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An Clár Brústocaireachta
Register of Lobbying

2023

**Regulation of Lobbying
Annual Report**



Coimisiún um Chaighdeán in Oifigí Poiblí
Standards in Public Office Commission

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Annual Report 2023

Contents

Chapter One: Registrations and Returns	7
1.1 New registrants	8
1.2 Returns of lobbying activities	9
Chapter Two: Regulatory Operations	10
2.1 Delayed publication requests	11
2.2 Investigations under the Act	11
2.3 Applications for consent to waive post-employment restrictions	12
2.4 Criminal offences under the Act	13
2.5 Information about Designated Public Officials on public body websites	15
Chapter Three: Communications and Outreach	16
3.1 Outreach activities	17
Chapter Four: Legislative Change: The Regulation of Lobbying and Oireachtas (Allowances to Members) (Amendment) Act 2023	18
4.1 The Regulation of Lobbying and Oireachtas (Allowances to Members) (Amendment) Act 2023 was enacted on 22 June 2023	19
4.2 Principal changes to the Act	19

Appendix One: Commission’s Supervisory Role under the Regulation of Lobbying Act 2015 and the Regulation of Lobbying and Oireachtas (Allowances to Members) (Amendment) Act 2023	21
General overview	22
The Register of Lobbying	23
Other provisions	23
Applications to delay publication under section 14 of the Act	23
“Cooling-off” period provided for under section 22 of the Act	24
Avoidance or Circumvention of obligations under the Act	24
Appeals	25
Investigative and enforcement provisions	25
Statutory instruments	25
Appendix Two: Statistics	26
Figure 1 – Total number of registrants at year end	27
Figure 2 – Lobbying returns received, by reporting period	27
Figure 3 – Top five public policy matters lobbied about in 2022	28
Figure 4 – Applications to waive post-public employment cooling-off period, 2015 to 2023	28
Figure 5 - Regional location of registrants at end 2023	29



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 2023 on the regulation of lobbying to be laid before each House of the Oireachtas.

Throughout 2023 the Commission continued to oversee lobbying registrations and returns, issued a number of statutory decisions under the Act's provisions and conducted investigation and enforcement activities. The Commission also reached out to various stakeholders, domestic and international, in order to share information and exchange best practices. On behalf of the Commission, I would like to thank the staff of the Lobbying Regulation Unit for their work in support of the Commission throughout the past year.

A handwritten signature in black ink that reads "Garrett Sheehan". The signature is written in a cursive style and is positioned above a horizontal line.

Garrett Sheehan
Chairperson
Standards in Public Office Commission
June 2024

Chapter One:

Registrations and Returns



Chapter One

Lobbying Registrations and Returns

Under the Regulation of Lobbying Act 2015, a person carries on Regulated Lobbying activities if, in summary, the person communicates directly or indirectly with a designated public official about a 'relevant matter', including the development or zoning of land, and the communication is not specifically excepted, and the person:

- > is an employer with more than 10 full-time employees, is a representative or issue-based body with one or more full-time employees, or
- > is paid to communicate on behalf of one of the persons described in above.

Those who carry out regulated lobbying activities, or who intend to do so, are required to register with the Commission. Once registered, 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 Commission staff to check 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 2023 was 2538. This represented a net increase of 108 on the 2,430 registrants at the end of 2022. 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 12,000 returns of lobbying activities have been submitted in respect of the three reporting periods in 2023. This number may change over time, as late returns for 2023 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 2023 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 an incorrect 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 may be deemed non-compliant with their obligations under the Act.

The Commission made 1,026 requests for further information during 2023. 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 2023 on foot of a failure to provide information requested.

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 Register of Lobbying.

Under section 14 of the Act, a person may apply to delay publication of the information contained in the person's registration 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.

One application was made in 2023 to delay publication of a return to the register under section 14 of the Act, and that application was granted. The delay period has now expired and the return has been published.

2.2 Investigations under the Act

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

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

Two investigations into possible unreported lobbying were carried over from 2022 into 2023, and two further investigations were launched during the year. The Complaints and Investigations Unit completed one investigation report in 2023, and the matter was closed by the Commission. Three investigations were ongoing at the end of 2023

Separately, a prosecution carried over from 2022, was due to come before the courts. This prosecution was for failure to submit lobbying returns, prosecuted under section 20(2) of the Act. Compliance was subsequently achieved by the Lobbyist in 2023, and the Commission withdrew the prosecution.

2.3 Applications for consent to waive post-employment restrictions

Section 22 of the Act provides that former 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. 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.

