
LOBBYISTS BILL, 2012

Explanatory Memorandum

Purpose of Bill

The Bill seeks to give effect to the recommendations of the OECD on Principles for Transparency and Integrity in Lobbying 2010 and to provide for an effective and fair framework for transparent and open access to the development and implementation of public policy. The Bill provides for (a) the Standards in Public Office Commission to operate as the Registrar of Lobbyists, (b) the registration of lobbyists, (c) the filing of returns by lobbyists, (d) public access to those returns, (e) codes of conduct for lobbyists and (f) related matters.

Provisions of the Bill

Section 1 contains standard provisions relating to the short title of the Bill and its commencement date – six months from the date of it passing.

Section 2 defines certain expressions in the Bill, namely ‘client,’ ‘the functions of a local authority,’ ‘lobby,’ ‘lobbyist,’ ‘the Minister,’ ‘Office Holder,’ ‘Organisation,’ ‘Payment,’ ‘Public Body,’ ‘Public Official,’ ‘Registrar,’ and ‘Special Advisor.’ The terms ‘lobby’ and ‘lobbyist’ are given a wide definition.

Section 3 exempts public officials, office holders, diplomats, and certain other officials from the Act when they act in the performance of their official capacity.

Section 4 deals with the making of regulations by the Minister, for example nominating the fees to be charged for doing certain things e.g. registering as a Lobbyist under the Act.

Section 5 provides for the establishment of a Register of Lobbyists.

Section 6 provides that no lobbyist shall be permitted to lobby unless he or she is registered on the Register. It also provides that the Registrar shall not register a lobbyist unless the lobbyist is in possession of an up to date tax clearance certificate.

Section 7 sets out the details that shall be contained in each entry on the register e.g. full name, position and business address, the registered name of the organisation that employs the lobbyist if the lobbyist is lobbying on behalf of his or her employer, and details of any positions held by the lobbyist as a public official or office holder over the previous 6 years.

Section 8 provides for public access to the register.

Section 9 provides for the establishment of a Registrar of Returns.

Section 10 provides for public access to the Register of Returns.

Section 11 sets out the details which must be provided in each return e.g. name and address of the client, the relationship of the lobbyist to the client, the public official or office holder being lobbied, and particulars of the subject matter of the lobbying activity.

Section 12 provides for an annual return of lobbying activities.

Section 13 provides that a lobbyist must certify that the information on the returns submitted are true to the best of his or her knowledge or belief.

Section 14 provides that the Registrar shall prepare and publish a Code of Conduct for Lobbyists within 12 months of the passing of the legislation. It also provides that in preparing the Code, the Registrar shall have regard to and incorporate where appropriate the OECD Principles for Transparency and Integrity in Lobbying 2010.

Section 15 gives the Registrar the power to draw up guidelines concerning the Bill or Code of Conduct.

Section 16 provides for annual reports by the Registrar and for the furnishing of such reports to the Minister and the Houses of the Oireachtas.

Section 17 gives the Registrar the power of the Standards in Public Office Commission in relation to investigations to ensure compliance with the provisions of the Bill.

Section 18 states that it shall be an offence to knowingly make a false or misleading statement in a return or document submitted to the Registrar and that such offence shall be triable either summarily or on indictment.

LOBBYISTS BILL, 2012

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As initiated

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LOBBYISTS BILL, 2012

BILL

entitled

AN ACT TO GIVE EFFECT TO THE RECOMMENDATIONS OF THE ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT ON PRINCIPLES FOR TRANSPARENCY AND INTEGRITY IN LOBBYING DATED 18 FEBRUARY 2010 AND TO PROVIDE FOR AN EFFECTIVE AND FAIR FRAMEWORK FOR TRANSPARENT AND OPEN ACCESS TO THE DEVELOPMENT AND IMPLEMENTATION OF PUBLIC POLICY, TO NOMINATE THE STANDARDS IN PUBLIC OFFICE COMMISSION AS THE REGISTRAR OF LOBBYISTS, TO PROVIDE FOR THE REGISTRATION OF LOBBYISTS, TO PROVIDE FOR THE FILING OF RETURNS BY LOBBYISTS, TO PROVIDE FOR PUBLIC ACCESS TO RETURNS, TO PROVIDE FOR CODES OF CONDUCT FOR LOBBYISTS, AND TO PROVIDE FOR RELATED MATTERS

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Preliminary and General

1.- (1) This Act may be cited as the Lobbyists Act 2012.

