

Information Note on the Regulation of Lobbying Act 2015

New lobbying disclosure rules

- 3 stage approach to assessing compliance
- Focus on engagement with all politicians and some senior officials
- Covers communications on policy, programmes, zoning and development of land and public expenditure
- Some limited exemptions and exceptions apply
- New registration and reporting requirements must be met
- A guide to compliance

New Lobbying Disclosure Rules

From 1st September 2015 a new regulatory system has been established for the regulation of lobbying in Ireland. This new system introduces new mandatory registration and reporting requirements for those engaged in lobbying certain categories of politicians and public officials.

The Regulation of Lobbying Act 2015 (the Act) has wide application and applies to anyone engaged in lobbying activities in Ireland.

Given the mandatory legal requirements in the Act it is important that you screen your public affairs activities to assess if they are captured by the Act. You need to determine if you have to register and record details of your contacts with politicians and officials. The full Act can be read by clicking on the following link;
<http://www.oireachtas.ie/documents/bills28/acts/2015/a515.pdf>

Does the Act apply?

We recommend that you take a 3 stage approach to determining if the Act applies to your organisation and your public affairs activities.

First – are you involved in contact with certain Designated Public Officials?

Second – are you communicating with them about a relevant matter?

Thirdly – are you specifically exempted from the Act or does your contact come within the definition of an excepted communication as defined in the Act?

Who are the Designated Public Officials?

The initial list of Designated Public Officials (DPO) includes all elected politicians and some public servants;

- Members of the Government and Ministers of State
- TDs, Senators, MEPS
- Members of local authorities
- Special Advisors to Members of the Government
- Certain public servants above a defined grade, which currently includes; Secretaries General and Assistant Secretaries in the Civil Service, CEOs and Directors of Services in Local Authorities

This list will be reviewed and likely expanded in due course.

What types of communication are covered?

Communications with DPOs relating to public policy, public programmes, legislation, the development and zoning of land or matters involving the dispersal of public funds all fall within the scope of the Act.

What are the exceptions and exemptions?

There are certain exceptions and exemptions to the obligation to register on the Register of Lobbying and to record details of lobbying activities;

Type of organisation -Some of the exemptions relate to the type of organisation involved or engaged in the lobbying – for example, generally if the organisation has less than 10 employees or is a purely voluntary body without any full time staff, the organisation is outside the scope of the Act. This exemption does not apply where the organisation is lobbying about the development and zoning of land. Other exemptions apply to bodies that are public service bodies as defined.

Nature of communication – exceptions apply to the nature of the communication undertaken with the relevant DPO – for example a request to a DPO for factual information would be outside the scope of the Act as would communications relating to a person’s private affairs.

Level of engagement – if you are communicating with a public servant who is not designated as a DPO, then this engagement is likely to be outside the scope of the Act. All elected politicians are included within the scope of the Act.

What are the registration and reporting requirements?

If your organisation is within the scope of the Act and is communicating with a DPO on a relevant matter which is not subject to an exception then there are two key legal requirements that you have to meet.

First you must register with the Standards in Public Office Commission for inclusion on the Register of Lobbying. This is a mandatory legal requirement once you are first engaged in lobbying activities.

Secondly you will need to file details of your lobbying activities on the online Register of Lobbying at least 3 times each year. The Act specifies the types of information that you will need to provide on the Register, which will be publicly accessible once you upload your information. The information that must be registered includes the following;

- * the **identity** of the DPO to whom the relevant communication was made
- * the **subject-matter** and the **intended results** of the communication
- * the **type** and **extent** of the lobbying activities carried on
- * the **name of the person** who had primary responsibility for carrying on the lobbying activities.
- * Where lobbying activities were carried out on behalf of a client, the entry must give information on the client’s name, address and business/main activities.

Once you have registered on the Register of Lobbying, you are required to file returns in each reporting period, even if you have not carried out any lobbying activity in that period and you are only filing a “nil” return.

How can we ensure compliance?

Direct lobbying activities - The best and most effective way of ensuring compliance with the Act is to keep track of who is engaging with DPOs within your organisation – it is advisable to appoint a nominated person who will collate information on all such contacts and assist with determining your registration and reporting requirements. Keep a record of all such activity once it takes place and review it in a timely fashion to make sure that it is assessed for inclusion in the Register within the relevant reporting period.

Professional Lobbyists and Representative Groups - It is also important to understand who is engaging with DPOs on behalf of your organisation. Under the Act any professional lobbyist or trade body engaged in lobbying on your behalf will need to register and record details of the lobbying efforts they have carried out for you. It is important to make sure that any such third parties are authorized to engage in such communications mindful that details of their lobbying on your behalf will appear on the public Register of Lobbying.

Fennell Public Affairs & the Lobbying Register

As public affairs consultants we provide a host of consultancy services for clients. Much of the service that we provide is by way of research, advisory counsel and strategic advice to clients – many of our clients use our services to assist them in their direct engagement and interaction with Government at both a political and official level. In such cases details of clients' lobbying activities are likely to be included in the clients own return.

In other instances we do undertake direct representational work on behalf of clients or directly assist with clients' engagement with key stakeholders. In these cases we will be obliged to record details of our lobbying activities on behalf of clients on the Lobbying Register – however we will always seek to advise a client before undertaking such work that it will need to be reported on the Register.

Key Dates

The Act commenced on **September 1 2015** and from this date, all lobbying activities must be registered. The first return is due by **January 21 2016** covering the period between **September 1** and **December 31**. Thereafter, returns will be made thrice yearly, at the end of **April, August** and **December** annually.

It is important to note that returns are placed on the web based register once you upload the information and not at the end of the first return period.

Further information

The Act and the Register are both new and novel in many respects. It will take time to determine the extent of activities that will be caught by the Act and trigger the requirement to register and report. If you have any queries or concerns about the operation of the Act and how it will impact on your organisation please contact us directly and we will be pleased to assist you. Additionally the Standards in Public Office Commission has significant information available on their website (www.lobbying.ie) or indeed your solicitor should also be able to advise you on how to comply with the new legal requirements in this Act.

Garrett Fennell
Fennell Public Affairs Limited
garrettfennell@fennell.ie
01 8198590