

Regulation of Lobbying Act 2015: What you need to know

November 2017

Purpose of presentation

- Overview of *Regulation of Lobbying Act 2015*
- The Three-Step Test
- Registration and return requirements
- Contraventions and enforcement
- How to prepare for compliance
- Questions

Regulation of Lobbying: Overview of Act

- Independent lobbying registrar – Standards Commission
- Registration of lobbyists (wide ranging scope)
- Regular submission of returns (3 x/year)
- Web-based public registry (lobbyist, lobbied, subject, intended result)
- Post-employment restrictions for **some** public officials
- Investigation and enforcement provisions (compliance focus)
- Legislative review mechanism

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
 3. On relevant matters
- Act makes no distinction regarding method, venue or formality of communication
 - Mail, telephone, in-person, electronic, social media
 - Office, social setting, casual encounter, other

Step 1: Are you within scope of the Act?

- Persons with **more than 10 employees**
- **Representative or advocacy bodies** with at least 1 employee
- **Third parties** paid to lobby on a client's behalf
- Anyone lobbying **about development or zoning** of land

Only if the communications are with Designated Public Officials and relate to “relevant matters”

Step 2: Are you communicating with a DPO?

- Ministers, Ministers of State
- Members of Dáil Éireann, Seanad Éireann
- Members of the European Parliament for Irish constituencies
- Members of Local Authorities
- Special Advisors
- Senior Civil and Public Servants
 - Civil service: Secretaries General, Assistant Secretaries, Director grades and equivalent
 - Local authorities: CEs , Directors of Service, Heads of Finance, Head of HR (Dublin City Council)
 - Minister may expand group in future (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; or
- 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 matters relating only to the **implementation** of any such policy, programme, enactment or award **or of a technical nature**

Exemptions (s.5(5))

Several types of communications are exempt from 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
- Groups established by Public Body where Transparency Code applies

Registration requirements

- Register after first communication with DPO
- Include in registration:
 - Organisation 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 September–31 December: returns due 21 January
 - 1 January–30 April: returns due 21 May
 - 1 May–31 August: returns due 21 September
- Nil returns are also required
- One return per subject – include following information:
 - Who was lobbied
 - Subject matter/intended results
 - Type and extent of activity
 - Current/former DPOs lobbying for you
 - Client information (if relevant)

Standards in Public Office Commission: Role

- Registrar of Lobbying (s.9)
- Develop/oversee web-based public register (s.10)
- Matters for decision (may be appealed):
 - Information on register (ss.10(5))
 - Delayed publication (s.14)
 - Post-employment (s.22)
- Code of Conduct (s.16)
- Provide guidance, promote understanding (s.17)
- Power to investigate (s.19)
- Fixed Payment Notices (low level fines) for minor breaches (s.21)
- Offences provisions for significant breaches (s.20)
- Annual reports to Oireachtas