(2) This Act shall come into operation on the day that is six months after the day of its passing.

2.- (1) In this Act, except where the context otherwise requires –

“Client” means an individual or organisation on whose behalf a lobbyist undertakes to lobby

“the functions of a local authority” means the functions of local authorities as provided for in Part 9 of the Local Government Act 2001.

“to lobby” means

- (a) to communicate with an office holder or public official, or
- (b) to arrange a meeting between an office holder or public official and any other person

in an attempt to influence:

- (i). the development of any legislative proposal by the Government, a Minister of the Government, a Minister of State, or by a member of Dáil Éireann or Seanad Éireann,
- (ii). the introduction of a Bill or resolution in either House of the Oireachtas or the amendment, passage or defeat of any Bill or resolution that is before either House of the Oireachtas,
- (iii). the introduction of a written or oral question in either House of the Oireachtas,
- (iv). the making, revocation or amendment of any statutory amendment,
- (v). the development, establishment, amendment, or termination of any government programme or policy,
- (vi). the awarding of any grant, financial benefit, contribution or contract by a public body,
- (vii). the functions of a Local Authority as provided for in Part 9 of the Local Government Act 2001.

“lobbyist” means a person who, in exchange for payment, lobbies on behalf of a client, and includes an employee, officer or director of an organisation who lobbies on behalf of that organisation

“the Minister” means the Minister for Public Expenditure and Reform.

“Office Holder” means—

- (a) a person who is a Minister of the Government or a Minister of State,
- (b) a member of the Oireachtas who holds the office of Attorney General,
- (c) a person who is Chairman or Deputy Chairman of Dáil Éireann or Chairman or Deputy Chairman of Seanad Éireann, and
- (d) a person who holds—
 - (i) the office of chairman of a committee of either House, being an office that stands designated for the time being by resolution of that House, or
 - (ii) the office of chairman of a joint committee of both Houses, being an office that stands designated for the time being by resolution of each House;

“Organisation” includes any of the following, whether incorporated, unincorporated, a partnership or a sole trader:

- (a) a company incorporated under the Companies Act 1963,
- (b) business, trade, industry, enterprise, professional or voluntary organisation or institution,
- (c) a trade union or labour organisation,
- (d) a chamber of commerce or board of trade,
- (e) a non-profit organisation, association, society, or interest group,
- (f) a government other than the Government of the State.

“Payment” means money or any valuable consideration and includes a contract, promise or agreement to pay money or any valuable consideration.

“Public Body” shall have the meaning provided in the Ethics in Public Office Act 1995, as amended

“Public Official” means

- (a) an office holder or director of, and a person occupying a position of employment in, a public body and a special adviser,
- (b) a member of Dáil Éireann or Seanad Éireann or of a Local Authority,
- (c) a person who is a member of the European Parliament by virtue of the European Parliament Elections Act, 1997,
- (d) an Attorney General (who is not a member of Dáil Éireann or Seanad Éireann),
- (e) the Comptroller and Auditor General,
- (f) the Director of Public Prosecutions,
- (g) a Judge of a Court in the State,
- (h) any other person employed by or acting on behalf of the public administration of the State.

“Registrar” means the Standards in Public Office Commission as established under the Standards in Public Office Act 2001, as amended.

“Special Advisor” shall have the meaning provided in the Ethics in Public Office Act 1995, as amended.

3. - (1) This Act does not apply to the following persons:

- (a) Public Officials or Office Holders when acting in their official capacity
- (b) diplomats, consular officials or official representatives in the State of foreign governments when acting in their official capacity,
- (c) officials of a specialised agency of the United Nations or any other international organisation to whom privileges and immunities are granted, by or under any enactment.

