



LOBBYING.ie

An Clár Brústocaireachta
Register of Lobbying



2021

**Rialúchán Brústocaireachta
Tuarascáil Bhliantúil**



Coimisiún um Chaighdeán in Oifigí Poiblí
Standards in Public Office Commission

An Coimisiún um Chaighdeán in Oifigí Poiblí

6 Ardán Phort an Iarla

Baile Átha Cliath 2

D02 W773

Teileafón: (01) 639 5722

Ríomhphost: info@lobbying.ie

Suíomh gréasáin: www.lobbying.ie

Twitter: [@LobbyingIE](https://twitter.com/LobbyingIE)

Deartha ag Wonder Works

Contents

Réamhrá	4
An Coimisiún um Chaighdeáin in Oifigí Poiblí	5
Caibidil a hAon - Clárúcháin agus Tuairisceáin	6
Caibidil a Dó - Oibríochtaí Rialála	9
Caibidil a Trí - Cumarsáid agus For-rochtain	16
Caibidil a Ceathair - Príomh-Shaincheisteanna in 2021 agus na Chéad Chéimeanna Eile	19
Aguisín a hAon - Ról Maoirseachta an Choimisiúin faoin Acht um Brústocaireacht a Rialáil, 2015	22
Aguisín a Dó - Staitisticí	27
Aguisín a Trí - Moltaí an Choimisiúin maidir le hAthrú roimhe seo	31

Réamhrá

De réir fhorálacha alt 25(1) den Acht um Brústocaireacht a Rialáil 2015, tá áthas orm tuarascáil bhliantúil an Choimisiúin um Chaighdeáin in Oifigí Poiblí do 2021 maidir le brústocaireacht a rialáil atá le leagan faoi bhráid gach Tí den Oireachtas.

Le linn 2021, lean an Clár Brústocaireachta ar líne go hiomlán ar aghaidh ag cur ar chumas an Choimisiúin a ghníomhaíochtaí oibríochtúla a dhéanamh faoin Acht d'ainneoin na ndeacrachtaí a bhaineann le srianta Covid-19. D'eisigh an Coimisiún roinnt cinntí reachtúla freisin, rinne sé for-rochtain ar líne, agus lean sé lena ghníomhaíochtaí imscrúdaithe agus forfheidhmithe. Tugann an Coimisiún dá aire obair eisceachtúil na Rúnaíochta le linn na tréimhse sin.

Fáiltíonn an Coimisiún roimh eisiúint an Rialtais i mí Feabhra 2022 den scéim ghinearálta maidir leis an mBille um Brústocaireacht a Rialáil (Leasú), 2022.

Thar ceann an Choimisiúin, ba mhaith liom buíochas a ghabháil le Sherry Perreault Uasal agus leis an Aonad Rialaithe Brústocaireachta as a gcuid oibre crua le bliain anuas. Ba mhaith liom buíochas an Choimisiúin a chur in iúl freisin do Perreault Uasal as an bhfeidhm brústocaireachta agus rúnaíocht an Choimisiúin le seacht mbliana anuas a bhainistiú agus a fhorbairt agus gach rath a ghuí uirthi ina ról nua.



Faigheann an Breitheamh Garrett Sheehan a shéala oifige ón Uachtarán Mícháel D. Ó hUigín, an 9 Nollaig 2020.

A handwritten signature in black ink that reads "Garrett Sheehan".

Garrett Sheehan

Cathaoirleach

An Coimisiún um Chaighdeáin in Oifigí Poiblí

Meitheamh 2022

An Coimisiún um Chaighdeán in Oifigí Poiblí

Is comhlacht neamhspleách é an Coimisiún um Chaighdeán in Oifigí Poiblí a bunaíodh i mí na Nollag 2001 faoin *Acht um Chaighdeán in Oifigí Poiblí, 2001*. In 2021, ba iad seo a leanas a chomhaltaí:

- > An Breitheamh Onórach Garrett Sheehan, Cathaoirleach
- > Seamus McCarthy, An tArd-Reachtair Cuntas agus Ciste
- > Peter Tyndall, Ombudsman
- > Peter Finnegan, Cléireach Dháil Éireann
- > Martin Groves, Cléireach Sheanad Éireann
- > Geraldine Feeney, iarchomhalta de Sheanad Éireann

Is í Oifig an Ombudsman a chuireann rúnaíocht an Choimisiúin ar fáil.

Tá ról mhaoirseachta ag an gCoimisiún faoi chúig phársa reachtaíochta ar leith (arna leasú):

- > an *tAcht um Eitic in Oifigí Poiblí, 1995* agus an *tAcht um Chaighdeán in Oifigí Poiblí, 2001* (le chéile “na hAchtanna um Eitic”);
- > An *tAcht Toghcháin, 1997*;
- > an *tAcht um Oifigí Aireachta agus Parlaiminte, 1938*, agus
- > an *tAcht um Brústocaireacht a Rialáil, 2015*.

Tá ról ag an gCoimisiún freisin maidir le himscrúdú a dhéanamh ar neamhchomhlíonadh féideartha Chuid 15 den *Acht Rialtais Áitiúil, 2001*.

Baineann an tuarascáil seo le feidhmiú fheidhmeanna an Choimisiúin faoin *Acht um Brústocaireacht a Rialáil, 2015*. Eisíonn an Coimisiún tuarascáil bhliantúil ar leithligh a chlúdaíonn a ghníomhaíochtaí agus an reachtaíocht eile a shainíonn a shainchúram á riar aige.



Caibidil a hAon:

Clárúcháin agus
Tuairisceáin

Caibidil a hAon

Clárúcháin agus Tuairisceáin

Faoin Acht um Brústocaireacht a Rialáil, 2015, seolann duine gníomhaíochtaí brústocaireachta más rud é (go hachomair) go ndéanann an duine cumarsáid dhíreach nó indíreach le hoifigeach poiblí ainmnithe faoi 'ábhar ábhartha', nach bhfuil an chumarsáid eiscthe go sonrach, agus go bhfuil an duine:

- (a) ag cumarsáid faoi fhorbairt nó criosú talún,
- (b) ina fhostóir ag a bhfuil níos mó ná 10 bhfostaí lánaimsire nó is ionadaí nó comhlacht abhcóideachta le fostaí lánaimseartha amháin nó níos mó é, nó
- (c) á íoc chun cumarsáid a dhéanamh thar ceann duine de na daoine a thuairiscítear in (b) thuas..

Ní mór dóibh siúd a dhéanann gníomhaíochtaí brústocaireachta, nó a bhfuil sé ar intinn acu é sin a dhéanamh, clárú leis an gCoimisiún. Ina dhiaidh sin, ceanglaítear ar chláraithe tuairisceáin ar ghníomhaíocht brústocaireachta a thíolacadh maidir le trí thréimhse tuairiscithe gach bliain, eadhon: 1 Eanáir - 30 Aibreán, 1 Bealtaine - 31 Lúnasa agus 1 Meán Fómhair - 31 Nollaig. Ní mór tuairisceáin a chur isteach laistigh de 21 lá tar éis dheireadh na tréimhse tuairiscithe.

1.1 Cláraithe nuas

Ligeann an **Tástáil Trí Chéim** do chláraithe ionchasacha a chinneadh an bhfuil nó an mbeidh siad i mbun gníomhaíochtaí brústocaireachta, rud a chiallaíonn go gceanglaítear orthu clárú. Tá an tástáil, chomh maith le treoir eile maidir leis an reachtaíocht, ar fáil ar shuíomh gréasáin lobbying. ie. A luaithe a chinneann siad clárú, déanann an Coimisiún athbhreithniú ar gach clárúchán nua chun a chinntiú go gceanglaítear ar an duine clárú agus go bhfuil sé sin déanta i gceart acu. Sa chás gur chláraithe duine trí dhearmad, bainfidh an Coimisiún an clárú agus aon tuairisceáin ghaolmhara.

Seoltar litir chuig gach cláraí nua ina leagtar béim ar spriocdhátaí na tréimhse tuairiscithe, ar na dea-chleachtais mholta maidir le riarachán cuntas agus ar shonraí na bhforálacha forfheidhmithe i gcás neamhchomhlíonta.

Ba é 2,273 líon iomlán na stocairí cláraithe ag deireadh 2021. Is féidir tuilleadh eolais faoi iomláin dheireadh na bliana a fheiceáil in **Aguisín a Dó**.

1.2 Tuairisceáin ar ghníomhaíochtaí brústocaireachta

Nuair a chríochnaigh tú an tuarascáil seo, tá níos mó ná 11,600 tuairisceán ar ghníomhaíochtaí brústocaireachta curtha isteach i leith na dtrí thréimhse tuairiscithe in 2021. Féadfaidh sé go n-athróidh an uimhir seo le himeacht ama, de réir mar a dhéantar tuairisceáin dhéanacha do 2021 ar an gcóras. Léiríonn na graif (in **Aguisín a Dó**) líon na dtuairisceán a fuarthas i leith gach tréimhse ábhartha agus na “nithe ábhartha” agus na réimsí beartais is mó éilimh a dtugtar aghaidh orthu sna tuairisceáin.

Rinneadh athbhreithniú ar gach tuairisceán brústocaireachta a cuireadh isteach in 2021 chun a fhíorú gur chomhlíon siad an tAcht, go raibh an fhaisnéis a cuireadh ar fáil soiléir agus bríoch, agus gur cuireadh ar fáil í ar an mbealach agus san fhoirm chuí. Sa chás go n-aithnítear earráidí nó neamhchomhlíonadh cheanglais an Achta, déanann an Coimisiún obair leantach ar an gcláraí chun aghaidh a thabhairt ar an ábhar.

Má Chilean an Coimisiún go bhfuil an fhaisnéis atá i dtuairisceán ar ghníomhaíochtaí brústocaireachta mícheart, míthreorach nó nach bhfuil sí mionsonraithe go leor, féadfaidh an Coimisiún a chumhachtaí a úsáid chun an tuairisceán a bhaint nó chun a iarraidh go gceartú, de réir mar is iomchuí. Go ginearálta, comhoibríonn cláraithe go pras nuair a iarrtar orthu a dtuairisceáin a leasú nó tuilleadh faisnéise a sholáthar. I gcás ina gcuirfidh an Coimisiún deireadh le tuairisceán trí úsáid a bhaint as a chumhachtaí, measfar nach ndearna an cláraí an tuairisceán ar an gcéad dul síos agus go bhfuil an baol ann go mbeidh sé neamhchomhlíontach. Rinne an Coimisiún 813 iarratas ar bhreis faisnéise le linn 2021. I ngach cás, soláthraíodh an fhaisnéis riachtanach agus réitíodh aon saincheist. Dá réir sin, ní raibh aon chás ann inar lean an Coimisiún ar aghaidh le deireadh a chur le fillleadh in 2021 mar gheall ar mhainneachtain faisnéis a iarradh a sholáthar.

1.3 Uasghrádaithe ar an gclár in 2021

Déantar athbhreithniú rialta ar fheidhmíocht an chláir ar líne, ó thaobh úsáideoirí agus riarthóra de, chun a chinntiú go bhfuil sé ag feidhmiú chomh héifeachtach agus chomh héifeachtúil agus is féidir. Aithníodh roinnt saincheistanna feidhmíochta agus rinneadh uasghrádaithe ar an gcóras le linn 2021. Is féidir nuashonruithe amach anseo a dhéanamh nuair is gá.



Caibidil a Dó: Oibríochtaí Rialála

Caibidil a Dó

Oibríochtaí Rialála

2.1 Iarratais ar fhoilsiú moillithe

Go ginearálta, tá sonraí faoi bhrústocairí cláraithe agus a ngníomhaíocht brústocaireachta ar fáil le haghaidh comhairliúcháin phoiblí ar an gClár Brústocaireachta.

Faoi alt 14 den Acht, féadfaidh duine iarratas a dhéanamh chun moill a chur ar fhoilsiú na faisnéise atá in iarratas an duine chun clárú nó gníomhaíochtaí brústocaireachta a thabhairt ar ais dóibh, ar chúiseanna sonraithe. Tá ról an Choimisiúin maidir le hiarratais ar fhoilsiú moillithe a chinneadh leagtha amach in Aguisín a hAon den tuarascáil seo.

Ní dhearnadh aon iarratas chun moill a chur ar fhoilsiú tuairisceáin ar an gclár faoi alt 14 den Acht in 2021.

2.2 Imscrúduithe faoin Acht

Tugann Alt 19 an t-údarás don Choimisiún imscrúduithe a dhéanamh ar sháruithe féideartha ar an Acht.

Déanann rúnaíocht an Choimisiúin faireachán ar ghníomhaíocht brústocaireachta neamhchláraithe trí fhaisnéis foinse oscailte, amhail ailt sna meáin, fógraí faoi na meáin shóisialta agus reachtaíocht bheartaithe, ó ghearáin agus faisnéis a fhaigheann an Coimisiún, nó ó fhaisnéis atá ar an gclár féin.

Rinneadh imscrúdú amháin ar bhrústocaireacht neamhthuiriscithe a d'fhéadfadh a bheith ann ó 2020 go 2021, agus seoladh dhá imscrúdú eile i rith na bliana. Dhún an tAonad Gearán agus Imscrúduithe imscrúdú amháin le linn 2021 agus chuir sé tuarascáil imscrúdaithe ar fáil lena breithniú ag an gCoimisiún. Bhí dhá imscrúdú ar siúl ag deireadh na bliana.

Ar leithligh, chinn an Coimisiún in 2021 dhá chás a ionchúiseamh agus tugadh trí ionchúiseamh anonn ó 2020 ar aghaidh. As na hionchúisimh seo, theip ar thrí cinn acu tuairisceáin a chur isteach faoin spriocdháta reachtúil, agus dhá cheann i leith cionta eile, a ionchúisíodh faoi alt 20(2) den Acht. I gceithre chás, baineadh comhlíonadh amach ina dhiaidh sin agus tharraing an Coimisiún siar na hionchúisimh. D'fhan ionchúiseamh amháin os comhair na gcúirteanna ag deireadh 2021.

2.3 Iarratais ar thoilíú chun srianta iarfhostaíochta a tharscaoileadh

Forálann Alt 22 den Acht go bhfuil Airí, Airí Stáit, comhairleoirí speisialta agus oifigigh phoiblí shinsearacha atá forordaithe faoi alt 6(1) den Acht faoi réir tréimhse “mharana” bliana tar éis dóibh éirí as oifig, agus ní féidir leo dul i mbun gníomhaíochtaí brústocaireachta i gcúinsí ar leith, nó a bheith fostaithe ag, nó seirbhísí a sholáthar do dhuine a sheolann gníomhaíochtaí brústocaireachta in imthosca sonracha, ach amháin le toiliú an Choimisiúin.

Féadfaidh duine atá faoi réir na tréimhse marana iarratas a dhéanamh chuig an gCoimisiún ar tharscaoileadh na tréimhse marana. Tá tuilleadh eolais maidir le forálacha alt 22 agus ról an Choimisiúin ina leith leagtha amach in Aguisín a hAon den tuarascáil seo.

