



Queensland

# **Strong Advertising Restrictions (Safeguarding Taxpayers' Funds) Bill 2014**





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# Strong Advertising Restrictions (Safeguarding Taxpayers' Funds) Bill 2014

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# 2014

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## A Bill

for

**An Act to restrict government advertising in particular circumstances, to codify principles for government advertising and to establish the Advertising Review Committee to review and report on government advertising**

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[s 1]

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<b>The Parliament of Queensland enacts—</b>	1
<b>Part 1 Preliminary</b>	2
<b>1 Short title</b>	3
This Act may be cited as the <i>Strong Advertising Restrictions (Safeguarding Taxpayers' Funds) Act 2014</i> .	4 5
<b>2 Act binds all persons</b>	6
This Act binds all persons, including the State.	7
<b>Part 2 Interpretation</b>	8
<b>3 Dictionary</b>	9
The dictionary in schedule 2 defines particular words used in this Act.	10 11
<b>4 What is <i>government advertising</i></b>	12
<i>Government advertising</i> is advertising—	13
(a) prepared or communicated by or for the State; and	14
(b) that costs more than \$100,000 to prepare and communicate.	15 16

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<b>Part 3</b>	<b>Restrictions on government advertising</b>	1 2
<b>5</b>	<b>Restrictions on government advertising outside pre-election period</b>	3 4
(1)	This section applies to government advertising prepared or communicated outside a pre-election period.	5 6
(2)	The accountable person of a government entity must ensure that the entity does not prepare or communicate government advertising unless a compliance certificate has been issued for the government advertising.	7 8 9 10
	Maximum penalty—200 penalty units or 2 years imprisonment.	11 12
(3)	Subsection (2) does not apply to government advertising prepared or communicated in relation to an emergency situation.	13 14 15
<b>6</b>	<b>Restriction on government advertising during pre-election period</b>	16 17
(1)	This section applies to government advertising prepared or communicated during a pre-election period.	18 19
(2)	The accountable person of a government entity must ensure the entity does not prepare or communicate government advertising unless—	20 21 22
(a)	the government advertising either—	23
(i)	advertises matters within the ordinary business of government, including community consultation, events or programs available to the general public; or	24 25 26 27
(ii)	communicates information to educate the community about government campaigns, including about road safety or public health; and	28 29 30

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- (b) a compliance certificate has been issued for the government advertising. 1  
2
- Maximum penalty—200 penalty units or 2 years imprisonment. 3  
4
- (3) Subsection (2) does not apply to government advertising prepared or communicated in relation to an emergency situation. 5  
6  
7

## **Part 4 Compliance certificates** 8

### **7 Accountable person to submit proposal for government advertising to committee** 9 10

- (1) The accountable person of a government entity must submit each proposal for government advertising for the entity to the committee. 11  
12  
13
- (2) The proposal must— 14
- (a) include the proposed cost of the government advertising; and 15  
16
- (b) describe the purpose of the government advertising; and 17
- (c) describe the type of advertising proposed to be used for the government advertising; and 18  
19
- (d) include other sufficient information about the proposed government advertising for the committee to decide whether the government advertising complies with the advertising code of conduct; and 20  
21  
22  
23
- (e) be signed by the accountable person for the government entity. 24  
25

### **8 Committee may seek additional information** 26

- (1) If the committee considers it needs additional information to decide if the proposal complies with the advertising code of 27  
28



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conduct, the committee may give a written notice to the accountable person stating—	1 2
(a) the additional information required by the committee; and	3 4
(b) the reasonable period by which the accountable person must provide the information to the committee.	5 6
(2) The accountable person must comply with the committee's request for additional information within the period stated in the notice.	7 8 9
<b>9 Committee to decide whether to issue compliance certificate</b>	10 11
After considering whether the proposal for government advertising complies with the advertising code of conduct, the committee must either—	12 13 14
(a) issue a compliance certificate to the accountable person for the proposed government advertising; or	15 16
(b) refuse to issue the compliance certificate.	17
<b>10 Committee to give reasons for decision about issuing compliance certificate</b>	18 19
(1) The committee must give written reasons to the following persons for a decision to issue, or refuse to issue, a compliance certificate for government advertising—	20 21 22
(a) the accountable person of the government entity that submitted the proposal for the government advertising to the committee;	23 24 25
(b) the Speaker.	26
(2) The Speaker must table the written reasons in the Legislative Assembly.	27 28

