



Regulation of Lobbying Act 2015:
Guidance for people
carrying on lobbying activities

Revised October 2018

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Introduction

The *Regulation of Lobbying Act 2015* (no 5 of 2015) (the Act) was signed into law in March 2015, and commenced on 1 September 2015. The enforcement provisions, contained in Part 4 of the Act, commenced on 1 January 2017.

Lobbying is an essential part of the democratic process through which citizens may make their views on public policy and public services known to politicians and public servants. Organisations such as interest groups, representative bodies, industry and civil society organisations, NGOs, charities and third party professional lobbyists all provide necessary input and feedback to politicians and public servants through communication of their views and concerns. The aim of the Act is not to restrict the flow of information or views on policy or legislation. The intention is to bring about significantly greater openness and transparency with respect to lobbying activities.

The Act is designed to provide information to the public about:

- Who is lobbying,
- On whose behalf is lobbying being carried out,
- What are the issues involved in the lobbying,
- What is the intended result of the lobbying,
- Who is being lobbied, and
- What is the extent of the lobbying activities.

In general, the Act applies to commercial organisations that have more than 10 full time employees; representative bodies with at least one full time employee; and advocacy groups, non-governmental organisations and charities that have at least one full time employee and that promote particular interests or causes, and professionals engaged in lobbying on behalf of a client who fits within the above criteria. In certain circumstances, where the communications concern the zoning or development of land, the Act may apply to individuals and groups who may not ordinarily regard themselves as carrying on lobbying activities.

The Act aims to make lobbying more open and transparent by providing for

- The establishment and maintenance of an on-line Register of Lobbying (the Register);
- Obligations on lobbyists to register and to provide information regularly about their lobbying activities, including, in the case of professional lobbyists, information about their clients;
- The Standards in Public Office Commission (Standards Commission) to be the regulator of lobbying;
- The imposition of a cooling-off period on certain lobbying activities that may be carried out by some former public officials.

The Act provides that 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 practices*”. The Standards Commission has recently published a Code of Conduct for Persons Carrying on Lobbying Activities (Code). The Act provides that a person carrying on lobbying activities shall have regard to this Code. These guidelines, therefore, should be read in conjunction with the Code.

When did the Act come into effect?

The Act came into effect on 1 September 2015. The first registration period (“relevant period”) was 1 September 2015 – 31 December 2015. If you carried on lobbying activities during that period you had to register on www.lobbying.ie by 21 January 2016 at the latest. The first returns of lobbying activities, setting

out the details of your lobbying activities in the period 1 September 2015 - 31 December 2015, had also to be submitted by 21 January 2016.

The enforcement provisions, which provide for offences and penalties for persons who do not comply with the requirements of the Act came into effect on 1 January 2017.

Are you affected by the legislation?

The Act sets out the categories of person to which the meaning of “carrying on lobbying activities applies”. We refer to such persons as being within scope of the Act. A person is lobbying if the person is within scope of the Act and makes a relevant communication. A person makes a relevant communication if communicating personally (directly or indirectly) with a Designated Public Official (DPO) about a relevant matter.

You are affected by the legislation, therefore, if you meet all of the following conditions:

- A. You are within scope of the Act.
- B. You make, manage or direct the making of a relevant communication.
- C. That communication is with a DPO.
- D. That communication is about a relevant matter.
- E. That communication is not an excepted communication.

A) Who is within scope of the Act?

Persons within scope of the Act are as follows:

- A person with more than 10 full-time employees
- A body that exists primarily to represent the interests of its members, and which has one or more full-time employees, and the relevant communications are made on behalf of any of the members. We refer to such bodies as “representative bodies”. Representative bodies might include, for example, a trade union, professional body, industry association or sporting body.
- A body which exists primarily to take up particular issues, and which has one or more full-time employees, and the relevant communications are concerned with any of these issues. We refer to such bodies as “advocacy bodies”. Advocacy bodies might include, for example, organisations promoting human rights issues or campaigning for homeless people.
- Any person (individual or organisation) making a "relevant communication" concerning the development or zoning of land which is not their principal private residence.
- A third party (individual or organisation) who is paid to lobby on behalf of a person who fits within one of the categories of persons above. (The payment can be in money or money’s worth.)

