



Response to proposed Government amendments to
the Foreign Influence Transparency Scheme Bill 2017

June 2018

About Oxfam Australia

Oxfam Australia is an independent, not-for-profit, secular development agency whose vision is of a just world without poverty. Oxfam Australia:

- undertakes long-term development programs;
- provides emergency response during disaster and conflict;
- undertakes research, advocacy and campaigns to advance the rights of poor and marginalised people, including women and works with them to achieve equality; and
- promotes fair trade, supporting local artisans and producers throughout shops and Fairtrade foo brand.

We are a long-term Australian Government development partner.

In the 2015-16 financial year, Oxfam Australia directly reached more than 2.5 million people: 1.3 million through our long-term development work, and more than 1.2 million affected by disaster. Through our advocacy and policy work, we have reached millions more. Oxfam Shops also supports hundreds of producer partners and artisans in countries around the world, including Indigenous Australian producers and businesses.

More than half a million Australians annually support Oxfam Australia by contributing skills, time and financial support to advance our work.

Oxfam Australia is a member of Oxfam International, a global confederation of organisations that work together, last year collectively reaching more than tens of millions of people around the world.

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1. Executive Summary

Oxfam Australia welcomes the opportunity to make a submission on the amendments to the Foreign Influence Transparency Scheme Bill 2017 (the Bill) proposed by the Attorney-General on 7 June 2018.

Oxfam Australia has previously made a submission to the Joint Committee on Intelligence and Security (the Committee) expressing our concerns with the Bill. While the amendments proposed by the Attorney General on 7 June 2018 would narrow the Bill's application, there remain a range of circumstances in which Oxfam's normal activities, which pose no threat to the integrity of Australian Government decision-making, would be caught.

Registration and reporting requirements under the Bill would impose a significant administrative burden, negatively impact on Oxfam's ability to draw on the experience of our partners and international offices, and ultimately come at the cost of Oxfam's advocacy in pursuit of a just world without poverty.

Oxfam Australia makes the following recommendations:

1. The definition of 'acting on behalf of' should be narrowed and clarified by deleting sections 11(1)(a) and 11(3).
2. 'Political organisation' should be clearly defined to ensure that it does not include international advocacy groups.
3. The Bill should include an exemption for registered charities and public interest not for profits, similar to the exemption proposed for industry associations.

2. Oxfam's concerns with the Bill

The definition of "acting on behalf of" is broad and uncertain

The amended Bill provides that a person undertakes an activity 'on behalf of' a foreign principal if the person undertakes the activity "under an arrangement with the foreign principal" (s.11(1)(a)). An "arrangement" is defined to include "a contract, agreement, understanding or other arrangement of any kind, whether written or unwritten".

Section 11(3) is ambiguous and can be read to further expand the definition of "acting on behalf of" to include any situation where a foreign principal knew or expected that lobbying or other activity to influence the Australian Government might take place.

In both cases, the Bill's definition of "acting on behalf of" goes well beyond what would usually be understood to constitute a situation where an agent is acting on behalf of a principal.

Recommendation: The definition of 'acting on behalf of' should be narrowed and clarified by deleting sections 11(1)(a) and 11(3).

The definition of 'foreign political organisation' is unclear

The Bill defines "foreign political organisation" to include a foreign political party. It is unclear whether international advocacy groups (including, for example, Oxfam's overseas partners,

affiliates and country offices) are also covered. This lack of clarity gives rise to the potential for regular, benign collaborations between Australian advocacy organisations and their international counterparts to be caught under the Bill.

Recommendation: 'Political organisation' should be clearly defined to ensure that it does not include international advocacy organisations.

The Bill should contain an exemption for registered charities and public interest not for profit organisations

The amendments proposed by the Attorney General include an exemption for professional industry bodies which represent the collective interests of members, and have both domestic and foreign entities within their membership. The exemption has been proposed in response to concerns raised by industry bodies that the Bill would impose an unnecessary regulatory burden, as they do not represent the interest of any foreign principles who may form part of their membership.

Australian charities and public interest not-for-profits that work with 'foreign principals' are in a similar position in cases where international relationships and partnerships inform domestic advocacy, but do not direct it.

Recommendation: The Bill should include an exemption for registered charities and public interest not for profits, similar to the exemption proposed for industry associations.

Example of Oxfam's work that would fall under the Bill

Oxfam Australia supports the Safe Families Program, a violence prevention program being implemented in the Solomon Islands. In implementing the program, Oxfam Australia staff work with the Oxfam country office in the Solomon Islands, a range of government and government-related entities (including police and healthcare providers) and various Solomon Islands Government Departments, among others.

Oxfam Australia uses its experience and relationships from the Safe Families program in its communications with DFAT, and in publicly available materials intended to inform and influence Australia's aid policy and programming. Oxfam and its partners in the Solomon Islands would expect that such activity might be undertaken.

The FITS Bill would require Oxfam staff working on the Safe Families Program to register as foreign agents and comply with the relevant reporting obligations.