The Commission's consent to engage in lobbying or to take up employment with a lobbying employer may be sought at any time in advance of, or during, the statutory 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 three applications, all from special advisers, in 2023. The following case study illustrates the kinds of circumstances that arise and the factors taken into account by the Commission in determining such cases

Case Study

The applicant, a former special advisor with a government department, contacted the Commission seeking consent to take up a position with an organisation on the Register of Lobbying. The applicant was asking the Commission to waive eleven months of the cooling-off period. 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 employer during the remainder of the statutory 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 eleven 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.

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, while proceedings on indictment may be brought by the Director of Public Prosecutions.

Section 21 provides that the Commission may serve a fixed payment notice of €200 on a person who has committed an offence, including 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. A person is liable on summary conviction for submission of a late return to a fine of €2,500.

A total of 455 fixed payment notices for late returns were issued in 2023. 145 of these were for late returns in periods prior to 2023.

The Commission cancelled 44 fixed payment notices in 2023, 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.

399 fixed payment notices for late returns were paid over the year. 285 of these were for late returns in the first two periods of 2023.

36 notices of potential prosecution were issued in 2023 for non-payment of fixed payment notices.

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. 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 2023, the Commission issued a total of 126 notices informing registrants of the intent to prosecute if a return of lobbying activities was not submitted (non-returns). 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 fixed payment notice) and prosecution was not pursued.

Prosecution of offences

In 2023, the Commission issued a total of 162 notices of potential prosecution for offences relating to both non-returns (126 cases) and late returns (36 cases). While the majority of these notices resulted in compliance by the registrants, two prosecutions were initiated for offences of failing to submit a return for the relevant period. A further prosecution for failing to make a return was carried over from 2021. In two cases, compliance was subsequently achieved and the Commission withdrew the prosecutions. One prosecution, initiated in 2022, remained before the courts at the end of 2023.

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 Commission's 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 — public servants or other office holders or persons — who are prescribed in Ministerial regulations — 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 and September 2023, 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(s) and position(s) held were published on the page; and
- > that each body had relevant information on their website in relation to the Transparency Code² for any working group 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.

² Under Section 5(7) of the Act the “Transparency Code” sets out how certain relevant public bodies, such as ministerial advisory groups, may conduct their activities in a transparent way. By adhering to the Transparency Code, communications within these bodies would meet the exemption from the requirement to register and report on lobbying activities.

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 2023. Virtual sessions allow for participation from any location and do not impose any restrictions on participants who may be subject to limitations of travel due to time or financial constraints. Outreach using social media continues to be an effective means of engaging with the general public and with those individuals and organisations that (may) have obligations to register and make returns under the Act.

Outreach in 2023 included;

- > Online Open House presentations on the regulation of lobbying for new and prospective registrants
- > Participation in the European Lobbying Regulators Network Annual Meeting
- > Regular support of government departments, public bodies and county councils with queries on the provisions and obligations under the Regulation of Lobbying Act 2015

Chapter Four:

Legislative Change: The
Regulation of Lobbying and
Oireachtas (Allowances to
Members) (Amendment)
Act 2023

Chapter Four

Legislative Change: The Regulation of Lobbying and Oireachtas (Allowances to Members) (Amendment) Act 2023

4.1 The Regulation of Lobbying and Oireachtas (Allowances to Members) (Amendment) Act 2023 was enacted on 22 June 2023.

The Act made significant amendments to the Regulation of Lobbying Act 2015.

The amendments aim to strengthen compliance and enforcement, most notably of the 'cooling-off' provision, and also through the insertion of an 'anti-avoidance' clause. With a view to bringing more transparency to lobbying activity and closing off unintended loopholes, it extends the Act's provisions to lobbying activity by certain representative and issue-based bodies. The 2023 Act creates a system of administrative financial sanctions which can be imposed for some relevant contraventions, including for a breach of the 'cooling-off' provision. It also increases the length of time that will elapse between statutory reviews of the lobbying legislation to five years.

4.2 Principal changes to the Act


- > Under Section 5 (1) (c), the scope of the Act is expanded to include any person who *'makes, or manages or directs the making of any relevant communications about the development or zoning of land'*.
- > A representative or issue-based organisation must have at least one employee in order to be in scope of the Act. The Amendment Act extends this scope to include any representative or issue based organisation, with no full time employees, where at least one of the body's members would fall within scope of the Act if such member or members were to carry on lobbying activities outside of the body. (Amending Sections 5(2) and 5(3) of the Act).
- > A new exemption has been added under Section 5(5)(p) to include communications by a political party to its members who are designated public officials and which are made exclusively as members of the political party concerned.
- > Under Section 8 of the Act any registered person whose entry on the register has been marked under Section 11(4) as ceased is prohibited from carrying on lobbying activities.
- > Under Section 11 the address at which a person carries on business or carries on the person's main activities, or the address at which the person normally resides, must be included in the details provided by the registrant.
- > Under Section 22 (6) provision is made that every public service body must inform relevant

designated public officials of their obligations under Section 22. Furthermore, under 22 (7) the public service body must inform the Standards in Public Office Commission when a relevant designated public official is leaving his or her employment.

