

Regulation of Lobbying Act 2015:

What you need to know

The Wheel

20 September 2024



Coimisiún um Chaighdeáin in Oifigí Poiblí
Standards in Public Office Commission

Presentation topics

- Overview of *Regulation of Lobbying Act 2015*
 - The Three-Step Test
 - Registration and return requirements
 - Contraventions and enforcement
- How to prepare for compliance
- Avoiding common pitfalls
- Section 22- Post employment restrictions
- Amendment Act 2023
- Code of Conduct
- Questions



Regulation of Lobbying: Overview of Act

- To make the process of lobbying more transparent
- Standards Commission;
 - Independent Lobbying Registrar
 - Maintain a Register of Lobbying
- Regular submission of returns, three times a year
- Web-based public registry which records; lobbyist, lobbied, subject matter, intended result
- Post-employment restrictions for **some** public officials
- Investigation and enforcement provisions (compliance focus)
- Amendment Act 2023

What is lobbying? The Three-Step Test

- Communication must meet the “three step test” to be considered lobbying - communication by:
 1. Persons within the scope of the Act
 2. With Designated Public Officials (DPO)
 3. On relevant matters
- Act makes no distinction regarding method, venue or formality of communication
 - Mail, telephone, in-person, email, social media
 - Office, social setting, casual encounter, any other
 - Indirect Lobbying

Step 1: Are you within scope of the Act?

- Persons with **more than 10 employees**
- **Representative or issue-based bodies** with at least 1 employee (& where members would fall within scope on their own, even with no employees)
- **Third parties** paid to lobby on a **client's behalf**
- Anyone lobbying **about development or zoning** of land

But even if you meet these criteria you need to register only if the communications are with Designated Public Officials (DPOs) and relate to “relevant matters”

Step 2: Are you communicating with a DPO?

- Ministers, Ministers of State
- Members of Dáil Éireann, Seanad Éireann
- Irish Members of the European Parliament
- Members of Local Authorities
- Special Advisors
- Senior Civil and Public Servants
 - Civil service: Secretaries General, Assistant Secretaries, Director grades and equivalent
 - Local authorities: Chief Executives , Directors of Service, Heads of Finance, Head of HR (Dublin City Council)
 - Ministerial Order can expand groups (public bodies or levels)



Step 3: Is it about a relevant matter?

- The initiation, development or modification of any public policy or of any public programme
- The preparation of an enactment
- The award of any grant, loan or other financial support, contract or other agreement, or of any licence or other authorisation involving public funds.

Not a relevant matter: Matters relating only to the **implementation** of any such policy, programme, enactment or award **or matters of a technical nature**

Exemptions (section 5(5))

Several types of communications are exempt from the requirement to register:

- Private affairs
- Principal private residence
- Diplomatic context
- Between public officials
- Strictly factual information
- Trade union negotiations
- Threat to life or safety
- Security of the State
- Shareholder of State body
- Within proceedings of Oireachtas Committee
- Information requested and published by public body (Consultations)
- Groups established by Public Body where Transparency Code applies (Task forces. Working groups)

Registration requirements

- Register after first communication with DPO
- Create an account on Lobbying.ie
- Include in registration:
 - Organisation Name - option to include “trading as” name if different from legal name
 - Business address and contact details
 - Main business activities
 - Identify person with primary responsibility for lobbying
 - Company Registration Office Number or Charitable Registration Number

Return requirements

- 3 Returns periods per year with mandatory deadlines
 - 1 January–30 April: returns due 21 May
 - 1 May–31 August: returns due 21 September
 - 1 September–31 December: returns due 21 January
- A **Nil return** must be submitted when no lobbying activity took place during the relevant period
- Ensure your lobbying activity has been published
 - Check the Register of Lobbying
 - Saved as a draft return or awaiting publication by the account administrator