Communications by representative bodies and advocacy bodies

In the case of representative bodies and advocacy bodies, the relevant communication must be made by an employee of the body or by a person who holds a paid office in the body (for example, the chairman) and whose functions relate to the affairs of the body as a whole and where the communication is made in his/her capacity as such. This means that, in general, communications made by unpaid volunteers are not considered to be lobbying. Office holders such as chairmen and secretaries may be unpaid volunteers. If they are, communications made by them do not generally constitute carrying on lobbying activities. However, a relevant communication may be direct or indirect so, if the communication is made by an unpaid volunteer

on the direction of an employee or paid office holder, it is lobbying and must be included in the organisation's return.

Representative /Advocacy bodies composed entirely of volunteers will generally be outside the scope of the Act unless lobbying about the zoning/development of land. If, however, they employ a person full-time, they would come within scope of the Act.

Representative /Advocacy bodies who make a "relevant communication" concerning the zoning or development of land are regarded as carrying on a lobbying activity irrespective of whether they have a full-time employee or not. This is because the Act specifically provides that **any person** making a "relevant communication" which concerns the zoning or development of land, which is not their principal private residence, may be required to register and submit a return of lobbying activities. In other words, the criteria for number of employees is irrelevant if the subject you are communicating on is zoning and development of land.

B) Who are the Designated Public Officials?

Designated Public Officials (DPOs) under the Act are:

- Ministers and Ministers of State;
- TDs and Senators;
- MEPs for Irish constituencies;
- Members of local authorities;
- Special Advisers to Ministers and Ministers of State who have been appointed under section 11 of the Public Service Management Act 1997;
- Public Servants as prescribed;
- Other categories of persons as prescribed.

In relation to "public servants as prescribed" the Minister for Finance and Public Expenditure and Reform has made regulations (The Regulation of Lobbying Act 2015 (Designated Public Officials) Regulations 2015 and The Regulation of Lobbying Act 2015 (Designated Public Officials) Regulations 2016) which together provide details of the positions that are prescribed as DPOs for the purposes of the Act.

In relation to the Civil Service a public servant in a position of Secretary General, Second Secretary, Deputy Secretary, Assistant Secretary or Director in a public service body specified in Schedule 1 of the 2015 Regulations is prescribed as a DPO. A public servant in a position specified in Schedule 2 of the 2015 Regulations is also prescribed as a DPO.

In relation to local authorities, the 2015 Regulations provide that persons in the following positions in local authorities are prescribed as DPOs:

- Chief Executives and equivalent grades
- Assistant Chief Executive (Dublin City Council only)
- Directors of Services
- Heads of Finance
- Head of Human Resources (Dublin City Council only)
- Under the 2016 regulations, which came into effect from 1 September 2016, a public servant in Cork County Council in a position of Divisional Manager is prescribed as a DPO.

Full details of the positions above, which are prescribed in the Regulations, are available on our website www.lobbying.ie. The list of positions prescribed as DPOs may be extended by Ministerial Order to other categories over time.

Public bodies are required under the Act to publish on their websites the names of their employees who are DPOs and a brief description of their roles and responsibilities. It is important to note that not all public bodies have DPOs prescribed.

C) What is a relevant communication?

A relevant communication is a communication that

- May be written or oral
- Is made personally (directly or indirectly)
- Is made by a person who is within scope of the Act
- Is made to a Designated Public Official
- Relates to a relevant matter
- Is not an excepted communication

It should be noted that not all relevant communications (lobbying activities) take place in a formal setting or using formal means. While a great deal of relevant communications may take place via in-person meetings, telephone calls or emails, lobbying can also take place in less formal ways. These include casual encounters, social gatherings, or even social media. If the communication meets the above criteria, it is considered a relevant communication (lobbying activity) and must be recorded.