Féadfar toiliú a lorg tráth ar bith roimh an tréimhse mharana nó lena linn. Má dhiúltaítear d'iarratas ar phost ar leith, ní choisceann aon rud ar an duine aonair iarratas a dhéanamh ar thoilíú arís maidir le ról difriúil.

Bhí cúig iarratas ann, iad go léir ó chomhairleoirí speisialta, in 2021.

Léiríonn na cás-staidéir seo a leanas na cineálacha cúinsí a thagann chun cinn agus na tosca a chuir an Coimisiún san áireamh agus cásanna den sórt sin á gcinneadh.

Cás-staidéar 1

Rinne an t-iarratasóir, iarchomhairleoir speisialta le roinn rialtais, teagmháil leis an gCoimisiún ag lorg toilithe chun tús a chur le ról cumarsáide i gcáil féinfhostaithe. Bhí an t-iarratasóir ag iarraidh an 12 mhí iomlán den tréimhse mharana a tharscaoileadh.

Lorg an Coimisiún tuilleadh faisnéise agus soiléirithe maidir leis na réimsí a raibh sé beartaithe ag an iarratasóir stocaireacht a dhéanamh iontu, sa ról féinfhostaithe. Bhreithnigh an Coimisiún an t-iarratas agus na forálacha in Alt 22 den Acht um Brústocaireacht a Rialáil 2015 agus d'eisigh sé liosta coinníollacha a mbeadh ar an iarratasóir cloí leo. Chuir na coinníollacha seo cosc ar an iarratasóir stocaireacht a dhéanamh ar a roinn roimhe seo agus ar a chomhghleacaithe oibre. Chuir na coinníollacha cosc freisin ar an iarratasóir seirbhísí a sholáthar d'aon eagraíocht tríú páirtí a rinne stocaireacht roimhe seo ar an iarratasóir nó ar roinn an iarratasóra roimhe seo. D'iarr an Coimisiún ar an iarratasóir dearbhú a shíniú ina leagtar amach roinnt teachtaireachtaí toirmisce.

Thug an Coimisiún toiliú chun an tréimhse mharana dhá mhí dhéag a tharscaoileadh, faoi réir roinnt coinníollacha, atá ceaptha chun spiorad agus rún an Achta a chaomhnú.

Ní bhfuarthas aon achomharc.

Cás-staidéar 2

Rinne an t-iarratasóir, comhairleoir speisialta i roinn rialtais, teagmháil leis an gCoimisiún ag lorg toilithe chun glacadh le post le heagraíocht atá cláraithe ar an gClár Brústocaireachta. Dheimhnigh an cláraí (mar an fostóir beartaithe) nach mbeadh ar an iarratasóir aon ghníomhaíochtaí brústocaireachta a dhéanamh sa ról. Thuairiscigh an cláraí roimhe seo go ndearna sé stocaireacht ar an iarratasóir go díreach. Bhí an t-iarratasóir ag iarraidh an 12 mhí iomlán den tréimhse mharana a tharscaoileadh chun glacadh leis an bpost.

Chuir an Coimisiún san áireamh go raibh an t-iarratasóir ag iarraidh tús a chur le fostaíocht le cláraitheoir a rinne stocaireacht le déanaí agus go díreach ar an iarratasóir agus ar an roinn fostaíochta. D'ainmnigh roinnt tuairisceán a chuir an cláraí isteach an roinn agus an t-iarratasóir maidir leis an gcumarsáid.

Chuir an Coimisiún san áireamh freisin gur tairgeadh an post don iarratasóir gan próiseas iomaíoch agus gur chosúil go raibh an cláraí i gceannas air. Chuir an cláraí in iúl don Choimisiún go raibh sé ag súil go leanfar de stocaireacht a dhéanamh ar an Roinn le linn thréimhse mharana an iarratasóra ar chuid de na hábhair chéanna ar a ndearnadh stocaireacht ar an iarratasóir. Mheas an Coimisiún gur cinnte go mbainfeadh an cláraí tairbhe as naisc agus eolas an iarratasóra a fuarthas le linn thréimhse an iarratasóra mar oifigeach poiblí ainmnithe.

Mheas an Coimisiún gurbh é seo go díreach an cineál staide a bhfuil sé i gceist le forálacha alt 22 den Acht a rialáil. Ag féachaint do na ról a bhí ag an iarratasóir roimhe seo agus do na ról bheartaithe a bhí ag an iarratasóir roimhe seo, níor mheas an Coimisiún go bhfreastalófaí ar chuspóirí alt 22 den Acht, nó ar leas an phobail, tríd an tréimhse mharana a dhéanamh de réir mar a iarradh, agus dhiúltaigh sé don iarratas.

Rinne an t-iarratasóir achomharc in aghaidh chinneadh an Choimisiúin. Tarchuireadh an t-achomharc chuig oifigeach achomhairc neamhspleách. Sheas an t-oifigeach achomhairc le cinneadh an Choimisiúin. Ní dhearnadh achomharc chuig an Ard-Chúirt ar chinneadh an oifigh achomhairc.

Cás-staidéar 3

Rinne an t-iarratasóir, iarchomhairleoir speisialta le roinn rialtais, teagmháil leis an gCoimisiún ag lorg toilithe chun glacadh le post le heagraíocht atá cláraithe ar chlár na Brústocaireachta. Bhí toiliú á lorg ag an iarratasóir chun na trí mhí dheireanacha eile den tréimhse mharana a tharscaoileadh chun dul i mbun na fostaíochta seo, naoi mí tar éis dó an fhostaíocht roimhe sin a fhágáil.

Thug an Coimisiún aird ar an bhfíric go ndearna an cláraí stocaireacht roimhe seo ar an roinn inar oibrigh an t-iarratasóir. Cuireadh in iúl don Choimisiún gur tairgeadh an ról don iarratasóir tar éis próiseas iomaíoch. Dheimhnigh an t-iarratasóir agus an cláraí gach duine nach rabhtas ag súil go mbeadh an t-iarratasóir rannpháirteach in aon ghníomhaíochtaí brústocaireachta toirmisce a bhaineann le hiarfhostóir an iarratasóra nó le haon oifigigh phoiblí ainmnithe nasctha le linn na tréimhse ábhartha ná comhairle a thabhairt ina leith. Dheimhnigh an cláraí nach raibh sé i gceist acu stocaireacht a dhéanamh ar iar-roinn an iarratasóra le linn an chuid eile den tréimhse mharana. Dheimhnigh siad freisin nach mbeadh baint ag an iarratasóir le haon ghníomhaíochtaí brústocaireachta a bheadh dírithe ar iarchomhlacht poiblí nó ar iar-chomhghleacaithe an duine.

D'aontaigh an Coimisiún tarscaoileadh a dheonú do na trí mhí dheireanacha den tréimhse mharana, faoi réir roinnt coinníollacha a ceapadh chun a chinntiú nach raibh an duine i mbun gníomhaíochtaí brústocaireachta sna cúinsí a leagtar amach in alt 22.

Ní bhfuarthas aon achomharc.

2.4 Cionta coiriúla faoin Acht

Forálann an tAcht do roinnt cionta coiriúla maidir le sáruithe ar riachtanais an Achta. Féadfaidh an Coimisiún imeachtaí achoimre i leith ciona a thionscnamh agus a thabhairt ar aghaidh, ach ní fhéadfaidh ach an Stiúrthóir Ionchúiseamh Poiblí imeachtaí ar díotáil a thionscnamh.

Forálann Alt 21 go bhféadfaidh an Coimisiún fógra íocaíochta seasta (FPN) €200 a sheirbheáil ar dhuine a rinne cion, lena n-áirítear trí thuairisceán déanach ar ghníomhaíochtaí brústocaireachta a chur isteach. Má theipeann ar dhuine an pionós a íoc laistigh de 21 lá, féadfaidh an Coimisiún dul ar aghaidh chun an cion a ionchúiseamh.

Tuairisceáin dhéanacha ar ghníomhaíocht brústocaireachta

Ceanglaítear ar chláraí tuairisceán a dhéanamh ar ghníomhaíochtaí brústocaireachta, lena n-áirítear tuairisceán niallais, faoin spriodhata reachtúil. Is cion é mainneachtain tuairisceán a dhéanamh, nó tuairisceán a dhéanamh tar éis an spriodhata ábhartha. Maidir le tuairisceáin dhéanacha a chur isteach, tá duine faoi dhliteanas ar achoimre ar chiontú fíneála €2,500.

Eisíodh 399 FPNanna san iomlán in 2021, agus íocadh 352 díobh sin i gcaitheamh na bliana.

Toibhíodh níos mó FPNanna maidir le tuairisceáin dhéanacha in 2021 ná mar a bhí in 2020, a bhí suas é féin ó 2019. D'fhéadfadh an treocht seo a bheith mar gheall ar Covid-19 de réir mar a lean fostaithe ó go leor eagraíochtaí ag obair ón mbaile gan tacaíochtaí uile a dtimpeallacht oifige. Luaigh roinnt cláraithe é seo mar chúis le tuairisceáin dhéanacha a dhéanamh i rith na bliana agus ar an gcaoi sin FPNanna a thabhtú.

Chuir an Coimisiún 38 FPNanna ar ceal in 2021, sna cásanna seo a leanas:

- > fadhb theicniúil ar lobbying.ie a chuir cosc ar an duine tuairisceán a chur isteach in am;
- > tharla earráid riaracháin inar chuir an duine tuairisceán i ndúblach isteach go hearráideach don tréimhse mhícheart; agus/nó
- > níor ceanglaíodh ar an duine clárú agus gur chláraigh sé nó sí trí dhearmad.

In 2021, d'eisigh an Coimisiún 31 fógra faoi ionchúiseamh féideartha. Cé gur íocadh an FPN mar thoradh ar fhormhór na bhfógraí seo, tionscnaíodh trí ionchúiseamh i leith cionta a bhain le tuairisceán déanach a chur isteach. Bhí ceann de na hionchúisimh seo gan réiteach ag deireadh 2021 agus tarraingíodh siar an dá ionchúiseamh eile nuair a íocadh an FPN amuigh.

Cionta eile

I measc na sárúithe ábhartha eile ar an Acht tá mainneachtain clárú, mainneachtain tuairisceán a dhéanamh, mainneachtain comhoibriú le himscrúdú ar an gCoimisiún nó ordú ó oifigeach údaraithe, agus faisnéis mhíchruinn, bhréagach nó mhíthreorach a sholáthar don Choimisiún d'aon ghnó. Maidir leo seo, dlífeair fíneáil uasta €2,500 a chur ar an duine, ar é nó í a chiontú go hachomair, nó má chiontaítear ar díotáil é/í, fíneáil neamhtheoranta agus/nó príosúnacht dhá bhliain ar a mhéad a chur air/uirthi.

Go praiticiúil, is minic a bhíonn ar an gCoimisiún ionchúiseamh a dhéanamh i gcás inar theip ar bhrústocaire cláraithe tuairisceán a dhéanamh ar feadh tréimhse ábhartha.

Go praiticiúil, eisíonn an Coimisiún fógra faoi chion d'aon chláraí ar theip air tuairisceán a dhéanamh faoin spriodhata, agus tugtar coicís bhreise don duine tuairisceán ar ghníomhaíochtaí brústocaireachta a chur isteach. Má theipeann ar an duine an tuairisceán a thíolacadh faoin dáta sin, féadfaidh an Coimisiún dul ar aghaidh chun an cion a ionchúiseamh.

In 2021, d'eisigh an Coimisiún 114 fhógra san iomlán inar cuireadh in iúl don chláraí go raibh sé ar intinn acu ionchúiseamh a dhéanamh murar tíolacadh fillleadh ar ghníomhaíochtaí brústocaireachta (Tháinig laghdú air sin ón 150 fógra a eisíodh in 2020). I gcásanna nár ceanglaíodh ar an gcláraí a

bheith ar an gclár, toisc go raibh siad féin, agus/nó an chumarsáid, lasmuigh de raon feidhme an Achta, ceartaíodh an clár agus scríosadh tuairisceán nó clárú an duine, de réir mar is ábhartha. I ngach cás eile, chomhlíon an cláraí (agus thabhaigh sé FPN um íocaíocht dhéanach) agus níor leanadh leis an ionchúiseamh.

Lean an Coimisiún de bheith ag spreagadh comhlíonadh ar an gcéad dul síos. Laghdaigh for-rochtain agus cumarsáid éifeachtach le brústocairí cláraithe go luath líon na gcomhad a d'fhéadfadh a bheith curtha ar aghaidh le haghaidh ionchúisimh gach bliain murach sin. Comhlíonann formhór na ndaoine a ndualgais nuair a dhéanann an tAonad Gearán agus Imscrúduithe teagmháil leo.

Glacann an Coimisiún cur chuige nach bhfuil chomh trócaireach céanna le brústocairí a dhéanann stocaireacht gan clárú, tréimhsí fillte a chailleadh arís agus arís eile agus/nó nach gcomhlíonann an Coimisiún an Coimisiún nó nach dtéann siad i dteagmháil leis. I gcásanna den sórt sin, rachaidh an Coimisiún ar aghaidh chuig ionchúiseamh.

2.5 Faisnéis faoi Oifigigh Phoiblí Ainmnithe ar láithreáin ghréasáin comhlachtaí poiblí

Ceanglaítear leis an Acht nach mór do gach comhlacht a bhfuil oifigigh poiblí ainmnithe aige atá forordaithe i rialacháin Aireachta mar sheirbhísigh poiblí nó mar shealbhóirí oifige nó daoine eile liosta cothrom le dáta de na hoifigigh poiblí ainmnithe sin a fhoilsiú. Soláthraíonn ár láithreán gréasáin lobbying.ie naisc ábhartha leis na leathanaigh seo.

Roimh dheireadh gach tréimhse fillte, iarrtar ar chomhlachtaí poiblí liosta a sheiceáil agus a nuashonrú de réir mar is gá, ar liosta é a thaispeánann ainm, grád agus sonraí gearra ról agus freagrachtaí gach oifigigh poiblí ainmnithe atá forordaithe don chomhlacht. Iarrtar orthu freisin faisnéis a bhaineann le meithleacha nó tascfhórsaí atá ag feidhmiú faoina gcoimirce a dheimhniú agus a thabhairt cothrom le dáta.

I mí Eanáir 2021, rinne an Coimisiún teagmháil le gach comhlacht poiblí le hoifigigh poiblí ainmnithe chun a fhíorú go raibh an fhaisnéis cothrom le dáta, lena n-áirítear an méid seo a leanas:

- > Go raibh leathanach Um Brústocaireacht a Rialáil ag gach comhlacht ábhartha;
- > Cibé ar foilsíodh nó nach raibh an t-ainm agus an seasamh a bhí ar an leathanach; agus
- > Go raibh faisnéis ábhartha ag gach comhlacht ar a láithreán gréasáin maidir leis an gCód Trédhearcachta d'aon ghrúpa atá ag obair faoina gcoimirce.

