



REGULATION OF LOBBYING

COMPENDIUM OF 2015 ACT
AND 2018 CODE OF CONDUCT
FOR PERSONS CARRYING ON
LOBBYING ACTIVITIES

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Regulation of Lobbying Act 2015

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REGULATION OF LOBBYING ACT 2015

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REGULATION OF LOBBYING ACT 2015

An Act to provide for establishing and maintaining a register of persons who carry on lobbying activities; to provide for a code of conduct relating to carrying on lobbying activities; to impose restrictions on involvement in lobbying by certain former designated public officials; to amend the Ethics in Public Office Act 1995; and to provide for related matters.

[11th March, 2015]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Regulation of Lobbying Act 2015.
- (2) This Act comes into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Review of Act

2. (1) The Minister shall—
 - (a) before the end of each relevant period, commence a review of the operation of this Act, and

- (b) not more than 6 months after the end of each relevant period, make a report to each House of the Oireachtas of the findings resulting from the review and of the conclusions drawn from the findings.
- (2) The following are relevant periods—
 - (a) the period of 12 months beginning with the day on which this section comes into operation,
 - (b) the period of 3 years beginning immediately after the end of the period specified in *paragraph (a)*, and
 - (c) each subsequent successive period of 3 years.
- (3) A report made under *subsection (1)* shall include any such recommendations for amendments of this Act, or any instrument made under it, as appear to the Minister to be appropriate in consequence of the findings resulting from the review.
- (4) In conducting a review the Minister shall—
 - (a) consult the Commission,
 - (b) take into account any relevant report of a committee appointed by either House of the Oireachtas or jointly by both Houses, and
 - (c) consult such persons carrying on lobbying activities and such bodies representing them, and such other persons, as the Minister considers appropriate.

Expenses

- 3. Any expenses incurred by the Minister in the administration of this Act and, to such extent as may be sanctioned by the Minister, any other expenses incurred in the administration of this Act shall be paid out of moneys provided by the Oireachtas.

Regulations

- 4. (1) The Minister may by regulations provide for any matter referred

to in this Act as prescribed or to be prescribed.

- (2) Regulations made under this Act shall be laid before each House of the Oireachtas as soon as may be after they are made and, if a resolution annulling the regulations is passed by either such House within the next 21 days on which that House has sat after the regulations are laid before it, the regulations shall be annulled accordingly, but without prejudice to the validity of anything previously done under the regulations.
- (3) Regulations made under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

Meaning of carrying on lobbying activities

5. (1) For the purposes of this Act a person carries on lobbying activities if the person—
 - (a) makes, or manages or directs the making of, any relevant communications on behalf of another person in return for payment (in money or money's worth) in any of the circumstances in which *subsection (2)* applies to that other person,
 - (b) makes, or manages or directs the making of, any relevant communications in any of the circumstances in which *subsection (2)* applies to the person, or
 - (c) makes any relevant communications about the development or zoning of land under the Planning and Development Acts 2000 to 2014.
- (2) The circumstances in which this subsection applies to a person are that—
 - (a) the person has more than 10 full-time employees and the relevant communications are made on the person's behalf,
 - (b) the person has one or more full-time employees and is a

body which exists primarily to represent the interests of its members and the relevant communications are made on behalf of any of the members, or

- (c) the person has one or more full-time employees and is a body which exists primarily to take up particular issues and the relevant communications are made in the furtherance of any of those issues.
- (3) For the purposes of the operation of *subsection (1)(b)* in relation to a body in circumstances in which *paragraph (b) or (c) of subsection (2)* applies to the body, the body “makes” a relevant communication only—
- (a) where it is made by an employee of the body, or
 - (b) where it is made by a person who holds, in the body, any office—
 - (i) in respect of which remuneration is payable, and
 - (ii) the functions of which relate to the affairs of the body as a whole,
- in his or her capacity as such.
- (4) In *subsection (1)* “relevant communications” means communications (whether oral or written and however made), other than excepted communications, made personally (directly or indirectly) to a designated public official in relation to a relevant matter.
- (5) The following are excepted communications:
- (a) communications by or on behalf of an individual relating to his or her private affairs about any matter other than the development or zoning under the Planning and Development Acts 2000 to 2014 of any land apart from the individual’s principal private residence;

- (b) communications by or on behalf of a country or territory other than the State;
- (c) communications by or on behalf of the European Union, the United Nations or any other international organisation;
- (d) communications requesting factual information or providing factual information in response to a request for the information;
- (e) communications requested by a public service body and published by it;
- (f) communications forming part of, or directly related to, negotiations on terms and conditions of employment undertaken by representatives of a trade union on behalf of its members;
- (g) communications the disclosure of which could pose a threat to the safety of any person;
- (h) communications the disclosure of which could pose a threat to the security of the State;
- (i) communications which are made in proceedings of a committee of either House of the Oireachtas;
- (j) communications by a designated public official in his or her capacity as such;
- (k) communications which—
 - (i) are made by a person who is employed by, or holds any office or other position in, a public service body in his or her capacity as such, or
 - (ii) are made by a person engaged for the purposes of a public service body in his or her capacity as such, and which relate to the functions of the public service body;

- (l) communications which—
 - (i) are made by a person who is employed by, or holds any office or other position in, a body which is not a public service body, but is a body by which a designated public official is employed or in which a designated public official holds any office or other position, in his or her capacity as such, or
 - (ii) are made by a person engaged for the purposes of such a body in his or her capacity as such,
and which relate to the functions of the body;
 - (m) communications by or on behalf of a body corporate made to a Minister of the Government who holds shares in, or has statutory functions in relation to, the body corporate, or to designated public officials serving in the Minister's department, in the ordinary course of the business of the body corporate;
 - (n) communications between members of a relevant body appointed by a Minister of the Government, or by a public service body, for the purpose of reviewing, assessing or analysing any issue of public policy with a view to reporting to the Minister of the Government or public service body on it;
 - (o) any communications of a description prescribed under *subsection (8)*.
- (6) In *subsection (5)(n)* "relevant body" means a body—
- (a) the members of which are appointed by a Minister of the Government or by a public service body and include one or more persons who are designated public officials and one or more persons who are neither public servants nor engaged for the purposes of a public service body, and
 - (b) which conducts its activities in accordance with the Transparency Code.