D) What is a relevant matter?

A relevant matter is any matter relating to

- The initiation, development or modification of any public policy or of any public programme (for example, proposals for changes in taxation, proposals for changes in agricultural policy, proposals for changing entitlement to health services)
- The preparation or amendment of any law (including secondary legislation such as statutory instruments and bye-laws) (for example, proposals to change the law on adoption, proposals to change bye-laws relating to traffic)
- The award of any grant, loan or other financial support, contract or other agreement, or of any licence or other authorisation involving public funds (for example, the criteria for the award of housing grants for people with disabilities, the purchase or sale of a property or other assets by the government.)

APART FROM the implementation of any such policy, programme, enactment or award or any matter of a technical nature.

Some examples of the difference between what might be regarded as relevant matters and “implementation” matters or matters of a technical nature are as follows:

- Communications seeking to introduce or amend a particular tax policy or law would be regarded as communications concerning a **relevant matter**. Where a policy has been decided and the tax law has subsequently been enacted, communications regarding application of the law would most likely be regarded as **implementation matters**.

- Communications relating to the inclusion of certain criteria in a public tender would be regarded as a communication on a **relevant matter**. When the criteria are agreed and a Request for Tenders is published, communications such as the submission of a tender; queries regarding the tender specifications and feedback on the outcome of the tender would be regarded as **implementation matters**.
- As regards matters of a technical nature an example might be where the Government is proposing policy or legislation to reduce motor car emissions. Communications regarding the proposed policy or legislation would be regarded as concerning a **relevant matter**. For example, where the Government consults with scientific experts on the level of emissions that may cause harm to the environment, it would be a technical matter. When the legislation is in place queries to the regulatory department concerning how to conform with the new requirements would also most likely be **technical matters**.

NOTE: Not all communication is lobbying.

It is worth noting that not all communication is considered lobbying for the purposes of the Act. A communication must meet each of the criteria at A, B, C and D above to be considered a lobbying activity. In addition a number of “excepted” (exempt) communications exist (see below).

E) What are the “excepted” (exempt) communications?

The following are “excepted” (exempt) communications and are not, therefore, regarded as lobbying (i.e. they are not relevant communications):

- **Private affairs:** Communications by or on behalf of an individual relating to his or her private affairs unless they relate to the development or zoning of any land. Where an individual communicates about the zoning or development of land which is his/her principal private residence and the area of land does not exceed 1 acre, the communication is exempt. Detailed guidelines on lobbying in relation to development and zoning of land are available at www.lobbying.ie. In that regard, therefore, a significant amount of **constituency clinic communications** which elected representatives may have with their constituents will be exempt where the matter relates to an individual’s private affairs. *For example, communications in relation to a person’s eligibility for, or entitlement to, a social welfare payment, a local authority house, or a medical card are not relevant communications.*
- **Diplomatic relations:** Communications by or on behalf of a foreign country or territory, the European Union, the United Nations or any other international intergovernmental organisation. Note that this exemption only applies to communications sanctioned by the officials from the country or territory; simply being resident in another country does not qualify for the exemption.
- **Factual information:** Communications requesting factual information or providing factual information in response to a request for the information (*for example, a company asking a public servant how to qualify for an enterprise grant and getting an answer; a person asking about the rules in relation to planning and getting an answer; factual information provided to a government department by a representative body in response to a request from the department*).
- **Published submissions:** Communications requested by a public service body and published by it (*for example, submissions received in response to a public consultation process which are subsequently published by the public body.*) The Standards Commission has published more detailed guidance in [the FAQ section of its website](#) on the matter of public consultation processes.
- **Trade union negotiations:** 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. It should be noted that this particular exemption applies to a trade union as defined in the

Act. The definition of a trade union set out in the Act, and consequently the exemption, may not apply to all employee representative bodies.