(2) This Act does not apply in respect of any oral or written submission made to a committee of either House of the Oireachtas or of both Houses of the Oireachtas, or made to any body or person having jurisdiction or powers conferred by or under an Act of the Oireachtas, in proceedings that are a matter of public record;

(3) Nothing in this Act shall be construed as requiring the disclosure of the name or identity of any individual where that disclosure could reasonably be expected to threaten the safety of that individual.

(4) Nothing in this Act shall be construed as requiring the disclosure or production of any information or document which would, were the information or document required to be disclosed or produced in legal proceedings, be regarded as being the subject of legal, professional or any other privilege.

4. – (1) The Minister may make regulations –

- (a) requiring a fee to be paid on the filing of a return or returns, or for any service performed by, or the use of any facility of, the Registrar,
- (b) for any matter referred to in this Act as prescribed or to be prescribed, and
- (c) generally for the purpose of giving effect to this Act.

PART 2

Register of Lobbyists

5. – (1) The Registrar shall establish and maintain a register to be known as the register of lobbyists.

(2) The register shall contain the names of the lobbyists registered.

(2) The register shall be organized in such manner and kept in such form as the Registrar may determine.

(4) The Registrar may verify the information contained in the Register.

6.- (1) No lobbyist shall be permitted to lobby unless his or her name is entered on the Register within 6 months of the commencement of this Act. Any lobbyist that commences work as a lobbyist after those 6 months must have his name entered on the Register within 21 days of the commencement of his or her work as a lobbyist.

(2) No lobbyist shall be allowed to enter his or her name on the register unless he or she is in possession of a valid and up to date tax clearance certificate issued by the Revenue Commissioners.

7. – (1) Each entry on the register shall contain the following information:

- (a) the full name, position and business address of the lobbyist,
- (b) the registered name of the organisation that employs or has hired the services of the lobbyist,
- (c) Any former positions held by the lobbyist as a public official or office holder within the previous 6 years.

8. The register shall be open to public inspection at such place and at such reasonable hours as the Registrar may determine.

PART 3

Returns of Lobbyists

9. (1) The Registrar shall establish and maintain a Register of Returns in which shall be kept a record of all returns and other documents submitted to the Registrar under this Act.

(2) The Register of Returns shall be organized in such manner and kept in such form as the Registrar may determine.

(3) The Registrar may verify the information contained in the Register of Returns.

10. The Register of Returns shall be open to public inspection at such place and at such reasonable hours as the Registrar may determine.

11. (1) A lobbyist shall, within 21 days of undertaking to lobby, file with the Registrar, in the form prescribed by the Registrar, a return setting out the following information

- (a) the name and address of the Lobbyist's client or if an employee, officer or director of an organisation who is lobbying on behalf of that organisation, the name of the organisation,
- (b) if the client is an organisation, the relationship between the lobbyist and the client,
- (c) if the client is an organisation, the name and address of each subsidiary and connected entity of that organisation that, to the reasonable knowledge of the lobbyist, has a direct interest in the lobbying activities of the lobbyist,
- (d) if the client is an organisation, the name and title of the client's principal representative with whom the consultant lobbyist communicates,
- (e) the public official or office holder being lobbied,
- (f) particulars of the matter in relation to which the lobbyist is lobbying the public official or office holder.

(2) A lobbyist shall provide the Registrar with such additional information in relation to the matters specified at paragraph (1) as he shall reasonably require.

12. (1) A Lobbyist shall file an annual return setting out all of the matters that he or she has lobbied the public official or office holder upon and upon whose behalf over the past 12 months at a time to be determined by the Registrar.

(2) A lobbyist shall provide the Registrar with such additional information in relation to the matters specified at paragraph (1) as he shall reasonably require.

13. (1) A Lobbyist who submits a return to the Registrar pursuant to this Act shall certify on the return that the information contained in it is true to the best of his or her knowledge or belief.

PART 4

Code of Conduct

14. (1) The Registrar shall prepare and publish a Code of Conduct for Lobbyists within 12 months of the commencement of this Act.