- (7) The Minister shall prepare and publish a code, to be known as “the Transparency Code”, setting out how, having regard to the public interest in their doing so with an appropriate level of transparency, bodies meeting the condition in *subsection (6)(a)* are to conduct their activities if they are to constitute a relevant body for the purposes of *subsection (5)(n)*.
- (8) The Minister may prescribe descriptions of communications which are to be excepted communications; and in determining whether or not to prescribe any description of communications the Minister shall have regard to the public interest in there being an appropriate level of transparency in relation to communications about any relevant matter and (in particular) to any arrangements for opening up such communications to public scrutiny otherwise than in accordance with this Act.
- (9) In this section—

“principal private residence” means a dwelling house or part of a dwelling house occupied by an individual as his or her only or main residence and includes land which the individual has for his or her own occupation and enjoyment with that residence as its garden or grounds up to an area (exclusive of the dwelling house) not exceeding one acre;

“relevant matter” means any matter relating to—

- (a) the initiation, development or modification of any public policy or of any public programme,
- (b) the preparation or amendment of an enactment, or
- (c) the award of any grant, loan or other financial support, contract or other agreement, or of any licence or other authorisation involving public funds,

apart from any matter relating only to the implementation of any such policy, programme, enactment or award or of a technical nature.

Designated public officials

6. (1) The following are designated public officials:
- (a) Ministers of the Government and Ministers of State;
 - (b) other members of Dáil Éireann and Seanad Éireann;
 - (c) members of the European Parliament for constituencies in the State;
 - (d) members of local authorities;
 - (e) special advisers appointed under section 11 of the Public Service Management Act 1997;
 - (f) public servants of a prescribed description;
 - (g) any other prescribed office holders or description of persons.
- (2) The Minister may prescribe descriptions of public servants under *subsection (1)(f)* by reference to their roles, levels of remuneration, grades or similar factors.
- (3) In determining whether or not to prescribe any description of public servants, office holders or description of persons, under *subsection (1)(f)* or *(g)*, the Minister shall have regard to the public interest and to any recommendations that may have been made under *section 2(3)*.
- (4) A body shall publish up-to-date lists showing—
- (a) the name and (where relevant) grade, and
 - (b) brief details of the role or responsibilities, of each person employed by, or holding any office or other position in, the body who is a designated public official by virtue of *subsection (1)(f)* or *(g)*.

Other definitions**7.** In this Act—

“Commission” means Standards in Public Office Commission;

“designated public official” has the meaning given by *section 6*;

“enactment” includes an instrument under an enactment;

“full-time employee” has the meaning given by *section 7* of the Protection of Employees (Part-Time Work) Act 2001;

“international organisation” has the meaning given by *section 186B* of the Social Welfare Consolidation Act 2005;

“local authority” has the meaning given by the Local Government Act 2001;

“Minister” means Minister for Public Expenditure and Reform;

“personal data” has the meaning given by the Data Protection Act 1988;

“pre-existing public service pension scheme” means an occupational pension scheme or pension arrangement, by whatever name called, for any part of the public service—

(a) provided for by or under—

(i) the Superannuation Acts (within the meaning of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012), or

(ii) any enactment (other than the Public Service Pensions (Single Scheme and Other Provisions) Act 2012) or administrative measure for the like purpose and to the like effect as the Superannuation Acts and of either general or limited application,

or

- (b) made by a relevant Minister (within the meaning of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012) or which has been approved or requires the approval or consent, however expressed, of either or both a relevant Minister and the Minister;

“prescribed” means prescribed by regulations made by the Minister;

“public servant” means a person who is employed by, or holds any office or other position in, a public service body;

“public service body” means—

- (a) a Department of State,
- (b) the Garda Síochána,
- (c) the Permanent Defence Force,
- (d) a local authority within the meaning of the Local Government Act 2001,
- (e) the National Treasury Management Agency,
- (f) the National Asset Management Agency,
- (g) the National Pensions Reserve Fund Commission,
- (h) the National Development Finance Agency,
- (i) the Health Service Executive,
- (j) an education and training board,
- (k) the Central Bank of Ireland,
- (l) any other body, other than a body specified or referred to in the *Schedule*, which—
 - (i) is established by or under an enactment (other than the Companies Acts), or

(ii) is established under the Companies Acts in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of money provided, or loans made or guaranteed, by a Minister of the Government or the issue of shares held by or on behalf of a Minister of the Government,

and in respect of which a pre-existing public service pension scheme exists or applies or may be made or in respect of which the Single Public Service Pension Scheme is applicable,

(m) any other body, other than a body specified or referred to in the *Schedule*, which is wholly or partly funded directly or indirectly out of monies provided by the Oireachtas or from the Central Fund or the growing produce of that Fund and in respect of which a pre-existing public service pension scheme exists or applies or may be made or in respect of which the Single Public Service Pension Scheme is applicable,

(n) any subsidiary of, or company controlled (within the meaning given by section 10 of the Taxes Consolidation Act 1997) by, a body to which any of the preceding paragraphs relates and in respect of which a pre-existing public service pension scheme exists or applies or may be made or in respect of which the Single Public Service Pension Scheme is applicable;

“Register” means Register of Lobbying;

“registered person” means a person whose name is included on the Register (or who has become a registered person under *section 11(3)*);

“relevant contravention” has the meaning given by *section 18*;

“relevant date”, in relation to a relevant period, means the date falling 21 days after the end of the relevant period;

“relevant period” means the period of 4 months ending with the last day of April, August and December in any year;

“Single Public Service Pension Scheme” means the scheme established by Chapter 2 of Part 2 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012;

“trade union” means a trade union which is the holder of a negotiation licence under Part II of the Trade Union Act 1941 or is an excepted body within the meaning of section 6 of that Act.