- **Safety and security:** Communications the disclosure of which could pose a threat to the safety of any person or to the security of the State.
- **Oireachtas committees:** Communications which are made in proceedings of a committee of either House of the Oireachtas. It should be noted that this exemption only applies to formal proceedings of a committee which are generally recorded and/or minuted. It does not apply to communications outside of formal proceedings.
- **Communications by DPOs or public servants:** Communications by a DPO in his or her capacity as such are exempt. (*For example, communications by county councillors to local authority managers or other public servants does not constitute lobbying.*) Similarly communications by public servants (or those engaged on contract by a public service body) made in that capacity and relating to the functions of the public service body are exempt. Public servants are employed by or hold office in public service bodies. A “public service body” is defined in the Act. In general, these are State bodies other than commercial State bodies. The Standards Commission has published [separate guidelines for DPOs](#) which deals with this exemption in greater detail.
- **Governance of commercial State bodies:** Communications by or on behalf of a commercial State body made to a Minister of the Government who holds shares in, or has statutory functions in relation to, the body, or to DPOs serving in the Minister’s department, in the ordinary course of the business of the body. (*For example, certain communications involving Irish Rail and the Minister for Transport, Tourism and Sport.*) The Standards Commission has published more detailed guidance on this particular exemption in [the FAQ section of the lobbying.ie website](#) and, in particular, guidance on what might constitute the ordinary course of business of such a body.
- **Policy working groups:** Communications between members of a “relevant body” appointed by a Minister, 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 or public service body on it. A “relevant body” is one whose members are appointed by a Minister or by a public service body and the members include one or more DPOs and one or more who are not public servants nor engaged for the purposes of a public service body. (*For example, advisory groups, expert groups, working groups, review groups or commissions.*) This exemption only applies if the relevant body conducts its activities in accordance with the Transparency Code. The Transparency Code is available at <https://www.lobbying.ie/help-resources/information-for-public-bodies/transparency-code/>. The Standards Commission has also published a more detailed [guidance note on advisory groups etc. and the Regulation of Lobbying](#). This guidance note might also be relevant for organisations which might provide a secretariat for a DPO or group of DPOs and who may be carrying on lobbying activities.

Register of Lobbying

The Standards Commission is responsible for establishing and maintaining the Register of Lobbying (the Register). The Register is available online to members of the public at www.lobbying.ie and is free of charge.

The Register contains:

- The registration details provided to the Standards Commission by each registered person on their Application to Register and
- The information contained in the returns of lobbying activities made by each registered person.

Requirement to register

You are prohibited from carrying on lobbying activities unless you are registered on the Register. This prohibition does not apply to the first relevant period during which you carry out lobbying activities. The Act

provides that you can register after you have commenced lobbying. Under the Act a person undertaking lobbying activities is required to register and submit a return of lobbying activity within 21 days of the end of the first “relevant period” in which they begin lobbying. The relevant period is the four months ending on the last day of April, August and December each year. For example, if someone lobbies for the first time during the month of October, that activity has taken place within the relevant period of 1 September – 31 December. The person would be required to register and submit their first returns by 21 January, 21 days after the end of the relevant period. There is no requirement, therefore, to register until after a person has actually commenced lobbying.

Once you are obliged to be registered, however, it is a relevant contravention of the Act and an offence to carry on lobbying activities without being registered.

The requirement to register applies equally to companies, sole traders, partnerships, representative bodies, advocacy bodies and individuals who are within scope of the Act. The legal structure is not relevant. Individual citizens will most likely only be required to register if they are carrying on lobbying activities in a private capacity in relation to the development or zoning of land which is not their principal private residence.

Where an employee of a company is directed by the company to carry on lobbying activities on behalf of a company, it is the company and not the employee that is required to register and submit a return of the lobbying activities.

There is no fee involved in registering.

Information which must be provided when registering

In order to be registered, the person registering must first create an account on www.lobbying.ie. The person must then complete an online Application to Register and provide the Standards Commission with the information set out below.