(2) A code of conduct under subsection (1) -

- a. may be amended by another code of conduct under that subsection,
- b. may be revoked by another code of conduct under that subsection replacing the first-mentioned code or amending another code of conduct under that subsection, or
- c. may be revoked by an instrument in writing that neither replaces nor amends another code of conduct under that subsection and is made in the manner in which the code of conduct being revoked was made.

(3) A code of conduct under subsection (1) shall apply from the date specified in the Code of Conduct.

(4) In drawing up any Code of Conduct under subsections (1) or (2), the Registrar shall take into account and, where appropriate, incorporate the OECD Principles for Transparency and Integrity in Lobbying 2010 which are set out in the Schedule to this Act.

(5) The Registrar shall furnish a copy of a code of conduct under subsection (1) or (2) to the Minister not later than 30 days after it is published and the Minister shall, not later than two months after the receipt of the code of conduct, cause a copy thereof to be laid before each House of the Oireachtas.

15. (1) The Registrar may from time to time prepare and publish such guidelines concerning:

- (a) this Act
- (b) the Code of Conduct

as it thinks necessary to ensure compliance with this Act.

PART 5

Annual Reports and Investigations

16. (1) The Registrar -

- (a) shall, not later than 6 months after the end of each year, prepare a report on its activities in that year, and
- (b) may prepare such other reports for the Minister as it considers appropriate.

(2) The Registrar shall furnish a copy of a report under subsection (1) (a) to the Minister not later than 6 months after the end of the year to which it relates and the Minister shall, not later than two months after the receipt of the report, cause a copy thereof to be laid before each House of the Oireachtas.

(3) The Minister may, if he or she considers it appropriate to do so, cause a copy of a report under subsection (1) (b) to be laid before each House of the Oireachtas.

17. (1) The Registrar shall consider all applications for inclusion on the Registry of Lobbyists and all returns submitted for the Register of Returns and other documents and information submitted to it under this Act.

(2) Where the Registrar forms the reasonable belief that a lobbyist may have breached any provision of this Act, the Registrar shall investigate the matter to determine whether any such breach has in fact occurred.

(3) In conducting an investigation under subsection (1) the Registrar shall have the powers of the Standards in Public Office Commission in relation to investigations under section 23 of the Ethics in Public Office Act 1995.

(4) The Registrar may refuse to conduct or may cease an investigation with respect to any matter if the Registrar is of the opinion that

- (a) the matter is one that could more appropriately be dealt with according to a procedure provided for under another enactment,
- (b) the matter is minor or trivial,
- (c) dealing with the matter would serve no useful purpose because of the length of time that has elapsed since the matter arose, or
- (d) there is any other valid reason for not dealing with the matter.

(5) Where the Registrar, following its consideration of the matters specified in subsection (1) or an investigation under subsection (2), finds an error or omission which it considers to be trivial or minor, the Registrar shall furnish the lobbyist who supplied the documentation or information with details of the error or omission, and inform that lobbyist that he or she may correct the error or make good the omission within a period of 21 days from the date upon which the notification issued to that lobbyist.

(6) Where a lobbyist to whom a notification has been given under subsection (4) corrects or makes good the omission to the satisfaction of the Registrar, the Registrar shall not take any further action.

(7) Subject to the subsection 8, after conducting an investigation, the Registrar shall prepare and publish a report of the investigation, including the findings, conclusions and reasons for the conclusions, and shall cause a copy of that report to be laid before each House of the Oireachtas within three months of the publication of the report.

(8) After conducting an investigation, where the Register forms the view that an offence under this Act may have been committed the Registrar shall prepare and furnish a report on the investigation to the Director of Public Prosecutions.

18. A person who knowingly makes any false or misleading statement in any return or other document submitted to the Registrar under this Act, whether in electronic, written or other form, shall be guilty of an offence and liable

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- (a) on summary conviction, to a fine not exceeding €1,000, or
- (b) on conviction on indictment, to a fine not exceeding €30,000 or to imprisonment for a term not exceeding two years, or to both.