it an offence to—

- (a) make certain contact with a potential claimant in relation to civil proceedings for personal injury damages, or
- (b) pay or receive referral fees in relation to civil proceedings for personal injury damages.

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 the date of assent to the proposed Act.

Clause 3 defines certain words and expressions used in the proposed Act.

Part 2 Certain contact and referral payments prohibited

Clause 4 provides that the proposed Act, Part 2—

- (a) applies to claims for personal injury damages other than certain types of claims excluded from the general application of the *Civil Liability Act 2002*, and
- (b) is intended to have extraterritorial application.

Clause 5 makes it an offence to contact a person to solicit the person to make a claim for personal injury damages or to refer the person to a third party to provide services in relation to a claim. The clause also makes it an offence to arrange for prohibited contact using a third party. The offences apply to contact if the person making the contact receives, or agrees or expects to receive, consideration because of the contact or asks for someone else to receive, or agrees to someone else receiving, consideration because of the contact. The proposed offences do not apply if the person is contacted—

- (a) by a notice given in relation to representative proceedings under the *Civil Procedure Act 2005* or the law of another Australian jurisdiction, or
- (b) by a law practice that has previously supplied the claimant with legal services and reasonably believes the claimant will not object to the contact, or
- (c) by a law practice at the request of a representative of a community legal service or industrial organisation who reasonably believes the claimant will not object to the contact.

Clause 6 makes it an offence to provide or receive consideration for the referral of a claim in civil proceedings or enter into agreements or arrangements relating to referrals of claims for consideration. The proposed offence does not apply if a law practice, in acting for a claimant, refers a matter to another person providing a service for the claim or if a law practice is sold to another law practice.

Clause 7 provides that a person does not commit an offence under the proposed part in relation to public advertising of a law practice.

Part 3 Miscellaneous

Clause 8 provides for the time within which proceedings may be commenced.

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

Clause 10 requires the Attorney General to review the proposed Act as soon as practicable after 2 years after the commencement of the proposed Act.

Clause 11 enables the Governor to make regulations for the purposes of the proposed Act.

Schedule 1 Savings, transitional and other provisions

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

Schedule 2 Amendment of Legal Profession Uniform Law Application Act 2014 No 16

Schedule 2[1] inserts proposed section 61A into the *Legal Profession Uniform Law Application Act 2014*. The proposed section provides that, if a law practice or an associate of a law practice is convicted of an offence under the proposed Act, Part 2, the practice or associate is not entitled to charge or recover legal costs in relation to the claim to which the conviction relates and must refund legal costs already received in relation to the claim.

Schedule 2[2] amends the *Legal Profession Uniform Law Application Act 2014*, section 165B to provide that a lawyer's contravention of the proposed Act, Part 2 is capable of constituting unsatisfactory professional conduct or professional misconduct, whether or not the lawyer has been convicted of an offence in relation to the contravention.