- The name of the person, company or organisation which has carried out the lobbying activities. If you have carried out a lobbying activity in a personal capacity (as opposed to on behalf of a company or organisation) i.e. in relation to zoning and development, then you register in your own name as an individual. Otherwise, the registration should be in the name of the company/organisation.
- 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 normally lives.
- The business or main day to day activities of the organisation
- Any e-mail address, telephone number or website address relating to the person’s business or main activities
- Any registration number issued to the organisation by the Companies Registration Office, and if a company, provide details of the registered office of the company.

In relation to the contact information above which must be provided the following should be noted:

- Where an organisation is registering the contact information provided should be that which relates to the organisation.
- If you are registering on behalf of your business, you should provide your business name and contact details and not your personal details.
- An individual registering in relation to lobbying activities carried out in a private capacity must provide their business contact details (if they have business contact details).
- A person should only provide their personal contact details if there are no business contact details which can be provided.

In addition to the above information, which must be provided, you must also state that the information contained in your registration details is correct.

When you provide the above information and the statement, you become a registered person and the information you have provided will be immediately available on the Register. The Standards Commission will review your registration. If it considers that you may not have been required to register, it will contact you to clarify why you have registered.

If you have registered and you subsequently permanently cease carrying on lobbying activities you may ask the Standards Commission to note that fact in your entry on the Register. You must verify that this has been done in order to end the obligation to make returns.

Requirement to make returns

As a registered person, you are required to make returns to the Standards Commission within 21 days of the end of each relevant period. The relevant period is the four month period, ending on the last day of April, August and December each year. If you have not carried out any lobbying activities in the relevant period you **must** submit a nil return. It is a contravention of the Act and an offence to fail to make a return of lobbying activities (including a nil return if required).

The requirement to make returns (including nil returns) does not apply to you if your entry on the Register notes that you have permanently ceased lobbying.

Information which must be included in your return of lobbying activities

If you have carried on lobbying activities in the relevant period, your return must state:

- The DPOs and the relevant public service bodies who were lobbied.
- The subject matter of the lobbying and the results it was intended to secure. A separate return is required for each different subject matter for which lobbying took place during the relevant period. It is important that the intended result be meaningful. Terms such as “raising awareness”, “providing clarification”, “providing information” etc. are not sufficient. It must be clear what it is you were trying to achieve from the lobbying activity(ies). (*For example, if you were lobbying on the issue of accident and emergency services and you were aiming to have such services provided in a particular hospital then your return of lobbying activities should provide this level of detail*). Where the lobbying activity concerns zoning and development, the subject matter must provide details of the particular lands/development, and the intended results must be specific as to the desired outcome.
- The type and extent of the lobbying activities carried on. The online return form on www.lobbying.ie will provide “drop down” options to assist you in identifying the type and extent of activity appropriate to your return. It is not necessary to complete a separate return in respect of each lobbying activity on the same subject matter. All lobbying activities related to the same subject matter during the relevant period must be accounted for on a single return relating to that subject matter.
- The name of the individual in your organisation who had primary responsibility for carrying on the lobbying activities. Others within your organisation may be involved in lobbying but the person listed here should be the one who is primarily responsible. If you wish to identify other persons who lobbied on the subject, you may enter their names in the free text field for “Additional Information”.
- If you were lobbying on behalf of a client or other person in return for payment you must provide certain information (see next section about the client/other person).
- The name of each person who is or ever has been (whether before or after the passing of the Act) a DPO and who is employed by, or providing services to you and who was involved in carrying on the lobbying activities for which the return is being made (*for example, if you are employing a former TD,*

special advisor or senior public servant or you have a contract for services with such a person and that person was involved in carrying on the lobbying activities)

- You must confirm that your registration details are still correct. If they have changed you must amend your registration details.
- You must confirm that the information contained in the return is correct.