[s 11]

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<b>Part 5</b>	<b>Advertising Review Committee</b>	1
<b>Division 1</b>	<b>Establishment of committee</b>	2
<b>11</b>	<b>Establishment</b>	3
	The Advertising Review Committee is established.	4
<b>12</b>	<b>Function</b>	5
	The function of the committee is to decide whether or not to issue compliance certificates under this Act for proposed government advertising.	6 7 8
<b>13</b>	<b>Powers</b>	9
	(1) The committee has the powers necessary or convenient to perform the committee's function.	10 11
	(2) The committee also has the other powers given to the committee under this Act or another Act.	12 13
<b>14</b>	<b>Independence of committee and committee members</b>	14
	In performing the function or exercising powers of the committee, the committee and each committee member—	15 16
	(a) must act independently, impartially and fairly; and	17
	(b) is not subject to direction or control by any entity, including any Minister or the finance committee.	18 19
<b>Division 2</b>	<b>Membership of committee</b>	20
<b>15</b>	<b>Membership and eligibility for appointment</b>	21
	(1) The committee consists of 5 persons appointed by the Governor in Council.	22 23

- 
- (2) However, the Governor in Council may only appoint a person to be a member of the committee if the person is nominated by the finance committee. 1  
2  
3
- (3) The finance committee must nominate at least 1 lawyer to be a member of the committee. 4  
5
- (4) A person is eligible for appointment as a committee member only if— 6  
7
- (a) the finance committee is satisfied the person is suitable for the appointment; and 8  
9
- (b) the person has extensive knowledge of, and experience in, 1 or more of the following— 10  
11
- (i) consumer protection; 12
- (ii) community affairs; 13
- (iii) law; 14
- (iv) public administration; 15
- (v) public finance; 16
- (vi) media or communications. 17
- (5) However, a person is not eligible for appointment as a committee member if the person is a public service employee. 18  
19
- 16 Term of appointment** 20
- (1) A committee member is appointed for 5 years. 21
- (2) A committee member may be reappointed. 22
- 17 Conditions of appointment** 23
- (1) A committee member— 24
- (a) is appointed on a part-time basis; and 25
- (b) is entitled to be paid the remuneration and allowances decided by the Governor in Council; and 26  
27
- (c) holds office on the conditions not provided for in this Act that are decided by the Governor in Council. 28  
29

[s 18]

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- (2) A committee member is appointed under this Act and not the *Public Service Act 2008*. 1  
2
- 18 Chairperson of committee** 3
- (1) The Governor in Council must appoint 1 committee member 4  
to be the chairperson of the committee. 5
- (2) However, the Governor in Council may only appoint a 6  
committee member to be the chairperson if the person is 7  
nominated by the finance committee to be the chairperson. 8
- (3) The committee member may be appointed as the chairperson 9  
at the same time as the person is appointed as a committee 10  
member. 11
- (4) The chairperson holds office for the term of the chairperson's 12  
appointment as a committee member. 13
- 19 Report about criminal history** 14
- (1) This section applies to the following persons— 15
- (a) a committee member; 16
- (b) a person being considered for appointment as a 17  
committee member (a *prospective member*). 18
- (2) For deciding the suitability of the person who is a committee 19  
member or prospective member, the finance committee 20  
chairperson may ask the commissioner of the police service 21  
for— 22
- (a) a written report about the person's criminal history; and 23
- (b) a brief description of the circumstances of a conviction 24  
mentioned in the criminal history. 25
- (3) However, if the request relates to a prospective member, the 26  
finance committee chairperson may make the request only if 27  
the person has given the finance committee chairperson 28  
written consent for the request. 29
- (4) The commissioner of the police service must comply with the 30  
request. 31

