

Regulation of Lobbying Act 2015: *What you need to know*

02 March 2023



Coimisiún um Chaighdeán in Oifigí Poiblí
Standards in Public Office Commission

Presentation topics

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



Regulation of Lobbying: Overview of Act

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

What is lobbying? The Three-Step Test

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

Step 1: Are you within scope of the Act?

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



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

Step 2: Are you communicating with a DPO?

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



Step 3: Is it about a relevant matter?

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

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

Exemptions (section 5(5))

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

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

Registration requirements

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

Return requirements

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

How to Submit a Substantive Return

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

How to Submit a Substantive Return

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

Contraventions and Enforcement

■ Contraventions of Act:

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

■ Consequences of non-compliance

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



Preparations for Compliance

- Review your organisation's arrangements for recording relevant communications
- Identify individual(s) responsible for registration and compilation of returns
 - Data can be entered on the register on an ongoing basis by more than one employee and saved in draft form (on a private area of the register) prior to its formal submission
- Nominate compliance officer
 - Single person responsible for reviewing all final returns for completeness, accuracy and consistency
 - Person can submit final return at the end of each reporting period
 - Make sure that person has a backup!

Avoiding common pitfalls

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

Code of Conduct

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

Eight Principles of Code:

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

Useful Links

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

Thank you/Questions?

Visit our website:

www.LOBBYING.ie

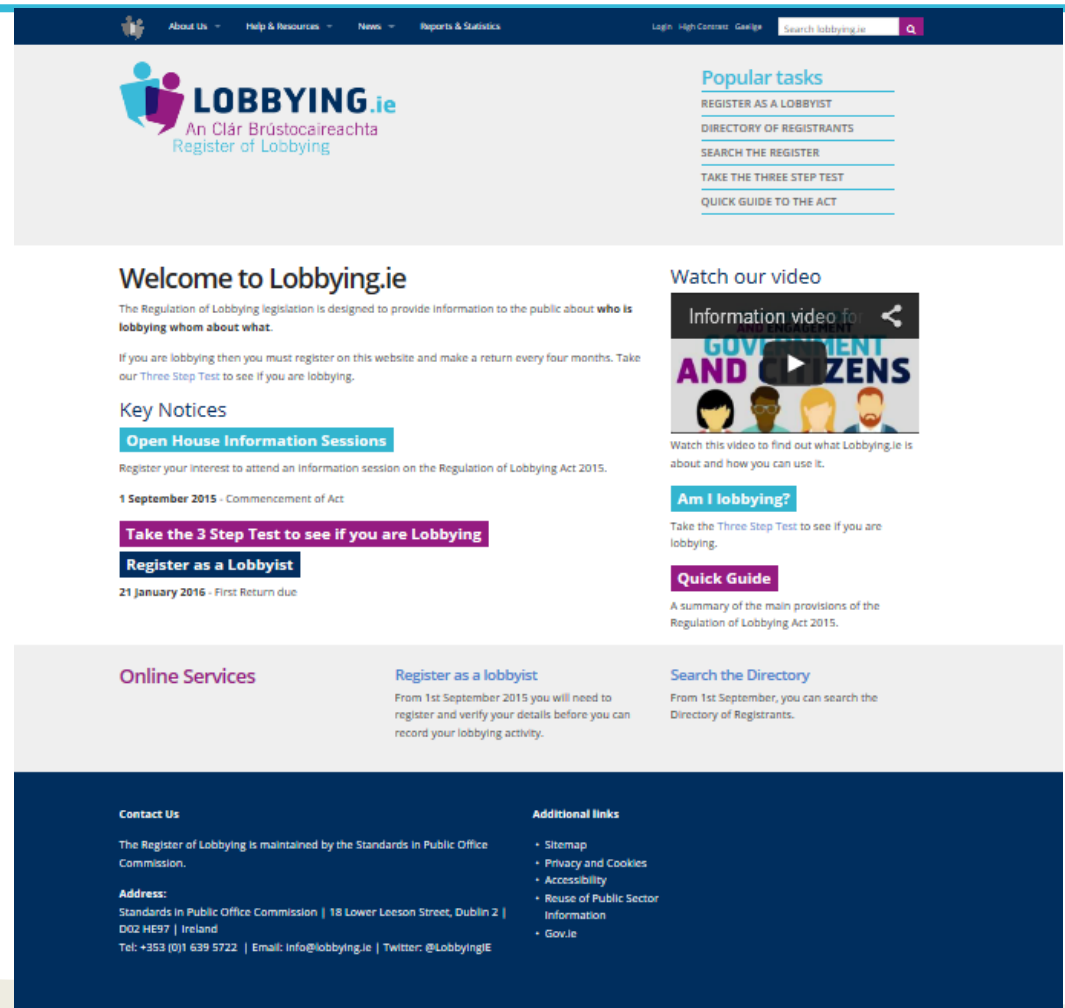
Lobbying Regulation Unit

Contact Details

Email: info@lobbying.ie

or

Phone: (01)6395722



The screenshot shows the LOBBYING.ie website homepage. At the top, there is a navigation bar with links for 'About Us', 'Help & Resources', 'News', and 'Reports & Statistics'. A search bar is located on the right side of the navigation bar. Below the navigation bar, the LOBBYING.ie logo is prominently displayed. To the right of the logo, there is a 'Popular tasks' section with links for 'REGISTER AS A LOBBYIST', 'DIRECTORY OF REGISTRANTS', 'SEARCH THE REGISTER', 'TAKE THE THREE STEP TEST', and 'QUICK GUIDE TO THE ACT'. Below this, there is a 'Welcome to Lobbying.ie' section with a brief introduction to the website's purpose. To the right of this section, there is a 'Watch our video' section featuring a video thumbnail titled 'Information video for GOVERNMENT AND CITIZENS'. Below the video, there are three buttons: 'Am I lobbying?', 'Quick Guide', and 'Register as a Lobbyist'. At the bottom of the page, there is a footer section with 'Contact Us' information, 'Additional links' (including Sitemap, Privacy and Cookies, Accessibility, Reuse of Public Sector Information, and Gov.ie), and 'Online Services' information.