Chinntigh an Coimisiún freisin go raibh naisc óna shuíomh gréasáin féin cruinn agus oibríochtúil.

Ba ábhar misnigh iad torthaí an tsuirbhé seo. Chinn an Coimisiún go raibh leathanach gréasáin tiomnaithe ag gach comhlacht poiblí ábhartha ina liostaítear oifigigh poiblí ainmnithe chomh maith leis an bhfaisnéis ábhartha a bhaineann lena seasamh. D'fhoilsigh gach comhlacht a bhfuil grúpa acu atá ag feidhmiú faoin gCód Trédhearcachta an fhaisnéis ábhartha ar a leathanach Brústocaireacht a Rialáil.



Caibidil a Trí:

Cumarsáid agus
For-rochtain

Caibidil a Trí

Cumarsáid agus For-rochtain

3.1 Gníomhaíochtaí for-rochtana

Leanann an Coimisiún de dheiseanna a thapú chun tuiscint ar an Acht agus ar a oibleagáidí a chur chun cinn, d'fhonn tacú le comhlíonadh éifeachtach agus dea-chleachtais a roinnt. Leanadh le gníomhaíochtaí for-rochtana ar ardáin ar líne i rith 2021. Leanfaidh seisiúin fhíorúla de bheith ina n-uirlis thábhachtach sa timpeallacht iar-phaindeimeach. Ceadaíonn siad ionadaíocht ó gach cearn den tír ar fad agus ní chuireann siad aon srianta ar rannpháirtithe a d'fhéadfadh a bheith faoi réir teorainneacha taistil mar gheall ar shrianta ama nó airgeadais. Is bealach éifeachtach i gcónaí é for-rochtain a úsáideann Twitter chun teagmháil a dhéanamh leis an bpobal i gcoitinne agus leis na daoine aonair agus na heagraíochtaí sin a bhfuil nó a bhféadfadh oibleagáidí a bheith orthu clárú agus tuairisceáin a dhéanamh faoin Acht.

Eanáir

- > Seisiún oiliúna agus faisnéise a cuireadh ar fáil do chomhaltaí an Oireachtais maidir leis an *Acht um Eitic in Oifigí Poiblí, 1995 agus 2001, an tAcht Toghcháin, 1997, an tAcht um Oifigí Aireachta agus Parlaiminte, 1938*, agus forálacha a chumhdaítear faoin *Acht um Brústocaireacht a Rialáil, 2015*.

Bealtaine

- > Glacadh páirt i bplé comhchéime oscailte ar rialáil brústocaireachta arna óstáil ag an gComhpháirtíocht Rialtais Oscailte.
- > “Teach oscailte” ar líne maidir le brústocaireacht a rialáil do chlárúithe nua agus ionchasacha. Please include the quotations marks around teach oscailte.
- > Cruinniú le Gníomhaireacht Trédhearcachta na Seirbia chun rialáil brústocaireachta a phlé.

Meitheamh

- > Cur i láthair do chomhdháil ar bhrústocaireacht arna óstáil ag Gníomhaireacht Trédhearcachta na Seirbia.

Iúil

- > Glacadh páirt i gcruinniú fíorúil de Lónra Rialálaithe Brústocaireachta na hEorpa (ELRN)

Meán Fómhair

- > Cur i láthair do chomhdháil fhíorúil arna heagrú ag PRII (Institiúid Caidrimh Phoiblí na hÉireann).
- > Cur i láthair do sheimineár gréasáin ar bhrústocaireacht a d'eagraigh Transparency International Latvia.
- > Comhdháil Idirnáisiúnta Frith-Éillithe - Rannpháirtíocht i bplé painéil ar chórais dhigiteacha chun trédhearcacht a mhéadú.

Deireadh Fómhair

- > Láithriú os comhair an Chomhchoiste um Airgeadas, Caiteachas Poiblí agus Athchóiriú agus an Taoiseach.
- > Rannpháirtíocht i gCruinniú Mullaigh na Coireachta Corparáidí a d'eagraigh A&L Goodbody.

Samhain

- > “Teach oscailte” ar líne maidir le brústocaireacht a rialáil do chláraithe nua agus ionchasacha.
- > Comhdháil bhliantúil fhíorúil líonra rialálaithe brústocaireachta na hEorpa (ELRN) - Cur i láthair ar rialuithe agus seiceálacha ar bhrústocairí.



Caibidil a Ceathair:

Príomh-Shaincheisteanna
in 2021 agus na Chéad
Chéimeanna Eile

Caibidil a Ceathair

Príomh-Shaincheisteanna in 2021 agus na Chéad Chéimeanna Eile

4.1 Paidéim Covid-19 in 2021

Sa dara bliain de phaidéim Covid-19, leanadh de shrianta. D'fhan tionscail fáilteachais agus siamsaíochta dúnta ar feadh cuid mhaith den bhliain agus cuireadh srian ar thaisteal chun críocha neamhriachtanacha. Chuir beartais agus cláir rialtais, a tionscnaíodh in 2020, maoiniú ar fáil do thionscail a ndeachaigh an phaidéim i bhfeidhm orthu agus chuir siad cúnamh ar fáil dóibh siúd a bhí dífhostaithe ag na deacrachtaí eacnamaíocha a chruthaigh an phaidéim.

Lean gnólachtaí, comhlachtaí ionadaíocha agus grúpaí abhcóideachta lena ngníomhaíochtaí brústocaireachta, le linn 2021, ag lorg cinntí beartais nó tacaíochta airgeadais. Tá comhlíonadh cheanglais an *Achta um Brústocaireacht a Rialáil*, mar a léirítear i líon na dtuairisceán ar an gClár, fós láidir. Tháinig méadú ar líon na dtuairisceán ar an gClár sa dara tréimhse de 2020 agus d'fhan siad ag leibhéal arda den chineál céanna i ndáil leis na trí thréimhse de 2021. Cuidíonn an cumas atá ag brústocairí cláraithe fanacht comhlíontach leis an bhfíric gur córas ar líne é an clár ó bunaíodh é in 2015. Tá an clár inrochtana i gcónaí ar líne ag cláraithe, cláraithe féideartha agus gach fiosrúchán. Lean an tAonad um Rialáil Brústocaireachta ag obair go cianda le tacaíochtaí teicniúla a cuireadh ar fáil don fhoireann chun feidhmiú éifeachtach an chláir a chumasú.

Tuairisceáin a bhaineann le Covid-19 ar an gclár

Lean líon na dtuairisceán brústocaireachta a rinneadh maidir le tréimhsí tuairiscithe in 2021 ar aghaidh ag leibhéal níos airde ná an gnáthleibhéal, mar gheall ar thionchar na brústocaireachta a bhaineann le Covid-19.

Tréimhse	Tuairisceáin 2020	Tuairisceáin 2021
Eanáir go hAibreán	3,324	4,058
Bealtaine go Lúnasa	3,872	3,683
Meán Fómhair go Nollaig	4,327	3,868

I measc na dtuairisceán a cuireadh isteach do 2021 tá 926 a rinne tagairt shonrach don phaidéim, agus tháinig siad chun cinn i bhformhór na réimsí beartais phoiblí. Is laghdú é seo ar an bhfigiúr de 1,378 tuairisceán a bhaineann leis na saincheisteanna seo in 2020. Ba é an réimse beartais phoiblí leis an líon is mó tuairisceán a bhain le Covid-19 ná Sláinte le tuairisceáin 201, agus Forbairt Eacnamaíoch agus Tionscal ina dhiaidh sin le 195 tuairisceán, Caiteachas Poiblí agus Athchóiriú le 34 tuairisceán, agus Talmhaíocht le 20 tuairisceán.

Saincheisteanna comhlíonta le linn na paidéime

Lean an clár brústocaireachta ag feidhmiú go héifeachtach le linn phaindéim Covid-19 in 2021. De réir mar a oibríonn an clár go hiomlán ar líne, is féidir le cláraithe clárú agus tuairisceáin a dhéanamh ar a ngníomhaíochtaí brústocaireachta ó áit ar bith ar domhan. Mar a tharla in 2020, fuair líon beag cláraithe amach nach raibh siad in ann tuairisceáin a dhéanamh faoin spriocdháta mar gheall ar dhúshláin a bhaineann le bheith ag obair ón mbaile, toisc go raibh taifid ar ghníomhaíochtaí brústocaireachta lonnaithe ina n-áiteanna oibre. Lean formhór na gcláraithe ar aghaidh ag déanamh a dtuairisceáin in am agus d'fhan siad comhlíontach.

4.2 Athbhreithniú reachtach nua ar an Acht le linn 2021

Ceanglaíonn an tAcht go ndéanfaidh an tAire Caiteachais Phoiblí agus Athchóirithe athbhreithniú, ar dtús laistigh de 12 mhí ó thosach feidhme agus gach trí bliana ina dhiaidh sin. Cuireadh tús leis an Acht an 1 Meán Fómhair 2015, agus rinneadh athbhreithniú air in 2016 agus in 2019. Foilsíodh tuarascálacha ar gach athbhreithniú den sórt sin ar shuíomh gréasáin na Roinne Caiteachais Phoiblí agus Athchóirithe². Ní dhearnadh aon leasú ar an Acht de bhun ceachtar den dá athbhreithniú.

Chuir an Coimisiún aighneacht faoi bhráid athbhreithniú 2019 ina raibh 22 moladh ar leith maidir le sainmhínte, oibríochtaí, oibleagáidí iarfhostaíochta, forfheidhmiú agus nithe éagsúla eile an Achta³. Bhí díomá ar an gCoimisiún nár formhuiníodh aon cheann dá mholtaí sa tuarascáil athbhreithnithe.

I mí Feabhra 2022, d'fhoilsigh an tAire scéim ghinearálta an Bhille um Brústocaireacht a Rialáil (Leasú), 2022⁴. Is díol sásaimh don Choimisiún foilsiú na scéime ginearálta, a ghlacann go leor de na moltaí a rinne an Coimisiún roimhe seo. Leanfaidh an Coimisiún agus a rúnaíocht de bheith i dteagmháil leis an Aire agus lena Roinn, agus é mar aidhm acu a chinntiú go bhfuil an córas brústocaireachta chomh láidir agus chomh héifeachtach agus is féidir.

² Ar fáil ag <https://www.gov.ie/en/press-release/4565cc-minister-donohoe-publishes-first-review-of-the-regulation-of-lobbyin/> and <https://www.gov.ie/en/press-release/03dc61-government-publishes-the-2nd-statutory-review-of-the-regulation-of-l/>.

³ Ar fáil ag <https://assets.gov.ie/37189/bd8fdb2210434214bff7ba70bf8cc1e9.pdf>.

⁴ Ar fáil ag <https://www.gov.ie/en/press-release/5b89e-minister-mcgrath-publishes-general-scheme-to-amend-irelands-lobbying-legislation/>.



Aguisín a hAon:

Ról Maoirseachta an
Choimisiúin faoin Acht um
Brústocaireacht a Rialáil, 2015

Aguisín a hAon:

Ról Maoirseachta an Choimisiúin faoin Acht um Brústocaireacht a Rialáil, 2015

Forbhreathnú ginearálta

Foráiltear leis an Acht go ndéanann duine a thagann faoi raon feidhme an Achta cumarsáid ábhartha (is stocaireacht) má dhéanann an duine cumarsáid le hoifigeach poiblí ainmnithe faoi ábhar ábhartha. Ní mór d'aon duine atá ag stocaireacht clárú agus tuairisceáin rialta ar líne ar a ngníomhaíocht brústocaireachta a thíolacadh.

Leagtar amach in Ailt 5(1) agus (2) den Acht na catagóirí duine atá laistigh de raon feidhme an Achta, eadhon:

- > duine a bhfuil níos mó ná 10 bhfostaí lánaimseartha aige nó aici;
- > duine a bhfuil fostaí lánaimseartha amháin nó níos mó aige agus ar comhlacht é atá ann go príomha chun ionadaíocht a dhéanamh ar leasanna a chomhaltaí (dá ngairtear “comhlacht ionadaíoch”) agus a dhéantar na cumarsáidí iomchuí thar ceann aon duine de na comhaltaí;
- > duine a bhfuil fostaí lánaimseartha amháin nó níos mó aige agus ar comhlacht é atá ann go príomha chun glacadh le saincheisteanna áirithe (dá ngairtear “comhlacht abhcóideachta”) agus a dhéantar na cumarsáidí ábhartha chun aon cheann de na saincheisteanna sin a chur chun cinn;
- > aon duine (duine aonair nó eagraíocht) a dhéanann “cumarsáid iomchuí” maidir le forbairt nó criosú talún nach é a bpríomháit chónaithe phríobháideach é; agus
- > “brústocaire gairmiúil” nó tríú páirtí a íoctar chun gníomhaíochtaí brústocaireachta a sheoladh thar ceann duine a oireann do cheann de na catagóirí daoine thuas.

I measc na n-oifigeach poiblí ainmnithe, (oifigeach phoiblí ainmnithe) chun críocha an Achta, tá Airí agus Airí Stáit, Comhaltaí de Dháil Éireann agus Seanad Éireann, Comhaltaí de Pharlaimint na hEorpa do thoghcheantair Éireannacha, agus Comhaltaí d'údaráis áitiúla. Cuimsíonn oifigeach phoiblí ainmnithe comhairleoirí speisialta agus na státseirbhísigh agus na seirbhísigh phoiblí is sinsearaí atá forordaithe le hordú ón Aire.

Is ábhar ábhartha é a bhaineann le tionscnamh, forbairt nó modhnú aon bheartais phoiblí nó aon chláir phoiblí; achtachán a ullmhú; nó dámhachtain aon deontais, iasachta nó tacaíochta airgeadais eile, conartha nó comhaontaithe eile, nó aon cheadúnais nó údaraithe eile lena mbaineann cistí poiblí. Is cumarsáid ábhartha iad ábhair a bhaineann le criosú agus forbairt talún freisin.

Forálann Alt 5(5) den Acht do roinnt díolúintí maidir le cumarsáid ábhartha a mheastar a bheith ann.

An Clár Brústocaireachta

Is córas gréasán-bhunaithe é an clár féin. Chomh maith leis an gclár ar líne a chur ar fáil, ar an láithreán gréasáin lobbying.ie tá uirlisí faisnéise agus treorach ann ina mínítear na próisis chlárucháin agus fillte.

Níl aon chostas ar chlárú, tuairisceáin a thíolacadh ná rochtain a fháil ar an bhfaisnéis atá ann. Cé go bhfuil freagracht formhaoirseachta ar an gCoimisiún as bunú agus cothabháil an chlár, is í an fhaisnéis atá sna hiarratais chun clárú agus tuairisceáin arna gcur isteach ag cláraithe a thiomáineann an t-ábhar.