How to Submit a Substantive Return

- Click on “START A RETURN” on your dashboard.
- 1. SELECT the return period (default to current period)
- 2. What matter did you lobby about?
 - SELECT the Policy area and Relevant matter topics from the dropdown
 - ENTER Specific details (e.g. the specific policy, piece of legislation etc...you lobbied on)
 - ENTER Intended Results – be specific about what you wanted to achieve through this Lobbying Activity

How to Submit a Substantive Return

- 3. Who carried out the lobbying?
 - Was there any Former/Current DPOs involved?
 - Was this lobbying done on behalf of a client?
- 4. How was the lobbying carried out?
 - Grass roots communication and/or Mass communication
 - Type and extent of lobbying activity (ex. 6-10 emails)
- 5. Who were the DPOs you lobbied?
 - Search DPOs by name or by public body
 - Save as a draft, awaiting publication or publish!

Contraventions and Enforcement

■ Contraventions of Act:

- Lobbying without registering
- Failure to submit return by deadline (including nil return)
- Providing inaccurate/misleading information
- Failing to comply with an investigation
- Obstructing an investigation

■ Consequences of non-compliance

- Fixed payment notices for late returns: €200
- Investigation and prosecution of contraventions
- If convicted: higher fines and/or imprisonment



Preparations for Compliance

- Review your organisation's arrangements for recording relevant communications
- Identify individual(s) responsible for registration and compilation of returns
 - Data can be 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 compliance officer
 - Single person responsible for reviewing all final returns for completeness, accuracy and consistency
 - Person can submit final return at the end of each reporting period
 - Make sure that person has a backup!

Avoiding common pitfalls

- 1) Should you register? Do the **three-step test**
- 2) **Register** once you commence lobbying
- 3) Track your lobbying activity with an eye to returns
 - Avoid duplications - **one return per subject**, not for every communication
- 4) Meet the deadlines
 - 21 January, 21 May, 21 September: **mandatory deadlines**
 - Submit return as soon as lobbying activity has concluded
 - **Nil returns** are also expected - Very important!
 - Have organisational backups - Admin & Users
- 5) Make returns **clear, detailed** and **meaningful**
- 6) Indicate if you have **ceased lobbying**

Section 22- Post-employment restrictions

- Provides that specific categories of Designated Public Officials ("DPOs") are subject to a one-year “cooling-off” period, during which;
 - they 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.
- Purpose:
 - To manage the potential for conflicts of interest between the public and private sectors,
 - To place restrictions on what is often referred to as a “revolving door” between the public and private sector.

Section 22- Relevant DPOs

- Does not include all Designated Public Officials.
- Includes:
- Ministers of the Government and Ministers of State.
- A special adviser appointed under section 11 of the Public Services Management Act 1997.
- A public servant prescribed as a DPO by the Minister for Public Expenditure, NDP Delivery and Reform (Defined list)

Lobbying Amendment Act 2023

- *The Regulation of Lobbying and Oireachtas (Allowances to Members) (Amendment) Act 2023* was passed into law on 22 June 2023.
- Aim to strengthen compliance and enforcement
- Some provisions commenced on 1 January 2024 with the remainder on 1 June 2024.
- Section **5 (1) (c)** the scope of the Act is expanded to include any person who *‘makes, or manages or directs the making of any relevant communications about the development or zoning of land’*.

Lobbying Amendment Act 2023

- Scope now includes any representative or issue based organisation, with **no full time employees**, where at least one of the body's members would fall within scope of the Act if such member or members were to carry on lobbying activities outside of the body.
- A new exemption has been added under Section **5(5)(p)** to include communications by a political party to its members who are designated public officials and which are made **exclusively as members of the political party concerned**.

Lobbying Amendment Act 2023

- Under **Section 8** of the Act any registered person whose entry on the register has been marked under **Section 11(4)** as **ceased** is **prohibited from carrying on lobbying activities**.
- Under **Section 11** the **address** at which a person carries on business or carries on the person's main activities, or the address at which the person normally resides, must be included in the details provided by the registrant.