When you provide the above information your return of lobbying activities will be immediately available on the Register. The Standards Commission has published [guidance on submitting a return of lobbying activities](#), including a sample return and tips to avoid making common errors.

Relevant information about a client

If you are lobbying on behalf of a client or other person in return for payment, you must register and submit a return of the lobbying activities carried out on behalf of the client/other person. If the client/other person engages in additional or separate lobbying activities, the client/other person must also register and submit a return in respect of the additional or separate lobbying activities.

You must also provide the following information about a client/other person on your return of lobbying activities:

- The client's/other person's name
- The address (or principal address) at which the client/other person carries on business or (if there is no such address) the address at which the client/other person normally lives
- The client's/other person's business or main activities,
- Any e-mail address, telephone number or website address relating to the client's/other person's business or main activities,
- Any registration number issued to the client/other person by the Companies Registration Office, and if the client is a company, details of their registered office.

Requirement for further or corrected information

The Standards Commission may ask for further information in relation to an Application to register as a lobbyist and/or a return of lobbying activity submitted if it considers that:

- The information provided in the application or returns is inaccurate or misleading
or
- Further information is required to ensure that the application or return complies with the legislation

You will be given 21 days in which to provide the necessary further or corrected information.

If you fail to do so, the Standards Commission will remove from the Register the information provided in your registration or your return. You will be told the reason for the removal of the information.

The Standards Commission may **immediately** remove information from the Register if it considers that any information contained in registration details or in a return of lobbying activities is sufficiently inaccurate or misleading to warrant immediate removal from the Register.

If the Standards Commission removes information provided by you from the Register, you will be treated as not having registered or made a relevant return as the case may be unless and until corrected information is provided. In that regard you may be regarded as having contravened the Act and committed an offence.

Delayed publication

You may apply to the Standards Commission to delay the publication of certain information contained in your registration details or your returns. You may do this if you give information at registration or in a return and you consider that making it publicly available could reasonably be expected to:

- A. Have a serious adverse effect on the financial interests of the State, the national economy, or business interests generally or the business interests of any particular set of people 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

Applications to delay publication must be made through the online register. A decision on your application to delay publication must be made within 21 days. Where the reasons cited for delayed publication are those at paragraph A above, the Standards Commission must first consult with the relevant Minister(s) before making its decision on your application.

If the Standards Commission considers that making the information publicly available could reasonably be expected to have the consequences you suggest, it may make a determination:

- To exclude some or all of this information from immediate publication
- To make some or all of the information available only in summary form

The Standards Commission may make such a determination if it considers that the public interest would be better served by approving the request. Such a determination may apply for a specified period of not more than six months or until it is revoked, whichever happens first. You may apply to renew the delayed publication if needed, as often as necessary, but for no more than 6 months at a time.

While a determination is in force, the Freedom of Information Acts do not apply to a record relating to any information which is the subject of a determination.

The Standards Commission will provide copies of the determination to you and to any Ministers who were consulted.

If your application for delayed publication is rejected in whole or in part, the Standards Commission will give you reasons.

If approved, the Standards Commission may review its determination at any time and may decide to revoke its determination if it appears that the public interest would be better served by making the information publicly available immediately than by delaying it. If this occurs, you and the relevant Ministers consulted will be informed.

If information is published in summary form, this will be stated on the Register.

When delayed publication has occurred or where information was published only in summary form and publication or full publication occurs, the Standards Commission will publish on the Register an explanation for why the publication was delayed or the information summarised.

Any person who is unhappy with any decision made by the Standards Commission in relation to delayed publication may appeal.

The Standards Commission will not make information which was delayed or summarised publicly available until 14 days after its decision to do so. This is to allow for the making of an appeal. If you appeal, publication will not occur until the appeal process is complete or the appeal is withdrawn.