Ní mór d'aon duine atá ag stocaireacht clárú agus tuairisceáin a thíolacadh trí huair sa bhliain, a chlúdaíonn "tréimhsí ábhartha" forordaithe (1 Eanáir - 30 Aibreán, 1 Bealtaine - 31 Lúnasa, agus 1 Meán Fómhair - 31 Nollaig). Ní mór na tuairisceáin a thíolacadh faoi na "dátaí ábhartha" forordaithe faoi seach (21 Bealtaine, 21 Meán Fómhair agus 21 Eanáir, faoi seach).

Ní mór a léiriú sa tuairisceán cé a ndearnadh brústocaireacht air, ábhar na gníomhaíochta brústocaireachta agus na torthaí a bhí an duine ag iarraidh a fháil. Ní mór cineál agus méid na gníomhaíochta brústocaireachta a léiriú sna tuairisceáin freisin. Má rinneadh an ghníomhaíocht brústocaireachta thar ceann cliaint, ní mór sonraí an chliaint a chur ar fáil sa tuairisceán.

Forálacha eile

Iarratais chun moill a chur ar fhoilsiú faoi alt 14 den Acht

Faoi alt 14 den Acht, féadfaidh duine iarratas a dhéanamh chun moill a chur ar fhoilsiú na faisnéise atá in iarratas an duine chun clárú nó ina dtuairisceán ar ghníomhaíochtaí brústocaireachta dá bhféadfaí a bheith ag súil le réasún go bhfoilseofaí an fhaisnéis:

- > Drochthionchar tromchúiseach a bheith acu ar leasanna airgeadais an Stáit, an gheilleagair náisiúnta nó leasanna gnó i gcoitinne nó ar leasanna gnó aon tuairisce ar dhaoine (iarratas arna dhéanamh faoi alt 14(1)(a) den Acht), nó
- > Cailteanas airgeadais ábhartha a chur faoi deara don duine lena mbaineann an fhaisnéis nó dochar tromchúiseach a dhéanamh do staid iomaíochta an duine sin agus slí bheatha, ghairm nó gnó an duine á sheoladh nó toradh aon chaibidlíochtaí conarthacha nó eile atá á seoladh ag an duine sin (iarratas arna dhéanamh faoi alt 14(1)(b) den Acht).

Má dhéantar iarratas faoi alt 14(1)(a), ceanglaítear ar an gCoimisiún dul i gcomhairle le haon Aire(Airí) ábhartha de chuid an Rialtais. Ní cheanglaítear ar an gCoimisiún dul i gcomhairle le hAire/Airí má dhéantar iarratas faoi alt 14(1)(b). (Féadfaidh an Coimisiún, áfach, a mheas gur cuí dul i gcomhairle le hAire maidir le hiarratas faoi alt 14(1)(b).

Foráiltear le hAlt 14(9) den Acht nach mór don Choimisiún míniú a fhoilsiú ar an gcúis ar cuireadh moill ar fhoilsiú na faisnéise nuair a fhoilsítear na tuairisceáin ina dhiaidh sin.

Forálann Alt 14(11) den Acht go bhféadfaidh an Coimisiún cinneadh a dhéanamh moill a chur ar fhoilsiú níos mó ná uair amháin maidir le faisnéis atá i dtuaisceán gníomhaíochtaí brústocaireachta.

Tréimhse “mharana” dá bhforáiltear faoi alt 22 den Acht

Forálann Alt 22 den Acht go bhfuil Airí, Airí Stáit, comhairleoirí speisialta agus oifigigh poiblí shinsearacha atá forordaithe chun críocha alt 6(1) den Acht faoi réir tréimhse “mharana” bliana, agus nach féidir leo dul i mbun gníomhaíochtaí brústocaireachta in imthosca ar leith, nó a bheith fostaithe ag, nó seirbhísí a sholáthar dóibh, duine a sheolann gníomhaíochtaí brústocaireachta i gcúinsí sonracha. Is í an tréimhse mharana an tréimhse bliana ón dáta ar scoir an duine de bheith ina oifigigh poiblí ainmnithe.

Is iad na cúinsí ina bhfuil feidhm ag alt 22 den Acht cumarsáid a dhéanamh a chuimsíonn seoladh gníomhaíochtaí brústocaireachta:

- Páirt a thabhairt d’aon chomhlacht seirbhíse poiblí lena raibh an duine fostaithe nó i seilbh oifige nó poist eile sa bhliain sular fhág sé/sí, nó
- Duine a bhí ina OCS freisin a bhí fostaithe nó i seilbh oifige nó poist eile leis an gcomhlacht seirbhíse poiblí sin sa bhliain sular fhág an duine.

Féadfaidh duine atá faoi réir na tréimhse marana bliana iarratas a dhéanamh chuig an gCoimisiún ar tharscaoileadh na tréimhse marana.

Féadfaidh an Coimisiún a chinneadh toiliú a thabhairt gan choinníoll le laghdú nó tarscaoileadh na tréimhse marana nó féadfaidh sé a chinneadh toiliú a thabhairt le coinníollacha a ghabhann leis sin. Féadfaidh an Coimisiún a chinneadh an t-iarratas a dhiúltú don tréimhse mharana iomlán nó do chuid de.

Achomhairc

Faoi alt 23 den Acht, féadfaidh duine arb éagóir leis cinneadh ón gCoimisiún faoi ailt 10(5) (a bhaineann le tuairiscí ar fhaisnéis mhícheart ar an gclár), alt 14 (foilsiú moillithe), nó alt 22 (tréimhse mharana) achomharc a dhéanamh in aghaidh chinneadh an Choimisiúin. Tá painéil d’oifigigh achomhairc neamhspleácha bunaithe ag an Roinn Caiteachais Phoiblí agus Athchóirithe chun achomhairc den sórt sin a éisteacht. Faoi alt 23, tarchuirtear an t-achomharc chuig oifigeach achomhairc neamhspleách a fhéadfaidh seasamh le cinneadh ón gCoimisiún, nó é a chur ar ceal agus cinneadh eile a chur ina ionad.

Forálann Alt 24 den Acht gur féidir cinneadh an oifigigh achomhairc a achomharc chuig an Ard-Chúirt.

Forálacha imscrúdaitheacha agus forfheidhmithe

Tá roinnt forálacha imscrúdaithe agus forfheidhmithe san Acht ar cuireadh tús leo an 1 Eanáir 2017.

Ar deireadh, forálann alt 2 den Acht d'athbhreithniú reachtach. Tar éis an athbhreithnithe, féadfaidh an tAire leasuithe féideartha ar an Acht a bhreithniú. Ní mór don Aire tuairisc a thabhairt do Thithe an Oireachtais ar thoradh an athbhreithnithe agus ar aon mholtaí maidir le leasuithe ar an Acht.

Ionstraimí Reachtúla

Tugadh isteach seacht n-ionstraim reachtúla faoin Acht, eadhon:

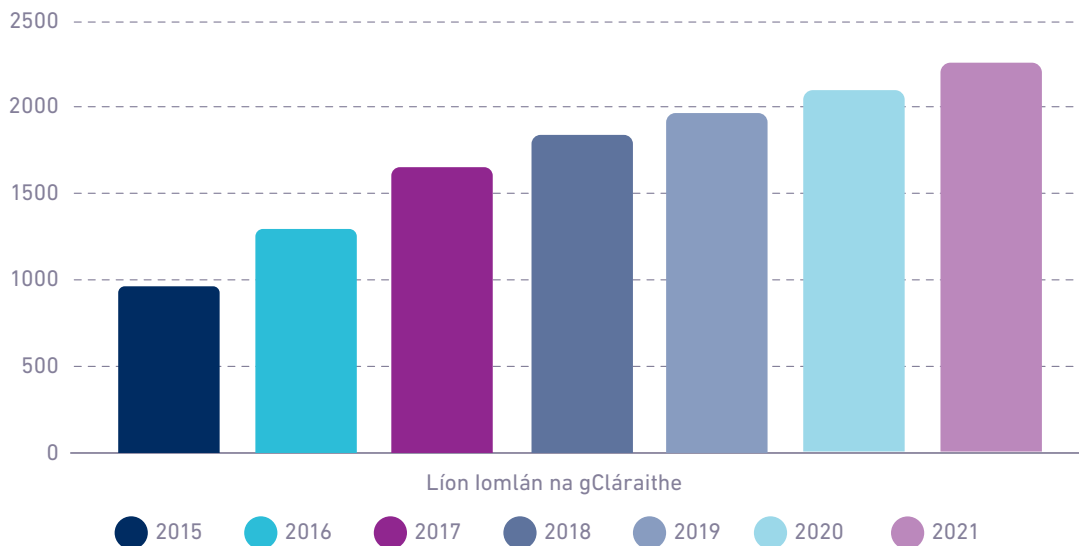
- > Na Rialacháin fán Acht um Brústocaireacht a Rialáil, 2015 (Oifigigh Phoiblí Ainmnithe) (I.R. 144 de 2019);
- > An tOrdú fán Acht um Brústocaireacht a Rialáil, 2015 (Tosach Feidhme) (I.R. 152 de 2015);
- > Na Rialacháin fán Acht um Brústocaireacht a Rialáil, 2015 (Achomhairc), 2015 (I.R. 366 de 2015);
- > Na Rialacháin fán Acht um Brústocaireacht a Rialáil, 2015 (Oifigigh Phoiblí Ainmnithe) (I.R. 367 de 2015);
- > An tOrdú fán Acht um Brústocaireacht a Rialáil, 2015 (Tosach Feidhme), 2016 (I.R. 360 de 2016);
- > Na Rialacháin fán Acht um Brústocaireacht a Rialáil, 2015 (Fógra íocaíochta Seasta), 2016 (I.R. 361 de 2016); agus
- > Na Rialacháin fán Acht um Brústocaireacht a Rialáil, 2015 (Oifigigh Phoiblí Ainmnithe), 2016 (I.R. 362 de 2016).



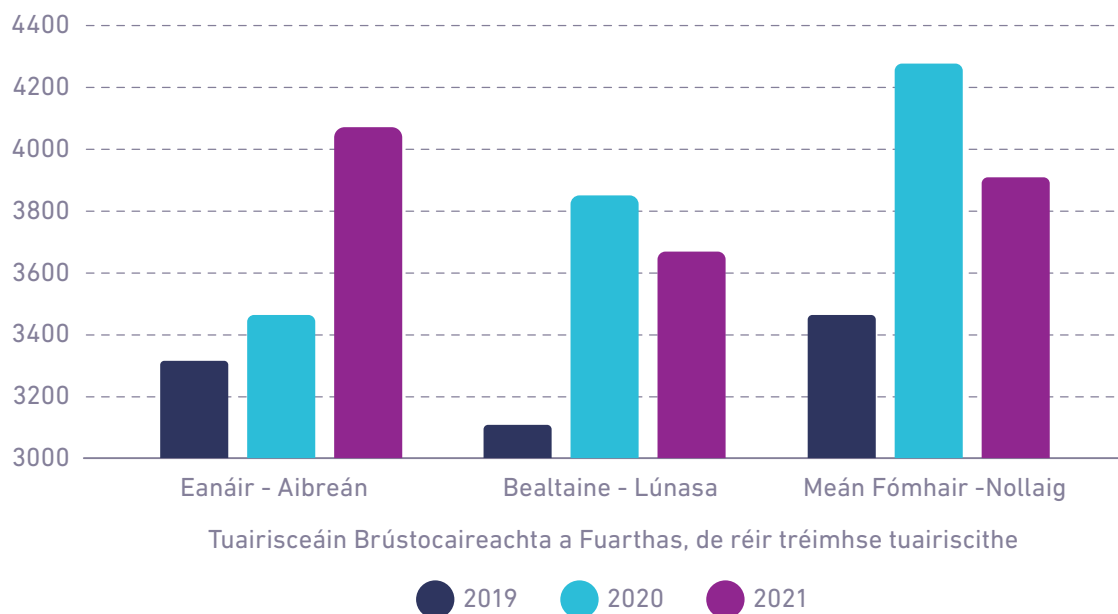
Aguisín a Dó: Staitisticí

Aguisín a Dó: Staitisticí

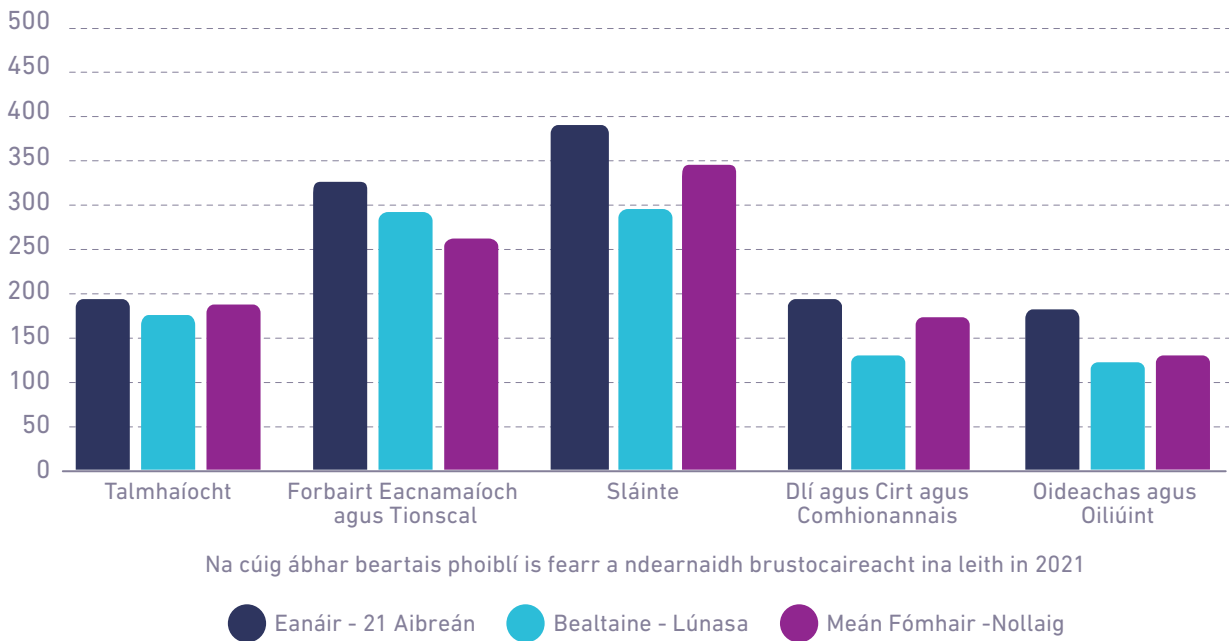
Figiúr 1 – Líon iomlán na gCláraithe ag deireadh na bliana



Figiúr 2 – Tuirisceáin brústocaireachta a fuarthas, de réir tréimhse tuairiscithe



Figiúr 3 – Na cúig ábhar beartais phoiblí is fearr a ndearnadh brústocaireacht orthu faoi i 2021