PART 2

REGISTRATION

Requirement to register

8. (1) Subject to *subsection (2)*, a person shall not carry on lobbying activities unless the person is a registered person.
- (2) A person does not contravene *subsection (1)* in the first relevant period in which the person carries on lobbying activities if the person becomes a registered person before the relevant date.

Register of Lobbying

9. The Commission shall establish and maintain a register to be known as the Register of Lobbying (referred to in this Act as the “Register”).

Content and public availability of Register

10. (1) The Register shall contain—
 - (a) the information contained in applications made to the Commission under *section 11*, and
 - (b) the information contained in returns made to the Commission under *section 12*.
- (2) The Register shall be kept in such form as the Commission considers appropriate.

- (3) The Register shall be made available for inspection free of charge on a website maintained or used by the Commission.
- (4) The Commission may exclude from what is made available for inspection any personal data contained in the Register if the Commission considers that it is necessary to do so—
 - (a) to prevent it being misused, or
 - (b) to protect the safety of any person or the security of the State.
- (5) If a person gives to the Commission in such form as the Commission may require notice stating that he or she considers that any information contained in the Register relating to the person is inaccurate, out of date or misleading, supported by evidence for so considering in such form as the Commission may require, the Commission shall decide the matter and—
 - (a) if satisfied that the information is inaccurate, out of date or misleading, amend or delete it (as appropriate) and notify the person of the amendment or deletion, or
 - (b) if not satisfied that the information is inaccurate, out of date or misleading, notify the person of that with reasons.

Details to be supplied by applicants for inclusion on Register

11. (1) A person who wishes to be included on the Register shall make, in such manner and form as the Commission may require, an application to the Commission stating—
 - (a) the person's name,
 - (b) the address (or principal address) at which the person carries on business or (if there is no such address) the address at which the person ordinarily resides,
 - (c) the person's business or main activities,

- (d) any e-mail address, telephone number or website address relating to the person's business or main activities,
 - (e) any registration number issued to the person by the Companies Registration Office, and
 - (f) (if a company) the person's registered office.
- (2) The application shall contain a statement by the person by whom it is made that the information contained in it is correct.
- (3) The person shall be taken to become a registered person on making an application that complies with *subsections (1) and (2)*.
- (4) A registered person who has permanently ceased to carry on lobbying activities may notify the Commission, in such manner and form as the Commission may require, that the registered person wishes the person's entry on the Register to be marked with a statement indicating that the person has permanently ceased to carry on lobbying activities and, on receipt of such notification, the Commission shall mark the person's entry on the Register with such a statement.

Returns to be made by registered persons

- 12.** (1) A registered person shall, after the end of each relevant period but not later than the relevant date, make to the Commission, in such manner and form as the Commission may require, a return covering the relevant period.
- (2) *Subsection (1)* shall not apply to a registered person whose entry on the Register has been marked under *section 11(4)* with a statement indicating that the person has permanently ceased to carry on lobbying activities.
- (3) If the registered person has not carried on any lobbying activities in the period covered by the return, the return shall state that fact.
- (4) If the registered person has carried on lobbying activities in the period covered by the return, the return shall state—

- (a) where any of the communications concerned were made on behalf of another person (in this section referred to as a “client”), the relevant information relating to the client,
 - (b) the designated public officials to whom the communications concerned were made and the body by which they are employed or in which they hold any office or other position,
 - (c) the subject matter of those communications and the results they were intended to secure,
 - (d) the type and extent of the lobbying activities carried on,
 - (e) the name of the individual who had primary responsibility for carrying on the lobbying activities,
 - (f) the name of each person who is or has been (whether before or after the passing of this Act) a designated public official employed by, or providing services to, the registered person and who was engaged in carrying on lobbying activities, and
 - (g) any such other information relating to carrying on lobbying activities as may be prescribed under *subsection (7)*.
- (5) In *subsection (4)(a)* “relevant information”, in relation to a client, means—
- (a) the client’s name,
 - (b) the address (or principal address) at which the client carries on business or (if there is no such address) the address at which the client ordinarily resides,
 - (c) the client’s business or main activities,
 - (d) any e-mail address, telephone number or website address relating to the client’s business or main activities,
 - (e) any registration number issued to the client by the Companies Registration Office, and
 - (f) (if a company) the address of the client’s registered office.

- (6) The return shall contain details of any change during the relevant period in the information entered on the Register under *section 10(1)(a)* in relation to the person by whom it is made.
- (7) The Minister may prescribe for the purposes of *subsection (4)(g)* that a return is to include information as to—
 - (a) the name of any person involved in carrying on lobbying activities (other than the person who has primary responsibility),
 - (b) any other matters which appear to the Minister to be appropriate having regard to the public interest in there being an appropriate level of transparency in relation to carrying on lobbying activities and in opening up the carrying on of lobbying activities to public scrutiny.
- (8) A return shall contain a statement by the person by whom it is made that the information contained in it is correct.

Requirement for further or corrected information

13. (1) Where the Commission considers—

- (a) that further information is required if an application or return made by a person is to comply with *section 11* or *12*, or
- (b) that any information contained in an application made by a person under *section 11* or a return made by a person under *section 12* is inaccurate or misleading,

the Commission may by notice given to the person require the person to provide further or corrected information within 21 days from the date on which the notice is given.

- (2) If a person does not comply with a requirement under *subsection (1)* relating to an application or return, the Commission shall—
 - (a) remove from the Register the information contained in the application or return, and

- (b) notify the person of the reason for the removal of the information from the Register,
and the person shall be treated for the purposes of this Act as never having made the application or return.
- (3) Where the Commission considers that any information contained in an application made by a person under *section 11* or a return made by a person under *section 12* is inaccurate or misleading, the Commission may immediately remove from the Register the information contained in the application or return pending provision of corrected information; and the person shall be treated for the purposes of this Act as never having made the application or return unless and until the corrected information is provided.