Other Content which may be excluded from the Register

Personal data

The Act allows for the collection and publication of certain personal data, to enhance the transparency of the Register. This may include a registrant's name and contact details. A person may request to have his/her personal data which is contained in an Application to Register or in Client Details on a return of lobbying activities excluded from the information which is publicly available on the Register. The Standards Commission will exclude the information if it considers it necessary in order:

- To prevent the information being misused or
- To protect the safety of any person or
- To protect the security of the State.

Personal data is defined in the data protection legislation as data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information. For more information, see www.dataprotection.ie. The Standards Commission has published [a guidance note regarding requests to exclude personal data](#). It has also published [a privacy notice](#) regarding the personal data which is held by the Standards Commission in respect of its statutory functions under the Regulation of Lobbying Act 2015.

Inaccurate, out of date or misleading information

If you consider that there is information about you on the Register which is inaccurate, out of date or misleading, (for example as a person carrying on lobbying activities, a person being lobbied or a client included on another person's return of lobbying activities) you may provide evidence of this to the Standards Commission. If the Standards Commission considers that the information is inaccurate, out of date or misleading, it may amend or delete the information as appropriate.

If the Standards Commission does not consider the information to be inaccurate, misleading or out of date, it must notify you of this and give you reasons for its decision. If you are unhappy with the Standards Commission decision in relation to amending or deleting information relating to you, you may appeal.

If a person considers that information contained on the Register, which does not relate to them, is inaccurate, out of date or misleading, the person may provide evidence of this to the Standards Commission. If the Standards Commission considers that the information is inaccurate, out of date or misleading, it may amend or delete the information as appropriate. A person cannot, however, appeal the Standards Commission's decision if the information does not relate to them.

“Cooling-off period”: Restrictions on post-term employment as lobbyist

The Act provides that certain DPOs are restricted from being engaged in lobbying in certain circumstances for a year after they leave their employment or office unless they get permission from the Standards Commission – in effect, they are subject to a “cooling-off” period.

The DPOs concerned are Ministers and Ministers of State, special advisers and prescribed public servants. We refer to these persons as “relevant DPOs.”

Others who are DPOs for the purposes of the lobbying registration requirements are not covered by this provision, that is, TDs, Senators MEPs and Local Authority members.

Relevant DPOs who are covered by this provision may not:

- Carry on lobbying activities in certain circumstances or
- Be employed by, or provide services to, a person carrying on lobbying activities in certain circumstances.

These circumstances are where the lobbying activity:

- 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 the relevant DPOs leaving, or
- Is to a person who was also a DPO connected with that public service body in the year prior to the relevant DPO’s leaving.

A relevant DPO may apply to the Standards Commission for consent to engage in such lobbying. The Standards Commission may decide to give consent unconditionally or give consent with conditions attached. The Standards Commission may also refuse to give consent for all or part of the cooling-off period.

A relevant DPO who is unhappy with the decision may appeal.

The Standards Commission has [published additional guidance](#) for the benefit of any persons seeking to apply to waive or reduce their cooling-off period.

Enforcement

Part 4 of the Regulation of Lobbying Act 2015 sets out “relevant” contraventions of the Act and enforcement provisions. The enforcement provisions came into effect on 1 January 2017.

Relevant contraventions

Section 18 of the Act sets out the following as “relevant contraventions” of the Act:

- Carrying on lobbying activities without being registered;
- Failing to make a return by the deadline;
- Providing the Standards Commission with any information known to be inaccurate or misleading;
- Failing to co-operate with an investigating officer who is investigating contraventions of the Act; and
- Obstructing an investigation.

Enforcement provisions

The provisions contained in Part 4 give the Standards Commission the authority to:

- investigate possible relevant contraventions (Section 19).
- prosecute offences (Section 20).
- serve fixed payment notices to persons who are late submitting a return of lobbying activities (Section 21).

Investigations

The Standards Commission may authorise an investigation if it reasonably believes that a person may have committed or may be committing a relevant contravention.

Authorised officers may be appointed to carry out the investigation. They will have extensive powers to obtain necessary information and documents including the power to enter and search premises.