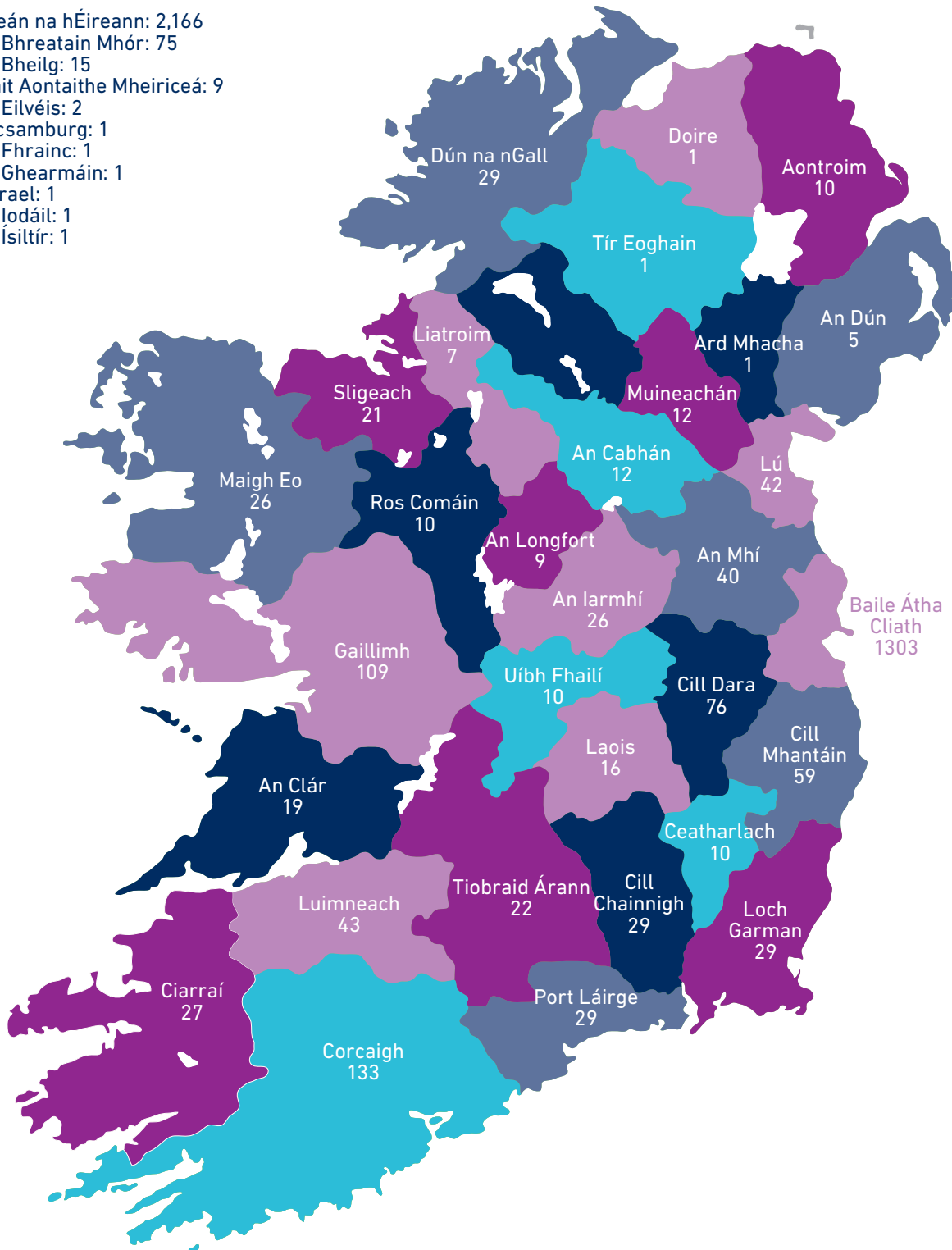


Figiúr 4 Iarratais chun tréimhse mharana fostaíochta iarphoiblí a tharscaoileadh, 2015 go 2021

Iarratais a fuarthas							
	2015	2016	2017	2018	2019	2020	2021
Na hAirí	0	0	0	0	0	0	<u>0</u>
Airí Stáit	0	0	0	0	0	0	<u>0</u>
Comhairleoirí aireachta	0	1	3	2	2	8	5
Seirbhísigh phoiblí fhorordaithe	0	1	2	0	0	0	<u>0</u>
IOMLÁN	0	2	5	2	2	8	5

Fíor 5 - Suíomh réigiúnach na gcláraithe ag deireadh 2021

Oileán na hÉireann: 2,166
 An Bhreatain Mhór: 75
 An Bheilg: 15
 Stáit Aontaithe Mheiriceá: 9
 An Eilvéis: 2
 Lucsamburg: 1
 An Fhrainc: 1
 An Ghearmáin: 1
 Iosrael: 1
 An Iodáil: 1
 An Ísiltír: 1





Aguisín a Trí:

Moltaí an Choimisiúin maidir
le hAthrú roimhe seo

Aguisín a Trí:

Moltaí an Choimisiúin maidir le hAthrú roimhe seo

Amhail deireadh 2021, tá na moltaí sin fós ann.

Tá moltaí déanta ag an gCoimisiún maidir le hathrú ar an Acht ina thuarascálacha bliantúla agus mar chuid d'aighneachtaí chuig athbhre

Moltaí a bhaineann leis an Acht um Brústocaireacht, 2015

Moltaí	Blianta déanta	Nuashonrú
1. Ba cheart an tAcht a leasú chun foráil a dhéanamh go mbeidh aon chomhlachtaí ionadaíocha gnó nó 'comhghuaillíochtaí' leasanna gnó, beag beann ar líon nó stádas na bhfostaithe, laistigh de raon feidhme an Achta, áit a mbeadh duine amháin nó níos mó de chomhaltaí an chomhlachta/na comhghuaillíochta laistigh de raon feidhme dá mbeidís ag gníomhú iad féin. Ba cheart a cheangal ar chomhaltaí an chomhlachta/na comhghuaillíochta a bheith ainmnithe ar thuaisceáin chun tacú le trédhearcacht mhéadaithe.	Athbhreithnithe Reachtúla 2016, 2019 Tuarascálacha Bliantúla 2016–2020	Glacadh an moladh seo sa scéim ghinearálta a foilsíodh in 2022.
2. Ba cheart Alt 5(3) den Acht a leasú chun a fhoráil, sa chás go ndéanfaidh fostaí íochta nó sealbhóir oifige de chuid na heagraíochta cumarsáid ábhartha thar ceann eagraíochta a thagann faoi raon feidhme an Achta, go measfar gur gníomhaíocht brústocaireachta a dhéanann an eagraíocht í.	Athbhreithnithe Reachtúla 2016, 2019 Tuarascálacha Bliantúla 2016–2020	Glacadh an moladh seo sa scéim ghinearálta a foilsíodh in 2022.

Moltaí	Blianta déanta	Nuashonrú
<p>3. Ba cheart an tAcht a leasú chun sainmhíniú níos cuimsithí a sholáthar ar fhostaí lánaimseartha in alt 7.</p>	<p>Athbhreithnithe Reachtúla 2016 & 2019</p>	<p>Ní dhéanfaidh aon ní le tuairisciú</p>
<p>4. Ba cheart alt 5(1)(c) den Acht a leasú chun foráil a dhéanamh maidir le cumarsáidí ábhartha a bhainistiú agus a stiúradh maidir le forbairt nó criosú talún, chomh maith le cumarsáid den sórt sin a dhéanamh.</p>	<p>Athbhreithnithe Reachtúla 2016 & 2019 Tuarascálacha Bliantúla 2016-2020</p>	<p>Glacadh an moladh seo sa scéim ghinearálta a foilsíodh in 2022.</p>
<p>5. Ba cheart forálacha alt 5(1)(c) den Acht a theorannú do dhaoine a bhfuil leas ábhartha acu i ndáil le forbairt nó criosú talún nó atá bainteach le duine a bhfuil leas den sórt sin aige nó a dhéanann cumarsáid thar a cheann.</p>	<p>Athbhreithniú Reachtúil 2019 Tuarascálacha Bliantúla 2017-2020</p>	<p>Ní dhéanfaidh aon ní le tuairisciú</p>
<p>6. Ba cheart an tAcht a leasú chun cumarsáidí arna ndéanamh ag páirtithe polaitíochta dá gcomhaltaí OCS ina gcáil mar chomhaltaí den pháirtí a dhíolmhú.</p>	<p>Athbhreithnithe Reachtúla 2016, 2019 Tuarascálacha Bliantúla 2016-2020</p>	<p>Glacadh an moladh seo sa scéim ghinearálta a foilsíodh in 2022</p>
<p>7. Ba cheart feidhm a bheith ag an gcumarsáid dhíolmhaithe in alt 7 den Acht maidir le hidirbheartaíochtaí ar théarmaí agus coinníollacha fostaíochta a dhéanann ionadaithe ó chomhlachtaí ionadaíochta fostaíthe eile.</p>	<p>Athbhreithniú Reachtúil 2019 Tuarascálacha Bliantúla 2019-2020</p>	<p>Ní dhéanfaidh aon ní le tuairisciú</p>

Moltaí	Blianta déanta	Nuashonrú
8. Ba cheart alt 11(1)(b) den Acht a leasú chun seoladh a chur san áireamh ina seolann duine gnó nó a 'bpríomhghníomhaíochtaí'.	Athbhreithnithe Reachtúla 2016, 2016 & 2020 Tuarascálacha Bliantúla 2016-2020	Glacadh an moladh seo sa scéim ghinearálta a foilsíodh in 2022.
9. Ba chóir an focal 'go buan' a bhaint d'alt 11(4) den Acht.	Athbhreithniú Reachtúil 2019 Tuarascálacha Bliantúla 2019-2020	Glacadh an moladh seo sa scéim ghinearálta a foilsíodh in 2022.
10. Ba cheart go n-áireofaí in Alt 16 den Acht ceanglas sainráite ar an gCoimisiún aon chód iompair a fhoilsítear faoi alt 16 den Acht a leagan faoi bhráid Thithe an Oireachtais.	Athbhreithnithe Reachtúla 2016, 2019 Tuarascálacha Bliantúla 2016-2020	Ní dhéanfaidh aon ní le tuairisciú
11. Ba cheart an tAcht a mhodhnú chun údarás a thabhairt don Choimisiún fiosrúcháin a dhéanamh ar sháruithe ar an gCód agus tuairisc a thabhairt orthu.	Athbhreithnithe Reachtúla 2016, 2019 Tuarascálacha Bliantúla 2016-2020	Ní dhéanfaidh aon ní le tuairisciú
12. Ba cheart gur sárú iomchuí faoi alt 18 den Acht agus cion faoi alt 20 den Acht é mainneachtain alt 22 den Acht a chomhlíonadh (i ndáil le hiarratas ar thoiliú a chur isteach, nuair is gá, nó i ndáil le cinneadh an Choimisiúin ar iarratas ar thoiliú a chomhlíonadh).	Athbhreithnithe Reachtúla 2016, 2019 Tuarascálacha Bliantúla 2016-2020	Glacadh an moladh seo i bpáirt sa scéim ghinearálta a foilsíodh in 2022

Moltaí	Blianta déanta	Nuashonrú
<p>13. Ba cheart d'fhostóirí oifigeach phoiblí ainmnithe ábhartha a chinntiú go bhfuil oifigeach phoiblí ainmnithe ar an eolas faoina n-oibleagáidí iarfhostaíochta agus iad ag pleanáil post a fhágáil, agus go bhféadfaidh siad comhairle a lorg ón gCoimisiún de réir mar is gá.</p>	<p>Athbhreithniú Reachtúil 2019</p> <p>Tuarascálacha Bliantúla 2017-2020</p>	<p>Glacadh an moladh seo sa scéim ghinearálta a foilsíodh in 2022</p>
<p>14. Ba cheart an tAcht a leasú chun raon feidhme alt 22 a leathnú chun comhlachtaí poiblí agus oifigeach phoiblí ainmnithe a áireamh a bhféadfadh baint, tionchar nó teagmhálacha suntasacha a bheith ag duine leo.</p>	<p>Athbhreithniú Reachtúil 2019</p> <p>Tuarascálacha Bliantúla 2017-2020</p>	<p>Ní dhéanfaidh aon ní le tuairisciú</p>
<p>15. Ba cheart an tAcht a leasú chun ligean don Choimisiún sonraí áirithe a fhoilsiú maidir lena chinntí an tréimhse mharana faoi alt 22 den Acht a tharscaoileadh nó a laghdú.</p>	<p>Athbhreithnithe Reachtúla 2016, 2019</p> <p>Tuarascálacha Bliantúla 2017-2020</p>	<p>Ní dhéanfaidh aon ní le tuairisciú</p>
<p>16. Ba cheart clásal frithsheachanta a chur le liosta na sárúithe ábhartha in alt 18 den Acht.</p>	<p>Athbhreithnithe Reachtúla 2016 & 2019</p> <p>Tuarascálacha Bliantúla 2017-2020</p>	<p>Glacadh an moladh seo sa scéim ghinearálta a foilsíodh in 2022.</p>
<p>17. Ba cheart cead a bheith ag an gCoimisiún sonraí achoimre ar imscrúduithe a fhoilsiú faoi alt 19 den Acht.</p>	<p>Athbhreithnithe Reachtúla 2016, 2019</p> <p>Tuarascálacha Bliantúla 2016-2020</p>	<p>Ní dhéanfaidh aon ní le tuairisciú</p>

Moltaí	Blianta déanta	Nuashonrú
18. Ba cheart an tAcht a leasú chun oibleagáidí a thabhairt isteach do oifigeach poiblí ainmnithe chun cumarsáid bhreise a dhiúltú le daoine sa chás go bhfuil DPO ar an eolas gur theip ar an duine gníomhaíochtaí brústocaireachta roimhe seo a chlárú faoin dáta ábhartha.	Athbhreithnithe Reachtúla 2016, 2016 & 2020 Tuarascálacha Bliantúla 2016-2020	Ní dhéanfaidh aon ní le tuairisciú
19. Ba cheart an tAcht a leasú chun an t-údarás a thabhairt don Choimisiún ordú a thabhairt d'aon DPO diúltú déileálacha a bheith aige nó aici le duine a ciontaíodh i sárú ábhartha.	Athbhreithnithe Reachtúla 2016 & 2019 Tuarascálacha Bliantúla 2016-2020	Ní dhéanfaidh aon ní le tuairisciú
20. Ba cheart an tAcht a leasú chun an t-údarás a thabhairt don Choimisiún imscrúdú a dhéanamh ar sháruithe ar na forálacha atá leagtha amach i moltaí 18 agus 19 thuas.	Athbhreithnithe Reachtúla 2016, 2019 Tuarascálacha Bliantúla 2016-2020	Ní dhéanfaidh aon ní le tuairisciú
21. Ba cheart tabhairt faoi chlár oideachais faoi stiúir na Roinne chun comhlachtaí poiblí a chur ar an eolas faoin gcumarsáid dhíolmhaithe faoi alt 5(5)(n) den Acht agus faoi cheanglais an Chóid Trédhearcachta.	Athbhreithniú Reachtúil 2019 Tuarascálacha Bliantúla 2019-2020	Ní dhéanfaidh aon ní le tuairisciú
22. Ba cheart tabhairt faoi chlár oideachais faoi stiúir na Roinne chun gníomhaireachtaí stáit ábhartha a chur ar an eolas faoin gcumarsáid dhíolmhaithe faoi alt 5(5)(m) den Acht agus faoi na cúinsí ina bhfuil feidhm aige.	Athbhreithnithe Reachtúla 2019 Tuarascálacha Bliantúla 2019-2020	Ní dhéanfaidh aon ní le tuairisciú



LOBBYING.ie

An Clár Brústocaireachta
Register of Lobbying



2021

Regulation of Lobbying Annual Report



Coimisiún um Chaighdeán in Oifigí Poiblí
Standards in Public Office Commission

Standards in Public Office Commission

6 Earlsfort Terrace

Dublin 2

D02 W773

Telephone: (01) 639 5722

Email: info@lobbying.ie

Website: www.lobbying.ie

Twitter: [@LobbyingIE](https://twitter.com/LobbyingIE)

Designed by Wonder Works

Contents

Introduction	4
The Standards in Public Office Commission	5
Chapter One - Registrations and Returns	7
Chapter Two - Regulatory Operations	10
Chapter Three - Communications and Outreach	17
Chapter Four - Key Issues in 2021 and Next Steps	20
Appendix One - Commission's Supervisory Role under the <i>Regulation of Lobbying Act 2015</i>	23
Appendix Two - Statistics	28
Appendix Three - Commission's Previous Recommendations for Change	32

Introduction

In accordance with the provisions of section 25(1) of the *Regulation of Lobbying Act 2015*, I am pleased to present the Standards in Public Office Commission's annual report for 2021 on the regulation of lobbying to be laid before each House of the Oireachtas.