Delayed publication

- 14.** (1) Where a person who gives information to the Commission in an application under *section 11* or a return under *section 12* considers that making any information available for inspection could reasonably be expected to—
- (a) have a serious adverse effect on—
 - (i) the financial interests of the State,
 - (ii) the national economy, or
 - (iii) business interests generally or the business interests of any description of persons,
 - or
 - (b) cause a material financial loss to the person to whom the information relates or prejudice seriously the competitive position of that person in the conduct of the person's occupation, profession or business or the outcome of any contractual or other negotiations being conducted by that person,

- the person may make an application to the Commission for the making of a determination under this section in relation to the information.
- (2) The Commission shall consult with any relevant Minister of the Government or Ministers of the Government before deciding an application under *subsection (1)(a)*.
 - (3) An application under *subsection (1)* shall be decided before the end of the period of 21 days beginning with the day on which it is received.
 - (4) If the Commission considers that making the information available for inspection could reasonably be expected to have the consequence specified in the application, the Commission may make a determination under this section in relation to the information if it appears to the Commission that the public interest would be better served by delaying making the information available for inspection than by making it available for inspection immediately.
 - (5) The determination may (as the Commission considers appropriate) make provision for—
 - (a) the exclusion from what is made available for inspection, or
 - (b) the making available for inspection only in summary form, of anything which is the subject of the determination for such period, not exceeding 6 months, as is specified in the determination or until the determination is revoked (if that happens sooner).
 - (6) If an application under *subsection (1)* is rejected in whole or in part, the Commission shall notify the applicant of the reasons for rejecting it.
 - (7) The Commission shall cause a copy of a determination under this section to be provided to the applicant and any relevant

Minister of the Government or Ministers of the Government consulted under *subsection (2)*.

- (8) The Commission may at any time review a determination made under this section and, if it appears to the Commission that the public interest would be better served by making the information available for inspection immediately than by delaying making it available for inspection, the Commission may decide to revoke the determination and on doing so the Commission shall inform—
- (a) the applicant, and
 - (b) any relevant Minister of the Government or Ministers of the Government consulted under *subsection (2)*,
- that the determination has been revoked.
- (9) Where the Commission—
- (a) has excluded anything from what is available for inspection under *subsection (5) (a)*, or
 - (b) has made anything available for inspection only in summary form under *subsection (5)(b)*,
- the Commission shall, when it subsequently becomes fully available for public inspection, publish on the Register an explanation of why it was so excluded or included only in summary form.
- (10) Where the Commission has made anything available for inspection only in summary form under *subsection (5)(b)*, the Commission shall publish on the Register a notice to that effect.
- (11) Nothing in this section prevents the making of a determination under this section in relation to any information on more than one occasion.

- (12) A document purporting to be a determination under this section and to be signed by the Commission shall, unless the contrary is proved, be deemed to be a determination made by the Commission and shall be received in any proceedings in any court without further proof.
- (13) The Freedom of Information Acts 1997 and 2003 do not apply to a record relating to any information which is the subject of a determination made under this section and in force.
- (14) The Commission shall not make available for publication any information which is the subject of a decision of the Commission under this section—
- (a) if no appeal is brought under *section 23*, until the end of the period specified in that section within which an appeal may be brought,
 - (b) if such appeal is brought but no further appeal is brought under *section 24*, until the end of the period specified in that section within which such further appeal may be brought, and
 - (c) if an appeal under *section 23* and further appeal under *section 24* are brought, until the further appeal is finally determined,

but, if such appeal or further appeal is at any point withdrawn, then such information may be made available for publication once the appeal has been withdrawn.

Evidence of entries on Register

- 15.** (1) Every document purporting to be a copy of an entry in the Register and purporting to be certified by the Commission or an officer of the Commission authorised in that behalf to be a true copy of the entry shall, without proof of the signature of the person purporting so to certify or that he or she was that officer, be received in evidence in any legal proceedings and shall, until the contrary is proved, be deemed to be a true copy of the entry

and to be evidence of the terms of the entry.

- (2) Evidence of an entry in the Register may be given by production of a copy of it certified under this section and it shall not be necessary to produce the Register itself.
- (3) If the Register is kept otherwise than in legible form references in this section to a copy of an entry in the Register shall be construed as including references to a legible copy or reproduction of an entry in the Register.

PART 3

CODE OF CONDUCT AND GUIDANCE

Code of conduct

- 16.** (1) The Commission may produce, and from time to time revise, a code of conduct for persons carrying on lobbying activities with a view to promoting high professional standards and good practice.
- (2) Before producing or revising the code of conduct the Commission shall consult such persons carrying on lobbying activities and such bodies representing them, and such other persons, as the Commission considers appropriate.
- (3) The code of conduct may contain different provisions in relation to different descriptions of persons carrying on lobbying activities.
- (4) The Commission shall publish the code of conduct in such manner and form as the Commission considers appropriate.
- (5) A person carrying on lobbying activities shall have regard to the code of conduct.

Guidance

- 17.** (1) The Commission may issue guidance about the operation of this Act and may from time to time revise it or re-issue it.

- (2) The Commission shall publish the guidance in such manner and form as the Commission considers appropriate.
- (3) The Commission may make available information with a view to promoting awareness and understanding of this Act.

PART 4

ENFORCEMENT

Relevant contraventions

- 18.** For the purposes of this Act the following are relevant contraventions:
 - (a) contravening *section 8(1)*;
 - (b) failing to make a return under *section 12* as required by that section;
 - (c) providing to the Commission under this Act any information known to be inaccurate or misleading;
 - (d) failing to comply with a requirement under *section 19(4)*;
 - (e) obstructing an investigation under *section 19*.