As a result of an investigation, the Standards Commission may prosecute offences.

Prosecutions and Fines

Any relevant contravention listed above may be prosecuted by the Standards Commission

- If you are prosecuted in the District Court and found guilty (summary conviction), you may be fined up to €2,500 (this is known as a Class C fine).
- If you are prosecuted in the Circuit Criminal Court and found guilty (conviction on indictment), you may be fined and imprisoned for up to two years.
- Submitting a late return (that is making a return after the prescribed deadline) is a relevant contravention, which will result in a fixed payment notice being issued. The amount of the fixed payment is €200. If you pay the fixed payment within the time specified, no further action will be taken. Failure to pay the fixed payment may result in prosecution.

Appeals

Certain decisions of the Standards Commission may be appealed. A person aggrieved by a decision of the Standards Commission may appeal against the particular decision within 14 days stating the reasons for appeal. Appeals should be made to appeals@lobbying.ie. The decisions in question are:

- A decision in relation to the removal of information where the Standards Commission has deemed it inaccurate, out of date or misleading. (Note a person may only appeal such a decision if the information concerned relates to the person.)
- A decision in relation to an application for delayed publication
- A decision in relation to an application to waive or reduce the restrictions on post term employment.

The Minister for Finance and Public Expenditure and Reform (the Minister) has appointed independent and impartial Appeal Officers to consider such appeals. The Minister has also made Regulations prescribing the procedures which are to be followed in the conduct of appeals. These Regulations are available [here](#).

The Appeal Officer will give a decision on the appeal within 14 days of the appeal having been received by the Standards Commission. He/she may

- Confirm the decision made by the Standards Commission or
- Revoke the decision and replace it with a new decision which he/she considers appropriate.

The Appeal Officer's decision will be issued to the person making the appeal and to the Standards Commission at the same time.

The Appeal Officer's decision may be appealed to the High Court on a point of law within 21 days of the decision having been made. The High Court decision is final and there is no further appeal.

Review of the Act

The legislation provides for regular reviews of the operation of the Act. The first such review took place in September 2016 when the Act had been in operation for a year. The Minister published a report on the first review of the Act on 2 May 2017. The Report [is available on the Dept Public Expenditure and Reform's website](#). Subsequent reviews must take place every three years. When conducting this review, the Minister will engage in consultations with, among others, people who are carrying on lobbying activities and their representatives. The Standards Commission must also be consulted.

Further Information

Further information on the Act is available at www.lobbying.ie.

Any person who wishes to attend a briefing session on the Act should register their interest by emailing info@lobbying.ie.

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Appendix: Best practices for persons carrying on lobbying activities

- Review your organisation's arrangements for recording relevant communications
- Where necessary, put in place arrangements to record such information from the start of the first relevant period in which you begin lobbying
- Identify individual(s) responsible for carrying on and keeping a record of lobbying activities
 - Note: It is possible to have data entered on the register on an ongoing basis by more than one employee and saved in draft form (on a private area of the register) prior to its formal submission.
- Nominate a compliance officer for registration and compilation of returns.
 - Single person responsible for reviewing all final returns for completeness, accuracy and consistency, and ensuring returns deadlines are met.
 - Person can submit final return at the end of each reporting period.
 - Ensure there is a back-up person or substitute to submit returns to lobbying.ie in case of illness or absence of the compliance officer.
- Visit www.lobbying.ie for more information, including guidance, information tools and videos to help you:
 - Determine if you are lobbying
 - Find the answers to frequently asked questions
 - Complete the registration process
 - Complete the process of submitting returns of lobbying activities
- Best Practice when submitting returns
 - You do not need to file a separate return for every communication on a particular subject matter
 - Ensure that you are selecting the correct Designated Public Official
 - Make sure that the subject matter and intended result(s) of your lobbying activities can be understood by persons reviewing your returns of lobbying activities
 - Keep in mind when compiling your return that a number of matters are considered exempt and communicating about them would not be considered lobbying