Throughout 2021, the fully online Register of Lobbying continued to enable the Commission to perform its operational activities under the Act notwithstanding the difficulties posed by Covid-19 restrictions. The Commission also issued a number of statutory decisions, conducted online outreach, and continued its investigation and enforcement activities. The Commission notes the exceptional work of the Secretariat throughout this period.

The Commission welcomes the Government's release in February 2022 of the general scheme for the Regulation of Lobbying (Amendment) Bill 2022.

On behalf of the Commission, I would like to thank Ms. Sherry Perreault and the Lobbying Regulation Unit for their hard work throughout the challenging past year. I would also like to convey the thanks of the Commission to Ms. Perreault for her management and development of the lobbying function and of the Commission's secretariat for the past seven years and to wish her the very best in her new role.



Mr Justice Garrett Sheehan receives his seal of office from President Michael D. Higgins, 9 December 2020

A handwritten signature in black ink that reads "Garrett Sheehan".

Garrett Sheehan

Chairperson
Standards in Public Office Commission
June 2022

The Standards in Public Office Commission

The Standards in Public Office Commission is an independent body established in December 2001 under the *Standards in Public Office Act 2001*. In 2021, its members were:

- > Mr Justice Garrett Sheehan, Chairperson
- > Seamus McCarthy, Comptroller and Auditor General
- > Peter Tyndall, Ombudsman
- > Peter Finnegan, Clerk of Dáil Éireann
- > Martin Groves, Clerk of Seanad Éireann
- > Geraldine Feeney, former member of Seanad Éireann

The Commission's secretariat is provided by the Office of the Ombudsman.

The Commission has supervisory roles under five separate pieces of legislation (as amended):

- > the *Ethics in Public Office Act 1995* and the *Standards in Public Office Act 2001*, (together "the Ethics Acts");
- > the *Electoral Act 1997*;
- > the *Ministerial and Parliamentary Offices Act 1938*, and
- > the *Regulation of Lobbying Act 2015*.

The Commission also has a role in investigating potential non-compliance with Part 15 of the *Local Government Act 2001*.

This report concerns the exercise of the Commission's functions under the *Regulation of Lobbying Act, 2015*. The Commission issues a separate annual report covering its activities in administering the other legislation that defines its remit.



Chapter One:

Registrations
and Returns

Chapter One

Registrations and Returns

Under the *Regulation of Lobbying Act 2015*, a person carries on lobbying activities if (in summary) the person communicates directly or indirectly with a designated public official about a 'relevant matter', the communication is not specifically excepted, and the person:

- (a) is communicating about the development or zoning of land,
- (b) is an employer with more than 10 full-time employees or is a representative or advocacy body with one or more full-time employees, or
- (c) is paid to communicate on behalf of one of the persons described in (b) above.

Those who carry out lobbying activities, or who intend to do so, are required to register with the Commission. Thereafter, registrants are required to submit returns of lobbying activity in respect of three reporting periods each year, namely: 1 January - 30 April, 1 May - 31 August and 1 September - 31 December. Returns must be submitted within 21 days after the end of the reporting period.

1.1 New registrants

The **Three Step Test** allows potential registrants to determine whether they are or will be carrying out lobbying activities, meaning that they are required to register. The test, as well as other guidance on the legislation, is provided on the lobbying.ie website. Once they decide to register, all new registrations are reviewed by the Commission to ensure that the person is indeed required to register and that they have done so correctly. Where a person has registered in error, the Commission will remove the registration and any associated returns.

Each new registrant is sent a letter which highlights the reporting period deadlines, suggested best practices for account administration and details of enforcement provisions in the event of non-compliance.

The total number of registered lobbyists at the end of 2021 was 2,273. Further information on end of year totals can be viewed in **Appendix Two**.

1.2 Returns of lobbying activities

At the time of completing this report, more than 11,600 returns of lobbying activities have been submitted in respect of the three reporting periods in 2021. This number may change over time, as late returns for 2021 are made to the system. The graphs (in **Appendix Two**) illustrate the number of returns received in respect of each relevant period and the most popular “relevant matters” and policy areas addressed in the returns.

All returns of lobbying submitted in 2021 were reviewed to verify that they complied with the Act¹, that the information provided was clear and meaningful, and that it was provided in the appropriate manner and form. Where errors or non-compliance with the Act’s requirements are identified, the Commission follows up with the registrant to address the matter.

If the Commission finds that information contained in a return of lobbying activities is incorrect, misleading or is not sufficiently detailed, the Commission may use its powers to remove the return or request its correction, as appropriate. Generally, registrants cooperate promptly when requested to amend their returns or provide further information. Where a return is removed by the Commission using its powers, the registrant will be considered not to have made the return in the first instance and risks being non-compliant. The Commission made 813 requests for further information during 2021. In all cases, the required information was supplied and any issue resolved. Accordingly, there were no instances where the Commission proceeded to remove a return in 2021 on foot of a failure to provide information requested.

1.3 Upgrades to the register in 2021

The performance of the online register is reviewed regularly, from the perspective of both users and administrator, to ensure that it is operating as effectively and efficiently as possible. A number of performance issues were identified and upgrades made to the system during 2021. Future updates may be made where a need arises.

¹ <https://www.irishstatutebook.ie/eli/2015/act/5/section/12/enacted/en/html#sec12>



Chapter Two: Regulatory Operations

Chapter Two

Regulatory Operations

2.1 Delayed publication requests

In general, details of registered lobbyists and their lobbying activity are available for public consultation on the Lobbying Register.

Under section 14 of the Act, a person may apply to delay publication of the information contained in the person's application to register or in their return of lobbying activities, for stated reasons. The Commission's role in determining applications to delay publication is set out in **Appendix One** of this report.

There were no applications made to delay publication of a return to the register under section 14 of the Act in 2021.

2.2 Investigations under the Act

Section 19 provides the Commission with the authority to conduct investigations into possible contraventions of the Act.

Unregistered lobbying activity is monitored by the Commission's secretariat via open source intelligence, such as media articles, social media notifications and proposed legislation, from complaints and information received by the Commission, or from information contained on the register itself.

One investigation into possible unreported lobbying was carried over from 2020 into 2021, and two further investigations were launched during the year. The Complaints and Investigations Unit closed one investigation during 2021 and provided an investigation report for the Commission's consideration. Two investigations were ongoing at year's end.

Separately, in 2021 the Commission decided to prosecute two cases and three prosecutions were carried over from 2020. Of these prosecutions, three were for failure to submit returns by the statutory deadline, and two for other offences, prosecuted under section 20(2) of the Act. In four cases, compliance was subsequently achieved and the Commission withdrew the prosecutions. One prosecution remained before the courts at the end of 2021.

2.3 Applications for consent to waive post-employment restrictions

Section 22 of the Act provides that Ministers, Ministers of State, special advisers and senior public officials who have been prescribed under section 6(1) of the Act are subject to a “cooling-off” period of one year after they leave office, during which time 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, except with the consent of the Commission.

A person subject to the cooling-off period may apply to the Commission for a waiver of the cooling-off period. Further information regarding the provisions of section 22 and the Commission’s role in relation to it is set out in **Appendix One** of this report.

Consent may be sought at any time in advance of, or during, the cooling-off period. If an application is refused for a particular position, nothing precludes the individual from applying for consent again in respect of a different role.

There were five applications, all from special advisers, in 2021.

The following case studies illustrate the kinds of circumstances that arise and the factors taken into account by the Commission in determining such cases.

Case Study 1

The applicant, a former special advisor with a government department, contacted the Commission seeking consent to commence a communications role in a self-employed capacity. The applicant was seeking to waive the full 12 months of the cooling off period.

The Commission sought further information and clarification as to what areas the applicant planned to lobby in, in the self-employed role. The Commission considered the application and the provisions in Section 22 of the Regulation of Lobbying Act 2015 and issued a list of conditions to which the applicant would be required to adhere. These conditions prohibited the applicant from lobbying his previous department and work colleagues. The conditions also prohibited the applicant from providing services to any third party organisation which had previously lobbied the applicant or the applicant’s previous department. The Commission requested the applicant to sign a declaration outlining a number of prohibited communications. The Commission granted consent to waive the twelve-month cooling off period, subject to a number of conditions, designed to uphold the spirit and intent of the Act.

No appeal was received.

Case Study 2

The applicant, a special advisor in a government department, contacted the Commission seeking consent to take up a position with an organisation registered on the Register of Lobbying. The registrant (as the proposed employer) confirmed the applicant would not be required to carry out any lobbying activities in the role. The registrant had previously reported that it had directly lobbied the applicant. The applicant was seeking to waive the full 12 months of the cooling off period in order to take up the position.

The Commission took into account that the applicant was seeking to commence employment with a registrant who had recently and directly lobbied the applicant and the employing department. A number of returns submitted by the registrant named the department and the applicant in relation to the communication.

The Commission also took into account that the applicant had been offered the position without a competitive process and seemed to have been head-hunted by the registrant. The registrant had informed the Commission that it anticipated continuing to lobby the department during the applicant's cooling-off period on some of the same subject matters on which the applicant had been lobbied. The Commission considered that the registrant would almost certainly benefit from the applicant's connections and knowledge gained during the applicant's time as a designated public official.

The Commission considered that this was exactly the type of situation that the provisions of section 22 of the Act are intended to regulate. Having regard to the applicant's previous and proposed roles, the Commission did not consider that the objectives of section 22 of the Act, or the public interest, would be served by waiving the cooling-off period as requested, and refused the application.

The applicant appealed the Commission's decision. The appeal was referred to an independent appeal officer. The appeal officer upheld the Commission's decision. The appeal officer's decision was not appealed to the High Court.

Case Study 3

The applicant, a former special advisor with a government department, contacted the Commission seeking consent to take up a position with an organisation registered on the Register of Lobbying. The applicant was seeking consent to waive the remaining final three months of the cooling-off period in order to take up this employment, nine months after leaving the previous employment.

The Commission had regard to the fact that the registrant had previously lobbied the department in which the applicant worked. The Commission was informed that the applicant had been offered the role following a competitive process. The applicant and the registrant each confirmed that the applicant would not be expected to participate in or advise on any prohibited lobbying activities concerning the applicant's former employer or any connected designated public officials during the relevant period. The registrant confirmed they did not intend to lobby the applicant's former department during the remainder of the cooling-off period. They also confirmed that the applicant would not be involved in any lobbying activities directed at the person's former public body or colleagues.

The Commission agreed to grant a waiver for the final three months of the cooling-off period, subject to a number of conditions which were designed to ensure that the person did not carry on lobbying activities in circumstances set out in section 22.

No appeal was received.

2.4 Criminal offences under the Act

The Act provides for a number of criminal offences for contraventions of the requirements of the Act. Summary proceedings for an offence may be brought and prosecuted by the Commission, whereas proceedings on indictment may only be brought by the DPP.

Section 21 provides that the Commission may serve a fixed payment notice (FPN) of €200 on a person who has committed an offence, including by submitting a late return of lobbying activities. If a person fails to pay the penalty within 21 days, the Commission may proceed to prosecute the offence.

Late returns of lobbying activity

A registrant is required to make a return of lobbying activities, including a nil return, by the statutory deadline. It is an offence to fail to make a return, or to make a return after the relevant deadline. In relation to the submission of late returns, a person is liable on summary of conviction of a fine of €2,500.

A total of 399 FPNs were issued in 2021, of which 352 were paid over the year.

More FPNs in respect of late returns were levied in 2021 than in 2020, which itself was up from 2019. This trend may be due to Covid-19 as employees from many organisations continued to work from home without all the supports of their office environment. Several registrants cited this as a reason for making late returns during the year and thereby incurring FPNs.

The Commission cancelled 38 FPNs in 2021, where:

- > a technical problem on lobbying.ie prevented the person from submitting a return on time;
- > an administrative error occurred in which the person erroneously submitted a duplicate return for the wrong period; and/or
- > the person was not required to register and had registered in error.

In 2021, the Commission issued 31 notices of potential prosecution. While the majority of these notices resulted in payment of the FPN, three prosecutions were initiated for offences of submitting a late return. One of these prosecutions was outstanding at the end of 2021 and the remaining two prosecutions were withdrawn on payment of the outstanding FPN.

Other offences

Other relevant contraventions of the Act include failure to register, failure to make a return, failure to cooperate with an investigation of the Commission or an order of an authorised officer, and intentionally providing inaccurate, false or misleading information to the Commission. In respect of these the person is liable, on summary conviction, to a maximum fine of €2,500, or if convicted on indictment, to an unlimited fine and/or a maximum of two years' imprisonment.

In practice, the Commission most often has to prosecute where a registered lobbyist has failed to make a return for a relevant period.

In practice, the Commission issues a notification of offence to any registrant who has failed to make a return by the deadline, and the person is afforded an additional two weeks to submit a return of lobbying activities. If the person fails to submit the return by that date, the Commission may proceed to prosecute the offence.

In 2021, the Commission issued a total of 114 notices informing the registrant of their intent to prosecute if a return of lobbying activities was not submitted (This was down from the 150 notices issued in 2020). In cases where the registrant was not required to be on the register, as they, and/or the communication, were outside the scope of the Act, the register was corrected and the person's return or registration deleted, as relevant. In all other cases, the registrant complied (and incurred a late payment FPN) and prosecution was not pursued.