Power to carry out investigation

- 19.** (1) If the Commission reasonably believes that a person may have committed or may be committing a relevant contravention, the Commission may authorise the carrying out of an investigation under this section.
- (2) The Commission may appoint such and so many persons as it may determine (referred to in this section as “authorised officers”) to carry out investigations under this section.
- (3) The Commission shall furnish an authorised officer with an authorisation and, when carrying out an investigation under this section, an authorised officer shall, if requested to do so by any person affected by the investigation, produce to the person the

- authorisation or a copy of it together with a form of personal identification.
- (4) An authorised officer may, for the purposes of carrying out an investigation under this section—
- (a) require any person to provide any information or explanation which the authorised officer may reasonably require for the purposes of the investigation,
 - (b) require any person to produce any document or other thing of which the person has control, or to which the person has access, and which the authorised officer may reasonably require for the purposes of the investigation,
 - (c) require any person to attend before the authorised officer to answer questions, and to make a declaration of the truth of the answers to the questions, for the purposes of the investigation,
 - (d) (subject to *subsection (5)*) enter and search (if necessary accompanied by a member of the Garda Síochána) any premises at, on or in which the authorised officer reasonably believes there may be any document or other thing which the authorised officer may reasonably require for the purposes of the investigation,
 - (e) inspect and take copies of, or extracts from, any document or other thing produced in compliance with a requirement under *paragraph (b)* or found on a search under *paragraph (d)* or pursuant to a warrant under *subsection (6)*,
 - (f) require a person to make available in a legible form any documents so produced or found otherwise than in a legible form, or
 - (g) require a person to give to the authorised officer such assistance as the authorised officer may reasonably require for the purposes of the investigation and make available

to the authorised officer such reasonable facilities as are necessary for the authorised officer to exercise his or her powers.

- (5) An authorised officer shall not enter a dwelling when carrying out an investigation under this section otherwise than—
 - (a) with the consent of the occupier, or
 - (b) pursuant to a warrant under *subsection (6)*.
- (6) If a judge of the District Court is satisfied on the sworn information of an authorised officer that there are reasonable grounds for believing that there is in, on or at any premises any document or other thing which the authorised officer may reasonably require for the purposes of an investigation under this section, the judge may issue a warrant authorising a named person at any time or times within one month from the date of issue of the warrant, on production (if so requested) of the warrant, to enter and search the premises using reasonable force where necessary, and exercise all or any of the powers conferred on an authorised officer.
- (7) A warrant under *subsection (6)* may permit the person authorised by it to be accompanied by such members of the Garda Síochána or other persons as that person considers necessary.
- (8) An authorised officer may, if authorised by the Commission to do so, make interim reports to the Commission while carrying out an investigation under this section.
- (9) As soon as reasonably practicable after the conclusion of an investigation under this section the authorised officer by whom the investigation was carried out shall give to—
 - (a) the Commission, and
 - (b) the person under investigation,

a copy of a report stating the findings of the investigation and the authorised officer's conclusions on the findings together with his or her reasons for making them.

- (10) A statement or admission made by a person pursuant to a requirement under *subsection (4)* shall not be admissible in evidence in proceedings brought against that person for an offence (other than for an offence under *section 20*).
- (11) The production of a document or other thing in compliance with a requirement under *subsection (4)* does not prejudice a person's lien on the document or other thing.
- (12) Nothing in this section shall operate to require a person to provide to an authorised officer any information or explanation, or to produce to an authorised officer any documents or other things, that he or she would be entitled to refuse to provide or produce on the grounds of legal professional privilege.
- (13) An authorised officer shall not disclose any information obtained under this section otherwise than in a report under this section.
- (14) In this section "premises" includes vessel, aircraft, vehicle and any other means of transport, as well as land and any other fixed or moveable structure.

Offences

- 20.** (1) A person who commits a relevant contravention by making a return under *section 12* after the relevant date is guilty of an offence and liable on summary conviction to a class C fine.
- (2) A person who commits a relevant contravention in any other way is guilty of an offence and liable—
- (a) on summary conviction to a class C fine, or
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years or both.
- (3) It shall be a defence in proceedings for an offence under this section for the person charged with the offence to prove that

- the person took all reasonable steps to avoid the commission of the offence.
- (4) Summary proceedings for an offence under this section may be brought and prosecuted by the Commission.
 - (5) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act 1851, proceedings for an offence under *subsection (1)* may be instituted within 12 months from the date of the offence.
 - (6) Where an offence under this section is committed by a body corporate and the offence is proved to have been committed with the consent or connivance of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in such a capacity, that person, as well as the body corporate, shall be guilty of an offence and liable to be proceeded against and punished as if guilty of the offence under this section.
 - (7) Where the affairs of a body corporate are managed by its members, *subsection (6)* applies in relation to the acts and defaults of a member in connection with the member's functions of management as if he or she were a director or manager of the body corporate.
 - (8) Where a person is convicted of an offence under this section the court shall order the person to pay to the Commission a sum equal to the costs and expenses, measured by the court, incurred by the Commission in relation to the investigation, detection and prosecution of the offence.

Fixed payments

21. (1) Where a person commits an offence under *section 20(1)*, the Commission may serve a notice (in this section referred to as a "fixed payment notice") on the person.
- (2) The fixed payment notice shall—

- (a) be in the prescribed form,
 - (b) state that the person is alleged to have committed an offence under *section 20(1)*,
 - (c) state that the person is not obliged to pay the fixed payment,
 - (d) state that, if the fixed payment is paid to the Commission by the date specified in it, a prosecution in respect of the offence under *section 20(1)* will not be initiated, and
 - (e) contain details of how the fixed payment is to be paid.
- (3) The fixed payment notice shall be served on the person by delivering it to the person or by leaving it at, or posting it to, the address (or principal address) at which the person carries on business or (if there is no such address) the address at which the person ordinarily resides (as shown on the Register).
- (4) The fixed payment is €200.
- (5) No prosecution in respect of the offence under *section 20(1)* shall be initiated against the person—
- (a) until after the date specified in the fixed payment notice as that by which the fixed payment is to be paid, or
 - (b) at all, if the fixed payment is paid to the Commission before that date.
- (6) The amount of any fixed payment received by the Commission under this section shall be paid into or disposed of for the benefit of the Exchequer as the Minister directs.

PART 5

MISCELLANEOUS AND SUPPLEMENTARY

Restrictions on post-term employment as lobbyist

22. (1) A person who has been a relevant designated public official shall not—

- (a) carry on lobbying activities in circumstances to which this section applies, or
- (b) be employed by, or provide services to, a person carrying on lobbying activities in such circumstances,

during the relevant period except with the consent of the Commission.