Lobbying Amendment Act 2023

Section 22

- Under **Section 22 (d)** provision is made that every public service body **must inform** relevant DPOs of their obligations under **Section 22**. Furthermore, the public service body must inform the Standards in Public Office Commission when a relevant DPO is leaving his or her employment.

Section 18

- Under **Section 18** a new contravention has been added. Under **18(f)** it is a contravention if a person takes any action that has its intended purpose the **avoidance or circumvention** of the person's obligations under the Act. **(Commenced 1 June 2024)**

Lobbying Amendment Act 2023

Sanctions

- For a relevant contravention under Section 18 (f) (**avoidance or circumvention of the person's obligations under the Act**) or under Section 22(1) (**Not seeking a waiver of the cooling off period**) a minor or a major sanction may be imposed.
- A Minor sanction will be advice, reprimand or caution.
- A Major sanction will be a financial sanction not exceeding €25,000, a prohibition on the person from registering on the Register for no more than two years,

Lobbying Amendment Act 2023

- In addition there will be a prohibition on the person from making or having a return made for no more than two years.

(These sanctions apply from 1 June 2024.)

Code of Conduct

- *Came into effect 1 January 2019*
- *Purpose to govern behaviour – ensure lobbying is ethical*
- *Sets out 8 key principles*
- *Persons lobbying should have regard to the principles of the Code*

Eight Principles of Code:

- 1) Demonstrate respect for public bodies
- 2) Act with honesty & integrity
- 3) Ensure accuracy of Information
- 4) Disclose identity and purpose
- 5) Preserve confidentiality
- 6) Avoid improper influence
- 7) Observe provisions of Act
- 8) Observe provisions of code

Useful Links

- [How to register as a lobbyist with Lobbying.ie](#)
- [How to submit a return on Lobbying.ie](#)
- [What are “the excepted/exempted communications”?](#)
- [Who are the Designated Public Officials?](#)
- [Take the Three Step Test](#)

Thank you/Questions?

Visit our website:

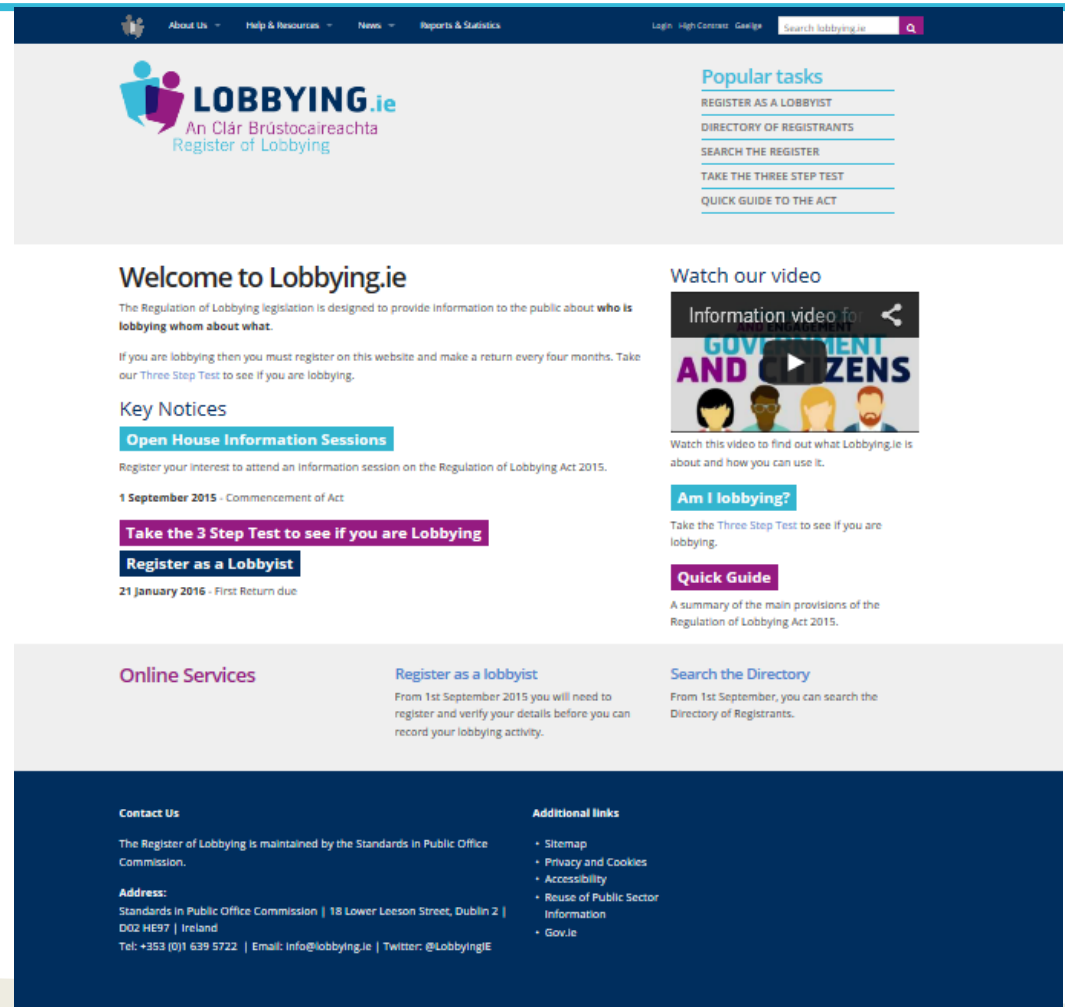
www.LOBBYING.ie

Lobbying Regulation Unit
Contact Details

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or

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The screenshot shows the LOBBYING.ie website. The header includes navigation links: About Us, Help & Resources, News, Reports & Statistics, Login, High Contrast, and a search bar. The main content area features the LOBBYING.ie logo and a list of popular tasks: Register as a Lobbyist, Directory of Registrants, Search the Register, Take the Three Step Test, and Quick Guide to the Act. Below this is a 'Welcome to Lobbying.ie' section with a brief explanation of the Regulation of Lobbying Act 2015 and a 'Three Step Test' link. A 'Key Notices' section highlights 'Open House Information Sessions' and 'Take the 3 Step Test to see if you are Lobbying'. A 'Watch our video' section features a video titled 'Information video for GOVERNMENT AND CITIZENS'. A 'Quick Guide' section provides a summary of the main provisions of the Regulation of Lobbying Act 2015. The footer contains 'Online Services' (Register as a lobbyist, Search the Directory) and 'Additional links' (Sitemap, Privacy and Cookies, Accessibility, Reuse of Public Sector Information, Gov.ie).

Popular tasks

- REGISTER AS A LOBBYIST
- DIRECTORY OF REGISTRANTS
- SEARCH THE REGISTER
- TAKE THE THREE STEP TEST
- QUICK GUIDE TO THE ACT

Welcome to Lobbying.ie

The Regulation of Lobbying legislation is designed to provide information to the public about **who is lobbying whom about what**.

If you are lobbying then you must register on this website and make a return every four months. Take our **Three Step Test** to see if you are lobbying.

Key Notices

Open House Information Sessions

Register your interest to attend an information session on the Regulation of Lobbying Act 2015.

1 September 2015 - Commencement of Act

Take the 3 Step Test to see if you are Lobbying

Register as a Lobbyist

21 January 2016 - First Return due

Watch our video

Information video for **GOVERNMENT AND CITIZENS**

Watch this video to find out what Lobbying.ie is about and how you can use it.

Am I lobbying?

Take the **Three Step Test** to see if you are lobbying.

Quick Guide

A summary of the main provisions of the Regulation of Lobbying Act 2015.

Online Services

Register as a lobbyist

From 1st September 2015 you will need to register and verify your details before you can record your lobbying activity.

Search the Directory

From 1st September, you can search the Directory of Registrants.

Contact Us

The Register of Lobbying is maintained by the Standards in Public Office Commission.

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Additional links

- Sitemap
- Privacy and Cookies
- Accessibility
- Reuse of Public Sector Information
- Gov.ie