The Commission continued to encourage compliance in the first instance. Effective outreach and communication with registered lobbyists at an early stage has effectively reduced the number of files that might otherwise have been referred for prosecution each year. Most people comply with their obligations once contacted by the Complaints and Investigations Unit.

The Commission takes a less lenient approach with lobbyists who lobby without registering, repeatedly miss return periods and/or fail to comply or engage with the Commission. In such cases, the Commission will proceed to prosecution.

2.5 Information about Designated Public Officials on public body websites

The Act requires that each body which has designated public officials who are prescribed in Ministerial regulations as public servants or other office holders or persons must publish an up-to-date list of those designated public officials. Our website lobbying.ie provides relevant links to these pages.

Prior to the end of each return period, public bodies are asked to check, and update as required, a list showing the name, grade and brief details of the role and responsibilities of each designated public official prescribed for the body. They are also asked to confirm and update information relating to working groups or task forces operating under their aegis.

In January 2021, the Commission contacted all public bodies with designated public officials to verify that information was up-to-date, including the following:

- > That each relevant body had a Regulation of Lobbying page;
- > Whether the name and position held were published on the page; and
- > That each body had relevant information on their website in relation to the Transparency Code for any group working under their aegis.

The Commission also ensured that links from its own website were accurate and operational.

The results of this survey were encouraging. The Commission found that all relevant public bodies had a dedicated website page listing designated public officials as well as the relevant information relating to their position. Each body that has a group operating under the Transparency Code also had the relevant information published on their Regulation of Lobbying page.



Chapter Three:

Communications and
Outreach

Chapter Three

Communications and Outreach

3.1 Outreach activities

The Commission continues to take opportunities to promote understanding of the Act and its obligations, with a view to supporting effective compliance and sharing best practices. Outreach activities continued on online platforms throughout 2021. Virtual sessions will continue to be an important tool in the post-pandemic environment. They allow for representation from across the entire country and do not impose any restrictions on participants who may be subject to limitations of travel due to time or financial constraints. Outreach using Twitter continues to be an effective means of engaging with the general public and with those individuals and organisations that have or may have obligations to register and make returns under the Act.

January

- > Training and information session provided to Oireachtas members in relation to the *Ethics in Public Office Act 1995 and 2001*, the *Electoral Act 1997*, the *Ministerial and Parliamentary Offices Act 1938*, and provisions covered under the *Regulation of Lobbying Act, 2015*.

May

- > Participated in an open roundtable discussion on lobbying regulation hosted by the Open Government Partnership.
- > Online “open house” on the regulation of lobbying for new and prospective registrants.
- > Meeting with Serbian Transparency Agency to discuss lobbying regulation.

June

- > Presentation to a conference on lobbying hosted by the Serbian Transparency Agency.

July

- > Participated in virtual meeting of European Lobbying Regulators Network (ELRN)

September

- > Presentation to virtual conference organised by PRII (Public Relations Institute of Ireland).
- > Presentation to webinar on lobbying organised by Transparency International Latvia.
- > International Anti-Corruption Conference - Participation in panel discussion on digital systems to increase transparency.

October

- > Appearance before Joint Committee on Finance, Public Expenditure and Reform and Taoiseach.
- > Participation in Corporate Crime Summit organised by A&L Goodbody.

November

- > Online “open house” on the regulation of lobbying for new and prospective registrants.
- > Virtual annual conference of the European Lobbying Regulators Network (ELRN) - Presentation on controls and checks on lobbyists.



Chapter Four:

Key Issues in 2021 and
Next Steps

Chapter Four

Key Issues in 2021 and Next Steps

4.1 The Covid-19 pandemic in 2021

The second year of the Covid-19 pandemic saw the continuation of restrictions. Hospitality and entertainment industries remained closed for much of the year and travel for non-essential purposes was curtailed. Government policies and programmes, initiated in 2020, provided funding for industries affected by the pandemic and provided assistance for those made unemployed by the economic difficulties created by the pandemic.

Businesses, representative bodies and advocacy groups continued their lobbying activities, during 2021, seeking policy decisions or financial support. Compliance with the requirements of the *Regulation of Lobbying Act*, as reflected in the number of returns to the Register, has remained strong. The number of returns to the Register increased in the second period of 2020 and remained at similar high levels in respect of all three periods of 2021. The ability for registered lobbyists to remain compliant is assisted by the fact that the register has been an online system since its establishment in 2015. The register is accessible at all times online by registrants, potential registrants and all enquiries. The Lobbying Regulation Unit continued to work remotely with technical supports provided for staff to enable the effective operation of the register.

Covid-19 related returns on the register

The number of lobbying returns made in respect of reporting periods in 2021 continued at a higher than normal level, due to the impact of Covid-19 related lobbying.

Period	2020 returns	2021 returns
January to April	3,324	4,058
May to August	3,872	3,683
September to December	4,327	3,868

Returns submitted for 2021 include 926 specifically referencing the pandemic, and arose across most public policy areas. This is a decrease on the figure of 1,378 returns related to these issues in 2020. The public policy area with the highest number of returns relating to Covid-19 was Health with 201 returns, followed by Economic Development and Industry with 195 returns, Public Expenditure and Reform with 34 returns, and Agriculture with 20 returns.

Compliance issues during the pandemic

The lobbying register continued to operate effectively during the Covid-19 pandemic in 2021. As the register operates completely online, registrants can register and make returns on their lobbying activities from anywhere in the world. As in 2020, a small number of registrants found themselves unable to make returns by the deadline because of challenges in working from home, as records of lobbying activities were located at their places of work. Most registrants continued to make their returns on time and remained compliant.

4.2 New legislative review of the Act during 2021

The Act requires that the Minister for Public Expenditure and Reform conduct a review, initially within 12 months of commencement and every three years thereafter. The Act commenced on 1 September 2015, and was reviewed in 2016 and in 2019. Reports of each such review were published on the website of the Department of Public Expenditure and Reform¹. No amendments were made to the Act on foot of either review.

The Commission made a submission to the 2019 review that included 22 separate recommendations in respect of the Act's definitions, operations, post-employment obligations, enforcement and various other matters². The Commission was disappointed that none of its recommendations had been endorsed in the review report.

In February 2022, the Minister published the general scheme of the Regulation of Lobbying (Amendment) Bill 2022³. The Commission welcomes the publication of the general scheme, which adopts many of the Commission's previous recommendations. The Commission and its secretariat will continue to engage with the Minister and his Department, with the aim of ensuring that the lobbying regime is as robust and effective as possible.

¹ Available at <https://www.gov.ie/en/press-release/4565cc-minister-donohoe-publishes-first-review-of-the-regulation-of-lobbyin/> and <https://www.gov.ie/en/press-release/03dc61-government-publishes-the-2nd-statutory-review-of-the-regulation-of-l/>.

² Available at <https://assets.gov.ie/37189/bd8fdb2210434214bff7ba70bf8cc1e9.pdf>.

³ Available at <https://www.gov.ie/en/press-release/5b89e-minister-mcgrath-publishes-general-scheme-to-amend-irelands-lobbying-legislation/>.



Appendix One:

Commission's Supervisory
Role under the *Regulation
of Lobbying Act 2015*

Appendix One:

Commission's Supervisory Role under the *Regulation of Lobbying Act 2015*

General overview

The Act provides that a person who falls within the scope of the Act makes a relevant communication (is lobbying) if the person communicates with a designated public official about a relevant matter. Anyone lobbying must register and submit regular online returns of their lobbying activity. Sections 5(1) and (2) of the Act set out the categories of person who are within scope of the Act, namely:

- > a person with more than 10 full-time employees;
- > a person which has one or more full-time employees and is a body which exists primarily to represent the interests of its members (referred to as a "representative body") and the relevant communications are made on behalf of any of the members;
- > a person which has one or more full-time employees and is a body which exists primarily to take up particular issues (referred to as an "advocacy body") and the relevant communications are made in the furtherance of any of those issues;
- > any person (individual or organisation) making a "relevant communication" concerning the development or zoning of land which is not their principal private residence; and
- > a "professional lobbyist" or third party who is paid to carry on lobbying activities on behalf of a person who fits within one of the categories of persons above.

Designated public officials, (DPOs) for the purposes of the Act, include Ministers and Ministers of State, Members of Dáil Éireann and Seanad Éireann, Members of the European Parliament for Irish constituencies, and Members of local authorities. Designated public officials also include special advisers and the senior-most civil and public servants who have been prescribed by Ministerial order.

A relevant matter is one to do with 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. Matters relating to the zoning and development of land are also relevant communications.

Section 5(5) of the Act provides for a number of exemptions to what is considered a relevant communication.

The Register of Lobbying

The register itself is a web-based system. In addition to housing the online register, the website lobbying.ie includes information and guidance tools explaining the registration and return processes.

There is no cost to register, to submit returns or to access the information contained therein. While the Commission has oversight responsibility for the establishment and maintenance of the register, the content is driven by the information contained in the applications to register and returns submitted by registrants.

Anyone who is lobbying must register and submit returns three times per year, covering prescribed "relevant periods" (1 January - 30 April, 1 May - 31 August, and 1 September - 31 December). The returns must be submitted by the respective prescribed "relevant dates" (21 May, 21 September and 21 January, respectively).

The return must indicate who was lobbied, the subject matter of the lobbying activity and the results the person was seeking to secure. The returns must also indicate the type and extent of the lobbying activity. If the lobbying activity was carried out on behalf of a client, the return must provide details of the client.

Other provisions

Applications to delay publication under section 14 of the Act

Under section 14 of the Act, a person may apply to delay publication of the information contained in the person's application to register or in their return of lobbying activities if publishing the information could reasonably be expected to:

- > 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 description of persons (an application made under section 14(1)(a) of the Act), or
- > 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 (an application made under section 14(1)(b) of the Act).

If an application is made under section 14(1)(a), the Commission is required to consult with any relevant Minister(s) of the Government. The Commission is not required to consult with a Minister(s) if an application is made under section 14(1)(b). (The Commission may, however, consider it appropriate to consult with a Minister on a section 14(1)(b) application).

Section 14(9) of the Act provides that when the returns are subsequently published the Commission must publish an explanation as to why publication of the information was delayed.

Section 14(11) of the Act provides that the Commission may make a determination to delay publication on more than one occasion in relation to information contained in a return of lobbying activities.

“Cooling-off” period provided for under section 22 of the Act

Section 22 of the Act provides that Ministers, Ministers of State, special advisers and senior public officials who have been prescribed for the purposes of section 6(1) of the Act are subject to a one year “cooling-off” period, during which time 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. The cooling-off period is the period of one year from the date the person ceased to be a designated public official.

The circumstances in which section 22 of the Act applies are the making of communications comprising the carrying on of lobbying activities which:

- Involve any public service body with which the person was employed or held an office or other position in the year prior to his/her leaving, or
- Are to a person who was also a designated public official who was employed or held an office or other position with that public service body in the year prior to the person's leaving.

A person subject to the one-year cooling-off period may apply to the Commission for a waiver of the cooling-off period.

The Commission may decide to give consent unconditionally to a reduction or waiver of the cooling-off period or may decide to give consent with conditions attached. The Commission may decide to refuse the application for all or part of the cooling-off period.

Appeals

Under section 23 of the Act a person who is aggrieved by a decision of the Commission under sections 10(5) (relating to reports of incorrect information on the register), section 14 (delayed publication), or section 22 (cooling-off period) may appeal the Commission's decision. The Department of Public Expenditure and Reform has established panels of independent appeal officers to hear such appeals. Under section 23 the appeal is referred to an independent appeal officer who may uphold a decision of the Commission, or overturn it and replace it with another decision.

Section 24 of the Act provides that the appeal officer's decision may be appealed to the High Court.

Investigative and enforcement provisions

The Act contains a number of investigative and enforcement provisions which were commenced on 1 January 2017.

Finally, section 2 of the Act provides for a legislative review. Following the review, the Minister may consider possible amendments to the Act. The Minister must report to the Houses of the Oireachtas on the outcome of the review and any recommendations for amendments to the Act.

Statutory instruments

Seven statutory instruments have been introduced under the Act, namely:

- > *Regulation of Lobbying Act 2015* (Designated Public Officials) Regulations (S.I. 144 of 2019);
- > *Regulation of Lobbying Act 2015* (Commencement) Order (S.I. 152 of 2015);
- > *Regulation of Lobbying Act 2015* (Appeals) Regulations 2015 (S.I. 366 of 2015);
- > *Regulation of Lobbying Act 2015* (Designated Public Officials) Regulations (S.I. 367 of 2015);
- > *Regulation of Lobbying Act 2015* (Commencement) Order 2016 (S.I. 360 of 2016);
- > *Regulation of Lobbying Act 2015* (Fixed Payment Notice) Regulations 2016 (S.I. 361 of 2016); and
- > *Regulation of Lobbying Act 2015* (Designated Public Officials) Regulations 2016 (S.I. 362 of 2016).