(2) In this section—

“relevant designated public official” means a person who is a designated public official by virtue of *paragraph (a), (e) or (f) of section 6(1)*;

“relevant period” means the period of one year beginning with the day on which the person ceases to be a relevant designated public official.

(3) The circumstances to which this section applies are any in which the making of the communications comprising the carrying on of lobbying activities—

- (a) involves any public service body with which the person was connected during the period of one year ending with the day on which the person ceased to be a relevant designated public official, or
- (b) is to a person who was a designated public official connected with that public service body during that period.

- (4) For the purposes of *subsection (3)* a public service body is one with which a person was connected at any time if it was at that time a public service body by which the person was employed or in which the person held any office or other position.
- (5) On an application for consent made to the Commission in such manner and form as the Commission may require, the Commission may, after any appropriate consultation, decide to—
 - (a) give consent unconditionally or subject to conditions, or
 - (b) refuse to give consent for the whole or any part of the relevant period.

Appeals

- 23.** (1) A person aggrieved by a decision of the Commission under *section 10(5), 14 or 22* may appeal against the decision by giving notice to the Commission.
- (2) Notice of an appeal shall—
 - (a) be given within 14 days of the decision concerned,
 - (b) be in such form as the Commission may require, and
 - (c) state the reasons for the appeal.
 - (3) The Minister shall appoint a panel of suitable persons to consider appeals under *subsection (1)* (in this section referred to as “appeal officers”).
 - (4) Appeal officers—
 - (a) shall be appointed to the panel for such period as the Minister may determine,
 - (b) shall be paid such fees and expenses as the Minister may from time to time determine,
 - (c) may resign at any time,

- (d) shall hold office on such other terms and conditions as the Minister may from time to time determine including such terms and conditions as are likely, in the opinion of the Minister, to secure their independence and impartiality,
 - (e) may at any time be removed from the panel by the Minister for stated reasons, and
 - (f) are not civil servants of the Government or civil servants of the State.
- (5) Where the Commission receives notice of an appeal under *subsection (1)* it shall nominate an appeal officer to consider the appeal.
 - (6) Appeal officers shall be independent and impartial in the carrying out of their functions.
 - (7) The Minister may prescribe the procedure to be followed in the conduct of appeals.
 - (8) On an appeal the appeal officer is not confined to considering the grounds on which the Commission's decision was based but may, after hearing any evidence and considering any submissions that may be made, decide the matter which is the subject of the appeal as if it were being decided for the first time.
 - (9) The appeal officer shall as soon as practicable, and in any event not later than 14 days after the receipt of notice of the appeal—
 - (a) confirm the decision appealed against, or
 - (b) revoke that decision and replace it with such other decision as the appeal officer considers appropriate.
 - (10) The appeal officer shall give a copy of his or her decision, with the reasons for it, to the appellant and the Commission.

Further appeal on point of law

- 24.** (1) Any person aggrieved by the decision of an appeal officer under *section 23* may appeal to the High Court on a point of law.
- (2) An appeal shall be brought no later than 21 days after notice of the appeal officer's decision is given to the appellant.
- (3) A decision of the High Court under this section shall, where appropriate, specify the period within which effect is to be given to it.
- (4) No appeal shall lie from a decision of the High Court on an appeal under this section.

Reports by Commission

- 25.** (1) The Commission shall prepare an annual report relating to the operation of this Act and shall cause a copy of it to be laid before each House of the Oireachtas no later than 30 June in the year following that to which it relates.
- (2) A report under *subsection (1)* shall (in particular) include, in a form which does not enable the identification of the persons involved, information relating to—
- (a) any determinations under *section 14* made or in force in that year,
- (b) any investigations under *section 19* concluded in that year,
- (c) any applications for consent under *section 22*, and all decisions on such applications, made in that year,
- (d) any convictions for offences under *section 20* in that year, and
- (e) any fixed payment notices served under *section 21* in that year.

Delegation of functions by Commission

- 26.** Such functions of the Commission under this Act as may be specified by the Commission may be performed, under the supervision and subject to the general direction of the Commission, by members of the staff of the Commission duly authorised in that behalf by the Commission.

Amendments relating to Commission

- 27.** The Ethics in Public Office Act 1995 is amended—
- (a) in section 21(2I) by inserting “and the *Regulation of Lobbying Act 2015*,” after “to 2001,”,
 - (b) in section 33 by inserting “and the *Regulation of Lobbying Act 2015*” after “Act”,
 - (c) in section 35(1) by inserting “or the *Regulation of Lobbying Act 2015*” after “Act”, and
 - (d) in section 35(2)—
 - (i) in paragraph (c) by deleting “or” after “court,”,
 - (ii) in paragraph (d) by substituting “House, or” for “House.”, and
 - (iii) by inserting the following paragraph after paragraph (d):
 - “(e) the disclosure of information for inclusion in the Register of Lobbying in a report under *section 25 of the Regulation of Lobbying Act 2015*.”.

SCHEDULE

Section 7

BODIES THAT ARE NOT PUBLIC SERVICE BODIES

1. Any body corporate established by Act of Parliament before 6 December 1922 that, upon its establishment, was of a commercial character.
2. Bord na gCon.
3. Bord na Móna Plc.
4. Córas Iompair Éireann.
5. Coillte Teoranta (being a company formed and registered under the Companies Acts as provided for by section 9 of the Forestry Act 1988).
6. Cork Airport Authority, public limited company.
7. daa, public limited company.
8. EirGrid Plc.
9. Electricity Supply Board.
10. Ervia.
11. A harbour authority within the meaning of the Harbours Acts 1946 to 2005.
12. Horse Racing Ireland.
13. Irish National Stud Company Limited.
14. Irish Aviation Authority.
15. An Post.
16. Raidió Teilifís Éireann.
17. Shannon Airport Authority, public limited company.
18. Teilifís na Gaeilge.
19. Railway Procurement Agency.
20. Voluntary Health Insurance Board.
21. A subsidiary of a body to which this Schedule relates, including a subsidiary of such a subsidiary.