- 
- (5) However, subsection (4) applies only in relation to information in the commissioner's possession or to which the commissioner has access. 1  
2  
3
- (6) The finance committee chairperson must ensure a report given to the finance committee chairperson under this section is destroyed as soon as practicable after it is no longer needed to decide the person's suitability to be, or continue to be, a committee member. 4  
5  
6  
7  
8
- 20 Disclosure of changes in criminal history** 9
- (1) If there is a change in the criminal history of a committee member, the member must, unless the member has a reasonable excuse, immediately disclose the change to the finance committee chairperson. 10  
11  
12  
13
- (2) To comply with subsection (1), the information disclosed about a conviction for an offence in the committee member's criminal history must include the following— 14  
15  
16
- (a) the existence of the conviction; 17
  - (b) when the offence was committed; 18
  - (c) enough details to identify the offence; 19
  - (d) whether or not a conviction was recorded; 20
  - (e) the sentence imposed on the member. 21
- 21 Disclosure of interests** 22
- (1) This section applies to a committee member if— 23
- (a) the committee member has a direct or indirect interest, financial or otherwise, in a matter being considered or about to be considered by the committee; and 24  
25  
26
  - (b) the interest could conflict with the proper performance of the committee member's duties for considering the matter. 27  
28  
29
-

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- (2) As soon as practicable after the relevant facts come to the committee member's knowledge, the member must disclose the nature of the interest at a meeting of the committee. 1  
2  
3
- (3) The committee member must not take part, or take further part, in any consideration of, or decision about, the matter without the consent of the other members. 4  
5  
6
- (4) If— 7
- (a) because of this section, a committee member is not present at a meeting of the committee for consideration of, or decision about, the matter; and 8  
9  
10
- (b) there would be a quorum if the member were present; 11  
the remaining members present are a quorum of the committee for considering or deciding the matter at the meeting. 12  
13  
14
- (5) A disclosure under subsection (2) must be recorded in the committee's minutes. 15  
16
- (6) Subsection (4) applies despite section 27. 17
- 22 Termination of appointment** 18
- On the recommendation of the finance committee, the Governor in Council may, at any time, remove a person from office as a committee member if the person— 19  
20  
21
- (a) is physically or mentally incapable of satisfactorily performing the functions of a member; or 22  
23
- (b) ceases to be eligible for appointment under section 15; 24  
or 25
- (c) has engaged in conduct that could justify dismissal from the public service if the member were a public service officer; or 26  
27  
28
- (d) fails to comply with section 20(1) or 21(2) or (3). 29

---

<b>23</b>	<b>Vacation of office</b>	1
	The office of a committee member becomes vacant if the member—	2
		3
	(a) resigns the member's office by signed notice of resignation given to the finance committee chairperson;	4
	or	5
		6
	(b) is removed from office under section 22; or	7
	(c) completes a term of office but is not reappointed.	8
<b>24</b>	<b>Casual vacancy in committee member's office</b>	9
	(1) If a vacancy happens in the office of a member (the <i>vacating member</i> ) during the currency of the member's term of appointment, another person (the <i>new member</i> ) must be appointed by the finance committee to fill the vacancy.	10
		11
		12
		13
	(2) Despite section 16(1), the new member's appointment continues only for the remainder of the vacating member's term of appointment.	14
		15
		16
	(3) The new member must be eligible for appointment under section 15.	17
		18
<b>Division 3</b>	<b>Committee's business and meetings</b>	19
		20
<b>25</b>	<b>Conduct of business</b>	21
	Subject to this Act, the committee may conduct its business, including its meetings, in the way it considers appropriate.	22
		23
<b>26</b>	<b>Committee meetings</b>	24
	(1) Meetings of the committee are to be held at the times and places the chairperson decides.	25
		26
	(2) The chairperson must preside at all meetings at which the chairperson is present.	27
		28

[s 27]

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- (3) If the chairperson is absent from a meeting, another committee member nominated by the chairperson must preside. 1  
2  
3
- (4) A meeting of the committee may be held using any technology allowing reasonably contemporaneous and continuous communication between committee members. 4  
5  
6  
*Example of use of technology—* 7  
teleconferencing 8
- (5) A committee member who takes part in a meeting under subsection (4) is taken to be present at the meeting. 9  
10
- (6) A decision, including a decision about issuing a compliance certificate, is validly made by the committee even if it is not made at a committee meeting, if— 11  
12  
13
- (a) notice of the decision is given under procedures approved by the committee; and 14  
15
- (b) the decision is made by the quorum required for the decision under section 27. 16  
17
- 27 Quorum** 18
- (1) For making a decision about issuing a compliance certificate, a quorum is 3 committee members. 19  
20
- (2) For deciding another matter, a quorum is 2 committee members. 21  
22
- 28 Minutes** 23
- (1) The committee must keep minutes of its meetings. 24
- (2) The minutes must include a record of all decisions, including decisions about issuing compliance certificates, of the committee. 25  
26  
27