Appendix Two: Statistics

Appendix Two: Statistics

Figure 1 – Total number of registrants at year end

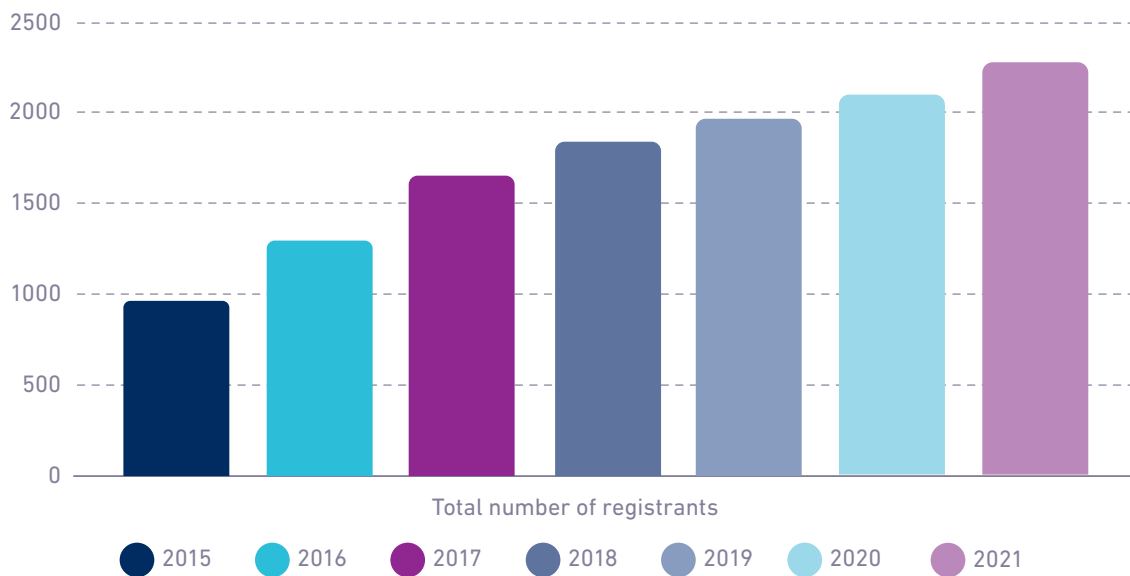


Figure 2 – Lobbying returns received, by reporting period

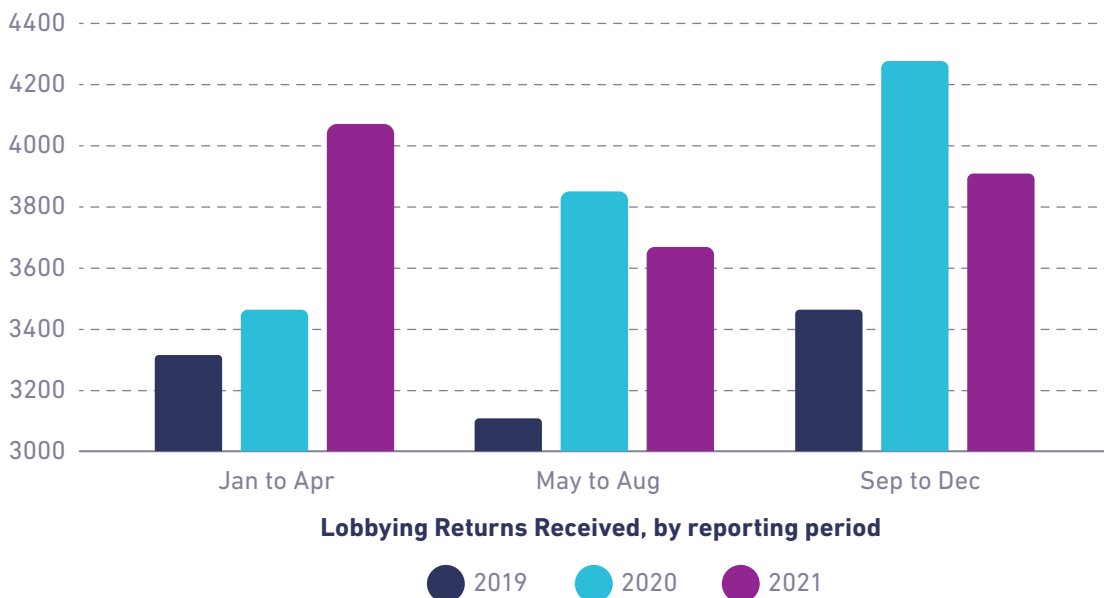


Figure 3 – Top five public policy matters lobbied about in 2021

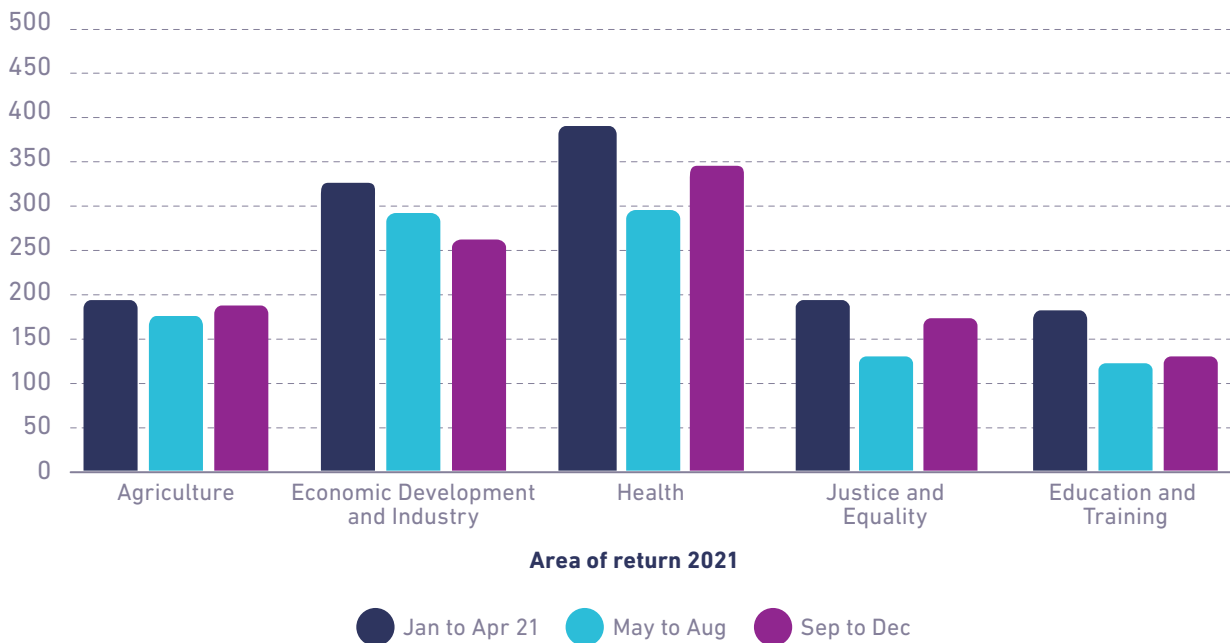
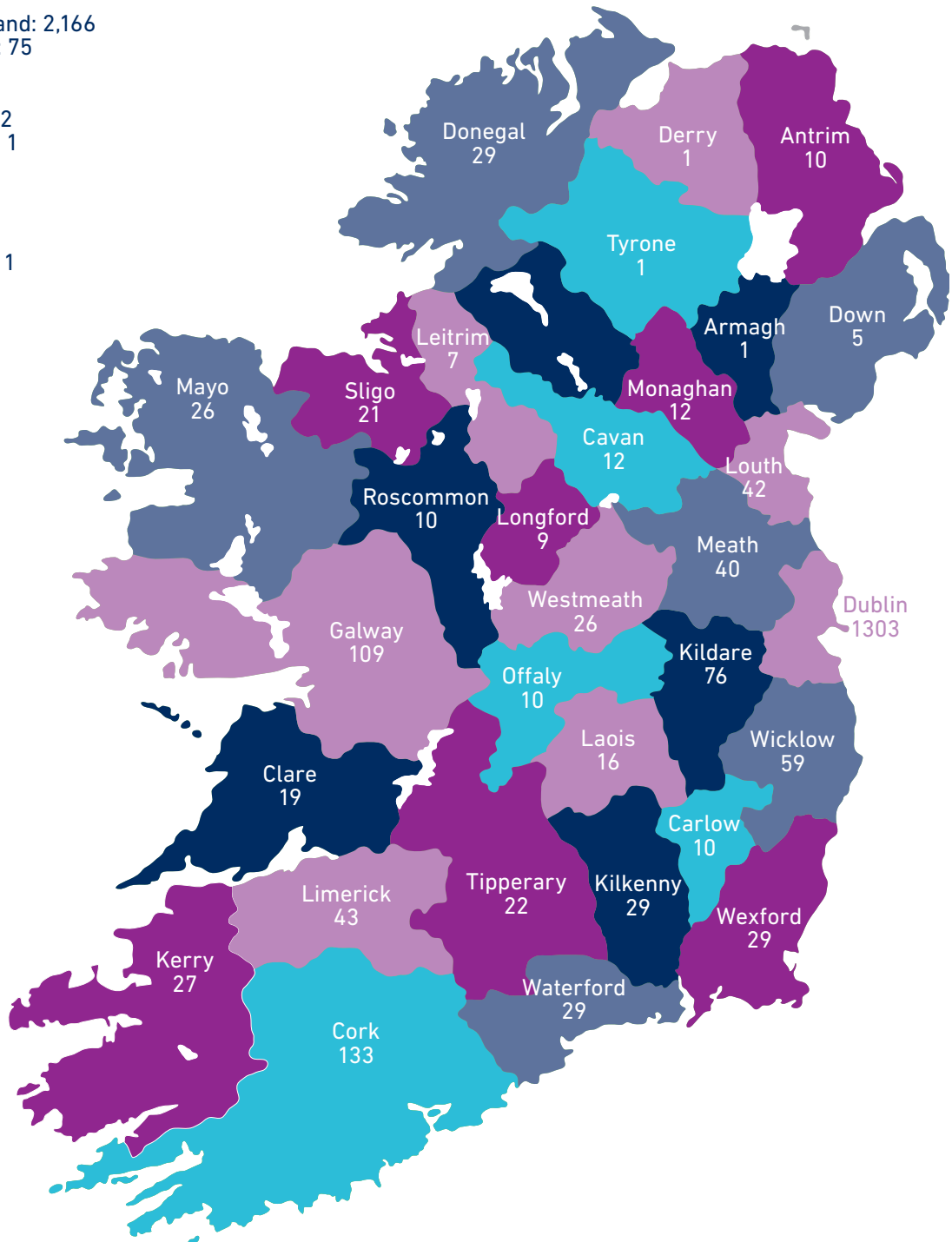


Figure 4 Applications to waive post-public employment cooling-off period, 2015 to 2021

Applications received							
	2015	2016	2017	2018	2019	2020	2021
Ministers	0	0	0	0	0	0	<u>0</u>
Ministers of State	0	0	0	0	0	0	<u>0</u>
Ministerial advisors	0	1	3	2	2	8	5
Prescribed public servants	0	1	2	0	0	0	<u>0</u>
TOTAL	0	2	5	2	2	8	5

Figure 5 - Regional location of registrants at end 2021

Island of Ireland: 2,166
 Great Britain: 75
 Belgium: 15
 USA: 9
 Switzerland: 2
 Luxembourg: 1
 France: 1
 Germany: 1
 Israel: 1
 Italy: 1
 Netherlands: 1





Appendix Three:

Commission's Previous
Recommendations For Change

Appendix Three:

Commission's Previous Recommendations for Change

As of the end of 2021, these recommendations still stand.

The Commission has made recommendations for change to the Act in its annual reports and as part of submissions to legislative reviews of the Act. All outstanding recommendations are included in the below table.

Recommendations applying to the Lobbying Act 2015

Recommendations	Years made	Update
1. The Act should be amended to provide that any business representative bodies or 'coalitions' of business interests, irrespective of number or status of employees, are within scope of the Act, where one or more of the members of the body/coalition would be within scope if they were acting themselves. Members of the body/coalition should be required to be named on returns in support of increased transparency.	Statutory Reviews 2016, 2019 Annual reports 2016–2020	This recommendation has been adopted in the general scheme published in 2022.
2. Section 5(3) of the Act should be amended to provide that, where a relevant communication on behalf of an organisation that falls within scope of the Act is made by either a paid employee or an office holder of the organisation, it will be regarded as a lobbying activity made by the organisation.	Statutory Reviews 2016, 2019 Annual reports 2016–2020	This recommendation has been adopted in the general scheme published in 2022.

Recommendations	Years made	Update
3. The Act should be amended to provide a more comprehensive definition of a full-time employee in section 7.	Statutory Reviews 2016 & 2019	Nothing to report
4. Section 5(1)(c) of the Act should be amended to provide for the managing and directing of relevant communications about the development or zoning of land, in addition to the making of such communications.	Statutory Reviews 2016 & 2019 Annual reports 2016-2020	This recommendation has been adopted in the general scheme published in 2022.
5. The provisions of section 5(1)(c) of the Act should be limited to persons who have a material interest in relation to the development or zoning of land or are connected to or communicating on behalf of someone with such an interest.	Annual reports 2017-2020	Nothing to report
6. The Act should be amended to exempt communications made by political parties to their designated public official members in their capacity as members of the party.	Statutory Reviews 2016, 2019 Annual reports 2016-2020	This recommendation has been adopted in the general scheme published in 2022
7. The exempt communication at section 7 of the Act should apply to negotiations on terms and conditions of employment undertaken by representatives of other employee representative bodies.	Statutory Review 2019 Annual reports 2019-2020	Nothing to report

Recommendations	Years made	Update
8. Section 11(1)(b) of the Act should be amended to include an address where a person carries on business or their 'main activities'.	Statutory Reviews 2016, 2019 & 2020 Annual reports 2016-2020	This recommendation has been adopted in the general scheme published in 2022.
9. The word 'permanently' should be removed from section 11(4) of the Act.	Statutory Review 2019 Annual reports 2019-2020	This recommendation has been adopted in the general scheme published in 2022.
10. Section 16 of the Act should include an explicit requirement for the Commission to lay any code of conduct published under section 16 of the Act before the Houses of the Oireachtas.	Statutory Reviews 2016, 2019 Annual reports 2016-2020	Nothing to report
11. The Act should be modified to give the Commission authority to conduct inquiries into and report on breaches of the Code.	Statutory Reviews 2016, 2019 Annual reports 2016-2020	Nothing to report
12. Failure to comply with section 22 of the Act (either in relation to submitting an application for consent, where required, or in relation to complying with the Commission's decision on an application for consent) should be a relevant contravention under section 18 of the Act and an offence under section 20 of the Act.	Statutory Reviews 2016, 2019 Annual reports 2016-2020	This recommendation has been partially adopted in the general scheme published in 2022

Recommendations	Years made	Update
13. Employers of relevant designated public officials should ensure that designated public officials are aware of their post-employment obligations when planning to leave a post, and that they may seek advice from the Commission as needed.	Statutory Review 2019 Annual reports 2017-2020	This recommendation has been adopted in the general scheme published in 2022
14. The Act should be amended to extend the scope of section 22 to include public bodies and designated public officials with whom a person may have had significant involvement, influence or contacts.	Statutory Review 2019 Annual reports 2017-2020	Nothing to report
15. The Act should be amended to allow the Commission to publish certain details regarding its decisions to waive or reduce the cooling-off period under section 22 of the Act.	Statutory Reviews 2016, 2019 Annual reports 2017-2020	Nothing to report
16. An anti-avoidance clause should be added to the list of relevant contraventions in section 18 of the Act.	Statutory Reviews 2016 & 2019 Annual reports 2017-2020	This recommendation has been adopted in the general scheme published in 2022
17. The Commission should be allowed to publish summary details of investigations under section 19 of the Act.	Statutory Reviews 2016, 2019 Annual reports 2016-2020	Nothing to report

Recommendations	Years made	Update
18. The Act should be amended to introduce obligations for designated public officials to decline further communications with persons where the designated public official is aware that the person has failed to register previous lobbying activities by the relevant date.	Statutory Reviews 2016, 2019 & 2020 Annual reports 2016-2020	Nothing to report
19. The Act should be amended to provide the Commission with the authority to order any designated public official to refuse to have dealings with a person who has been convicted of a relevant contravention.	Statutory Reviews 2016 & 2019 Annual reports 2016-2020	Nothing to report
20. The Act should be amended to provide the Commission with the authority to investigate breaches of the provisions outlined in recommendations 18 and 19 above.	Statutory Reviews 2016, 2019 Annual reports 2016-2020	Nothing to report
21. An education programme led by the Department should be undertaken to inform public bodies about the exempt communication under section 5(5)(n) of the Act and the requirements of the Transparency Code.	Statutory Review 2019 Annual reports 2019-2020	Nothing to report
22. An education programme led by the Department should be undertaken to inform relevant state agencies about the exempt communication under section 5(5) (m) of the Act and the circumstances in which it applies.	Statutory Review 2019 Annual reports 2019-2020	Nothing to report