List of Regulations

The Regulations made under the Act are as follows:

- **Regulation of Lobbying Act 2015 (Commencement) Order 2015 (SI No 152 of 2015)**. This Commencement Order provides for the commencement of Parts 1, 2, 3 and 5 of the Act with effect from 1 September 2015.
- **Regulation of Lobbying Act 2015 (Appeals) Regulations 2015 (SI No 366 of 2015)**. These regulations set out the procedure to be followed in the conduct of Appeals under section 23 of the Act.
- **Regulation of Lobbying Act 2015 (Designated Public Officials) Regulations 2015 (SI No 367 of 2015)**. These regulations prescribe the occupiers of public service positions who are regarded as Designated Public Officials under the Act.
- **Regulation of Lobbying Act 2015 (Commencement) Order 201 (SI No 360 of 2016)**. This Commencement Order provides for the commencement of Part 4 of the Act with effect from 1 January 2017.
- **Regulation of Lobbying Act 2015 (Fixed Payment Notice) Regulations 2016 (SI No 361 of 2016)**. These regulations prescribe the format of a Fixed Payment Notice which the Commission may serve under section 21(1) of the Act.
- **Regulation of Lobbying Act 2015 (Designated Public Officials) Regulations 2016 (SI No 362 of 2016)**. These regulations prescribe that public servants in Cork County Council in a position of Divisional Manager are regarded as Designated Public Officials under the Act.

2018 CODE OF CONDUCT

FOR PERSONS CARRYING
ON LOBBYING ACTIVITIES

AS PUBLISHED BY THE STANDARDS IN
PUBLIC OFFICE COMMISSION 2018

EFFECTIVE 1 JANUARY 2019



LOBBYING.ie

An Clár Brústocaireachta
Register of Lobbying

Introduction

Under section 16 of the Regulation of Lobbying Act 2015 (the Act), the Standards in Public Office Commission (the Standards Commission) may produce a Code of Conduct for persons carrying on lobbying activities “*with a view to promoting high professional standards and good practice*”.

The purpose of this Code is to govern the behaviour of persons carrying on lobbying activities. The diversity and range of persons who may be captured by the scope of the Act presents a challenge in terms of defining a set of shared principles on which a code of conduct might be based. The provisions of the Act can apply to employers; to representative or advocacy bodies; to professional lobbyists or third parties who are being paid to communicate on behalf of a client or other person; and, significantly, to any person communicating about the development or zoning of land. Consequently, persons who might otherwise not regard themselves as lobbyists may find themselves carrying on lobbying activities and have the requirement to register.

The Standards Commission is of the view, however, that this Code sets out principles which can be applied equally to professional lobbyists and to employers, representative / advocacy bodies and individuals alike, and by which persons carrying on lobbying activities may conduct their lobbying activities transparently and ethically.

The Code is not intended to supersede or replace any requirement that a person carrying on lobbying activities may have to comply with the Act or to comply with any other legislation, professional code of conduct or industry rules and regulations which might apply to them.

The Code will come into effect on 1 January 2019. The Code will be reviewed every three years, in keeping with the statutory reviews of the Act provided for in section 2 of the Act.

Preamble

Lobbying activities are undertaken by many people and organisations in relation to a broad range of matters. Lobbying activities are a legitimate means of access to parliamentary, government and municipal institutions.

Lobbying activities contribute to informed decision-making by elected and appointed public officials.

The legitimacy of lobbying is reinforced when lobbying activities are carried out transparently and in an ethical manner. In support of the Act's objectives to foster transparency and the proper conduct of lobbying activities, this Code of Conduct sets out several principles by which persons carrying on lobbying activities should govern themselves in the course of carrying out lobbying activities, namely:

1. Demonstrating respect for public bodies;
2. Acting with honesty and integrity;
3. Ensuring accuracy of information;
4. Disclosure of identity and purpose of lobbying activities;
5. Preserving confidentiality;
6. Avoiding improper influence;
7. Observing the provisions of the Regulation of Lobbying Act; and
8. Having regard to the Code of Conduct.

While the Act governs communications with Designated Public Officials (that is, Ministers, Ministers of State, and ministerial advisors, elected representatives and certain senior public servants), the principles of the Code should apply to all communications with persons in public office, whether prescribed for the purposes of the Act or not.

The Act, together with this Code of Conduct and associated regulations, guidelines and standards of conduct applicable to Office Holders, elected representatives and public servants, aims to ensure that lobbying activities are conducted in accordance with public expectations of transparency and integrity, and that decisions are made in the public interest. Persons carrying on lobbying activities may also wish to have regard to other guidance material published by the Standards Commission in relation to the Act; to the Transparency Code published by the Minister for Finance and Public Expenditure and Reform; to the Standards Commission's Data Protection Policy; and to the Ethics in Public Office Acts 1995 and 2001.

Code of Conduct

Persons carrying on lobbying activities shall have regard to the following principles:

1. Demonstrating Respect for Public Bodies

Persons carrying on lobbying activities should act in a manner that demonstrates respect for the democratic process; for democratic institutions and for public bodies, including the duty of elected and other public officials to serve the public interest. A person carrying on lobbying activities should not act in a manner that shows disrespect for the democratic process; for democratic institutions or for public bodies, and should refrain from directly or indirectly exerting undue pressure on an elected or appointed public official.

Persons carrying on lobbying activities should not expect preferential access or treatment from public officials based on the person's identity or on a former or existing relationship¹ with the elected or appointed public official. Persons carrying on lobbying activities should not seek to abuse or exploit such relationships.

A person who, by virtue of their membership of a Committee, Advisory Group, Task Force etc. has preferential or exceptional access to elected or public officials, should not use their membership to seek preferential treatment for themselves or the organisation/body they may be representing.

2. Acting with Honesty and Integrity

Persons carrying on lobbying activities should conduct all relations with public bodies and elected or appointed public officials with honesty and integrity. Persons carrying on lobbying activities should not seek to obtain information or influence decisions dishonestly or by use of improper means or influence. Persons carrying on lobbying activities should make their case without manipulating or presenting information in ways that could be regarded as dishonest, misleading or false.