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<b>Part 6</b>	<b>Committee reports</b>	1
<b>29</b>	<b>Committee to prepare reports</b>	2
(1)	The committee must prepare a report about government advertising for the following periods (each a <i>reporting period</i> )—	3 4 5
(a)	each financial year;	6
(b)	each pre-election period.	7
(2)	The committee must include information in the report about government advertising for the reporting period, including, for example, information about—	8 9 10
(a)	whether compliance certificates were issued for the advertising; and	11 12
(b)	if compliance certificates were issued, the reasons for issuing the certificates; and	13 14
(c)	the actual costs of the government advertising; and	15
(d)	the types of advertising used.	16
(3)	The committee must not include information in the report that, in the reasonable opinion of the committee, is sensitive information.	17 18 19
(4)	The committee must give the report to the Speaker—	20
(a)	for a report for a pre-election period—14 days before the election day; or	21 22
(b)	for a report for a financial year—within 3 months after the end of the financial year.	23 24
(5)	The Speaker must table the committee's report in the Legislative Assembly.	25 26
<b>30</b>	<b>Committee may prepare additional report including sensitive information</b>	27 28
(1)	If the committee does not include sensitive information in a report under section 29, the committee may—	29 30

[s 31]

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- (a) prepare another report including the sensitive information; and 1  
2
- (b) give the report to the finance committee. 3
- (2) The finance committee may only consider the sensitive information in the report in private session. 4  
5

## **Part 7** **Miscellaneous** 6

### **31** **Summary offences** 7

An offence against this Act is a summary offence. 8

### **32** **Accountable persons to do things jointly** 9

- (1) This section applies if a government entity has more than 1 accountable person. 10  
11
- (2) For this Act— 12
  - (a) if a thing is required to be, or may be, done by the accountable person of a government entity, the thing is to be done by each accountable person jointly; and 13  
14  
15
  - (b) if a thing is required to be, or may be, given to the accountable person of a government entity, the thing is to be given to each of the accountable persons. 16  
17  
18

### **33** **Finance committee to do things by bipartisan resolution** 19

If this Act provides for a thing to be done by the finance committee, the finance committee is to do the thing by resolution passed by the finance committee with the support of— 20  
21  
22  
23

- (a) the members of the finance committee unanimously; or 24
- (b) a majority of the members of the finance committee, other than a majority consisting wholly of members of 25  
26

the political party or parties in government in the 1  
Legislative Assembly. 2

**34 Regulation-making power 3**

The Governor in Council may make regulations under this 4  
Act. 5

**Schedule 1 Advertising code of conduct** 1

schedule 2, definition *advertising code of conduct* 2

Government advertising should be planned, developed, implemented, funded and evaluated in accordance with the principles stated in this schedule. 3  
4  
5

- 1 Government advertising must directly and obviously benefit the people of Queensland. 6  
7
- 2 Government advertising must be directed at, and focused on, the sections of the community to which it is relevant. It must have an educative or informative role dealing with something that is new or about which the community is unaware or unclear. 8  
9  
10  
11  
12
- 3 The clear benefit from any government advertising must be in its informative or educative role so that there can be no perception of any party-political benefit. 13  
14  
15
- 4 Government advertising may benefit the community if it, for example— 16  
17
  - (a) advertises programs in the ordinary business of government, including community consultation, events or programs available to the general public; or 18  
19  
20
  - (b) communicates information to educate the community, including about road safety or health issues. 21  
22
- 5 Government advertising must be presented in objective language and be free of political argument. 23  
24
- 6 Government advertising must not try to foster a positive impression of a particular political party or promote party-political interests. 25  
26  
27
- 7 Government advertising must not— 28
  - (a) mention the party in government by name; or 29
  - (b) directly attack or scorn the views, policies or action of others such as the policies and opinions of other political groups; or 30  
31  
32