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

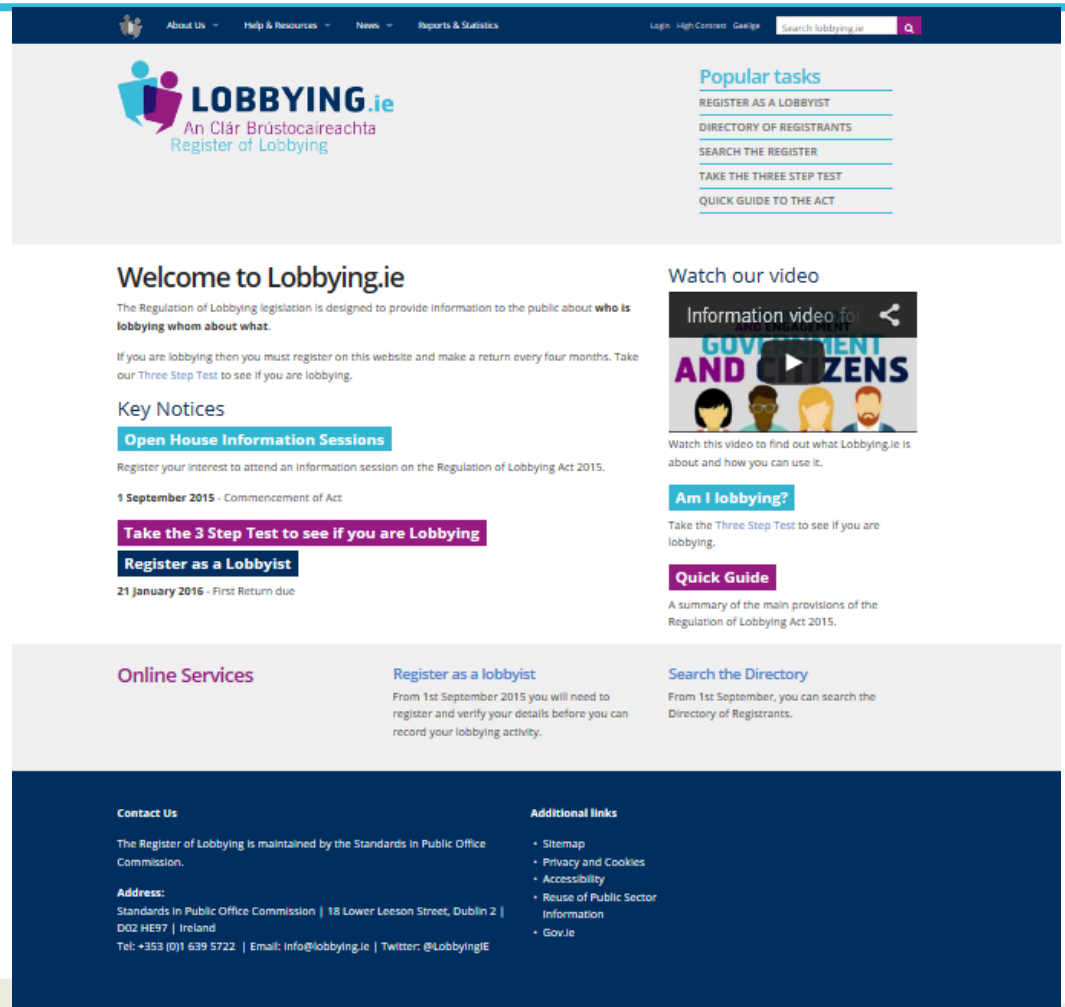
- Review your organisation's arrangements for recording relevant communications
- Identify individual(s) responsible for registration and compilation of returns.
 - It will be possible to have data entered on the register on an ongoing basis by more than one employee and saved in draft form (on a private area of the register) prior to its formal submission.
- **Nominate 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
 - One return per subject, not for every communication
- 4) Meet the deadlines
 - 21 January, 21 May, 21 September: mandatory deadlines
 - Nil returns are also expected
 - Have organisational backups
- 5) Make returns meaningful
- 6) Indicate if you have ceased lobbying

Thank you

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www.LOBBYING.ie



The screenshot shows the LOBBYING.ie website homepage. At the top is a dark blue navigation bar with links for 'About Us', 'Help & Resources', 'News', and 'Reports & Statistics'. A search bar is located on the right side of the navigation bar. Below the navigation bar is a light grey header section featuring the LOBBYING.ie logo and a list of 'Popular tasks' including 'REGISTER AS A LOBBYIST', 'DIRECTORY OF REGISTRANTS', 'SEARCH THE REGISTER', 'TAKE THE THREE STEP TEST', and 'QUICK GUIDE TO THE ACT'. The main content area is divided into several sections: 'Welcome to Lobbying.ie' with introductory text and a 'Three Step Test' link; 'Key Notices' with a highlighted 'Open House Information Sessions' section; 'Watch our video' with a video player for 'Information video for GOVERNMENT AND CITIZENS'; 'Am I lobbying?' with a link to the 'Three Step Test'; and 'Quick Guide' with a link to a summary of the main provisions of the Regulation of Lobbying Act 2015. At the bottom, there are three columns: 'Online Services' with a link to 'Register as a lobbyist'; 'Search the Directory' with a link to the 'Directory of Registrants'; and 'Contact Us' with contact information for the Standards in Public Office Commission, including an address, phone number, email, and Twitter handle. A footer section contains 'Additional links' such as 'Sitemap', 'Privacy and Cookies', 'Accessibility', 'Reuse of Public Sector Information', and 'Gov.ie'.