1 For example a personal or family relationship or having worked together on electoral campaigns.

Persons carrying on lobbying activities should not knowingly make misleading, exaggerated or extravagant claims about, or otherwise misrepresent, the nature or extent of their access to elected or appointed public officials.

Persons carrying on lobbying activities should avoid any conduct or practices likely to bring discredit upon themselves, the persons they represent or the public bodies they are contacting.

3. Ensuring Accuracy of Information

Persons carrying on lobbying activities should take all reasonable measures to satisfy themselves that the information they are providing to public bodies or to elected or appointed public officials is accurate and factual.

If a person carrying on lobbying activities considers that there is a material change in factual information previously provided and the person believes that the public body or elected or appointed public official may still be relying on the previous information, the person should, insofar as is practicable, provide accurate and updated information to the public body or to the elected or appointed public official.

For the purposes of transparency, persons carrying on lobbying activities are encouraged to make public, where possible, any information used to support their lobbying activities.

4. Disclosure of Identity and Purpose of Lobbying Activities to Public Bodies and Elected or Appointed Officials

A person carrying on lobbying activities should always identify themselves by name and, where applicable, the body or bodies they work for. Where a person is carrying on lobbying activities on behalf of a client or other person, the person carrying on the lobbying activities should disclose the identity of the client or other person, the nature of their relationship with that person or organisation and the client's/organisation's interests in the matter.

A person carrying on lobbying activities must not conceal or try to conceal the identity of a client, business or organisation whose interests they are representing.

A person carrying on lobbying activities should always inform the elected or appointed public official of any personal interests they may have in the matter. They should also make clear the objectives or aims they promote (or those of the client they represent) and the purpose and intended results of the communication.

5. Preserving Confidentiality

A person carrying on lobbying activities should only use and disclose any confidential information received from a public body or an elected or appointed public official in the manner agreed with the body/official and which is consistent with the purpose for which it has been shared.

A professional lobbyist or third party carrying on lobbying activities on behalf of other persons should not use, for purposes other than those of their mandate, confidential information obtained in the course of their lobbying activities. They should not divulge confidential information relating to their clients unless they have obtained the informed consent of their client, or disclosure is required by law.

6. Avoiding Improper Influence

A person carrying on lobbying activities should not, in the course of their lobbying activities, seek to create a sense of obligation on the part of the elected or appointed official by making any offer of gifts or hospitality.

A person carrying on lobbying activities should not create a sense of obligation or place elected or appointed public officials in a conflict of interest situation by proposing any offer, inducement or reward (directly or indirectly) which might cause an elected or appointed public official to breach any law, regulation, rule or standard of conduct applicable to them. In that regard a person carrying on lobbying activities should be aware of any rule or code of conduct which might apply to the acceptance of gifts or hospitality by elected or appointed public officials.

A person carrying on lobbying activities should not seek to influence an elected or appointed public official other than by providing evidence, information, arguments and experiences which support their lobbying activities.

7. Observing the provisions of the Regulation of Lobbying Act

A. Registrations and Returns

A person carrying on lobbying activities should familiarise themselves with the provisions of the Act and with any relevant guidance material published by the Standards Commission. In particular a person carrying on lobbying activities must:

1. Comply with the requirement to register on the Register of Lobbying (the Register) in accordance with section 8 of the Act and provide the information required under section 11 of the Act in the manner and form required by the Standards Commission.
2. Comply with the requirement to submit regular returns of lobbying activities to the Register as provided for in section 12 of the Act in the manner and form required by the Standards Commission. This includes “nil” returns where relevant.
3. Comply with the requirement under section 13 of the Act to provide additional or corrected information if requested to by the Standards Commission.

A person carrying on lobbying activities should follow the Standards Commission’s guidance on submitting returns of lobbying activities to ensure that returns of lobbying activities are accurate, complete and submitted on time.

A person carrying on lobbying activities on behalf of a client or other person shall inform the client, business or organisation whose interests they are representing of their own requirements and the client’s or other person’s requirements under the Act.

The head of an organisation should ensure that employees or other persons who carry out lobbying activities on the organisation’s behalf are aware of the organisation’s requirements under the Act and are made aware of the requirements of this Code of Conduct.

B. “Cooling off” period

Section 22 of the Act provides that “relevant Designated Public Officials (DPOs)” (Ministers and Ministers of State, Special Advisers and Senior

Public Servants) are subject to a one-year cooling-off period. During this period, relevant DPOs cannot engage in lobbying activities in specific circumstances, or be employed by, or provide services to, a person carrying on lobbying activities in specific circumstances, namely:

The making of communications comprising the carrying on of lobbying activities (as defined in section 5 of the Act) which:

1. Involves any public service body with which the relevant DPO was connected, that is, employed or held an office or other position in the year prior to their leaving, or
2. Is to a person who was also a DPO who was employed or held an office or other position with that public service body in the year prior to the person's leaving.

A person subject to the one-year cooling-off period may apply to the Standards Commission for consent to undertake such activities or be employed by a person who is undertaking such activities. The Standards Commission may decide to give consent unconditionally or to give consent with conditions attached. The Standards Commission may also decide to refuse the application for all or part of the one-year "cooling off" period.

If seeking to employ or engage a person who may be subject to the provisions of section 22 of the Act, the employer should first establish whether the person has considered the requirements of section 22 and, if necessary, has sought and received the consent of the Standards Commission to carry on such lobbying activities.

8. Having regard for the Code of Conduct

Section 16(5) of the Act provides that a person carrying on lobbying activities shall have regard to this Code of Conduct. When engaging in lobbying activities, therefore, a person should, in addition to meeting their statutory obligations under the Act, seek to meet the standards set out in the principles and rules of this Code and should conform to the letter and spirit of this Code of Conduct.



Coimisiún um Chaighdeáin in Oifigí Poiblí
Standards in Public Office Commission

Standards in Public Office Commission

18 Lower Leeson Street

Dublin 2

D02 HE97

Telephone: (01) 639 5722

Email: info@lobbying.ie

Website: www.lobbying.ie

Twitter: [@LobbyingIE](https://twitter.com/LobbyingIE)