- 
- (c) include party-political slogans or images; or 1
  - (d) be designed to influence public support for a political 2  
party, a candidate for election or a Member of 3  
Parliament; or 4
  - (e) refer or link to the websites of politicians or political 5  
parties. 6
- 8 Money designated for service delivery by a government entity 7  
must not be diverted to the cost of government advertising. 8
- Note—* 9
- This code applies to government advertising, which is defined in 10  
schedule 2 to include print advertising (e.g. newspapers, magazines and 11  
inserts), electronic advertising (e.g. television, radio and internet), 12  
outdoor media (e.g. billboards, bus/taxi advertisements) and all other 13  
types of media services covered under the Queensland Government 14  
Master Media Advertising Placement Services Standing Offer 15  
Arrangement. Additionally, brochures, newsletters, direct mail outs and 16  
other forms of communications must conform to this code. 17

<b>Schedule 2</b>	<b>Dictionary</b>	1
	section 3	2
	<i>accountable person</i> , of a government entity, means—	3
(a)	for a department—each of the following—	4
	(i) the Minister administering the department;	5
	(ii) the chief executive administering the department;	6
	or	7
(b)	for a statutory body—the person appointed as the accountable officer for the government entity under the <i>Financial Accountability Act 2009</i> .	8 9 10
	<i>advertising</i> includes—	11
(a)	print advertising, including advertising in newspapers, magazines, letters and brochures; and	12 13
(b)	advertising by electronic means, including advertising on television, radio and the internet; and	14 15
(c)	outdoor advertising, including advertising on billboards and motor vehicles; and	16 17
(d)	advertising covered under an agreement entered into by the State for placing advertisements in media.	18 19
	<i>Example of an agreement—</i>	20
	the Queensland Government Master Media Advertising Placement Services Standing Offer Arrangement	21 22
	<i>advertising code of conduct</i> means the code of conduct stated in schedule 1.	23 24
	<i>chairperson</i> means the chairperson of the committee appointed under section 18.	25 26
	<i>committee</i> means the Advertising Review Committee established under section 11.	27 28

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<b><i>compliance certificate</i></b> means a certificate issued by the committee stating a proposal for government advertising complies with the advertising code of conduct.	1 2 3
<b><i>criminal history</i></b> , of a person, means the person's criminal history as defined under the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> to the extent the criminal history relates to indictable offences, other than spent convictions.	4 5 6 7
<b><i>election day</i></b> means the day the general election is, or is to be, held.	8 9
<b><i>emergency situation</i></b> see the <i>Public Safety Preservation Act 1986</i> , schedule.	10 11
<b><i>finance committee</i></b> means the portfolio committee established under the <i>Parliament of Queensland Act 2001</i> , section 88 that is primarily responsible for considering matters within the responsibility of the Minister administering the <i>Financial Accountability Act 2009</i> .	12 13 14 15 16
<b><i>finance committee chairperson</i></b> means the member of the finance committee nominated as chairperson of the finance committee under the <i>Parliament of Queensland Act 2001</i> , section 91(3).	17 18 19 20
<b><i>general election</i></b> means an election for the members of the Legislative Assembly.	21 22
<b><i>government advertising</i></b> see section 4.	23
<b><i>government entity</i></b> means—	24
(a) a department under the <i>Financial Accountability Act 2009</i> , section 8; or	25 26
(b) a statutory body under the <i>Financial Accountability Act 2009</i> , section 9.	27 28
<b><i>pre-election period</i></b> means either—	29
(a) the period—	30
(i) beginning on the day (the <b><i>relevant day</i></b> ) that is 2 years and 6 months after the most recent election day; and	31 32 33
(ii) ending on the next election day; or	34

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Schedule 2

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- (b) if the Governor issues a writ for the general election under the *Electoral Act 1992*, section 82(1)(a) before the relevant day—the period—
- (i) beginning on the day the Governor issues the writ for the general election; and
  - (ii) ending on the next election day.
- prepare***, for government advertising, does not include preparing a proposal for the advertising to be given to the committee under section 7.
- sensitive information*** means the following information that is not publicly available—
- (a) personal information;
  - (b) trade secrets;
  - (c) confidential information that has commercial value or is about the business, commercial or financial interests of an entity;
  - (d) information that would prejudice—
    - (i) the investigation or prosecution of a contravention of a law; or
    - (ii) the relationship between the State and the Commonwealth or another State.
- spent conviction*** means a conviction—
- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
  - (b) that is not revived as prescribed by section 11 of that Act.

Authorised by the Parliamentary Counsel