- > Under Section 18 a new contravention has been added. Under 18(f) it is a contravention if a person takes any action that has its intended purpose the avoidance or circumvention of the person's obligations under the Act.
- > For a relevant contravention under Section 18 (f) (avoidance or circumvention of the person's obligations under the Act) or under Section 22(1) (Not seeking a waiver of the cooling off period) a minor or a major sanction may be imposed. A minor sanction will be advice, reprimand or caution. A major sanction will be a financial sanction not exceeding €25,000, a prohibition on the person from registering on the Register for no more than two years, and a prohibition on the person from making or having a return made for no more than two years.

Appendix One:

*Commission's Supervisory Role
under the Regulation of Lobbying
Act 2015 and the Regulation
of Lobbying and Oireachtas
(Allowances to Members)
(Amendment) Act 2023*



Appendix One:

Commission's Supervisory Role under the Regulation of Lobbying Act 2015 and the Regulation of Lobbying and Oireachtas (Allowances to Members) (Amendment) Act 2023

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 "issue-based body") and the relevant communications are made in the furtherance of any of those issues;
- > Any representative or issue-based organisation, with no full time employees, where at least one of the body's members would fall within scope of the Act if such member or members were to carry on lobbying activities outside of the body.
- > 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. DPOs 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.

A new exemption has been added under Section 5(5)(p) to include communications by a political party to its members who are designated public officials and which are made exclusively as members of the political party concerned.

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 DPO.

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 DPO 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.

Avoidance or Circumvention of obligations under the Act

A new contravention has been added under the Amendment Act 2023. Under 18(f) it is a contravention if a person takes any action that has its intended purpose the avoidance or circumvention of the person's obligations under the Act.

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, the Amendment Act 2023 provides for a legislative review to be carried out every five years. 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

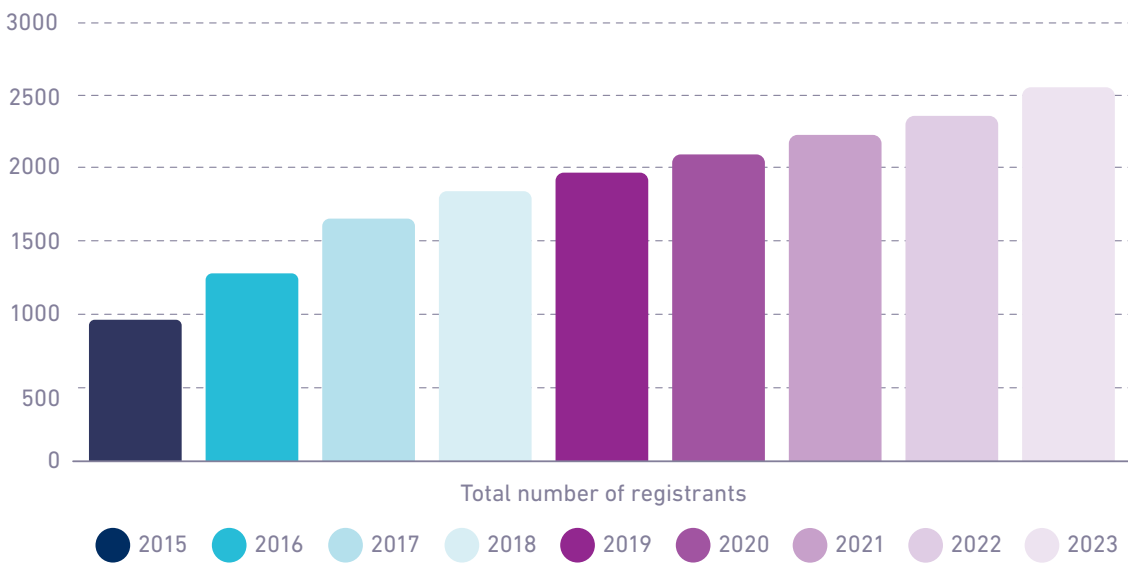


Figure 2 – Lobbying returns received, by reporting period

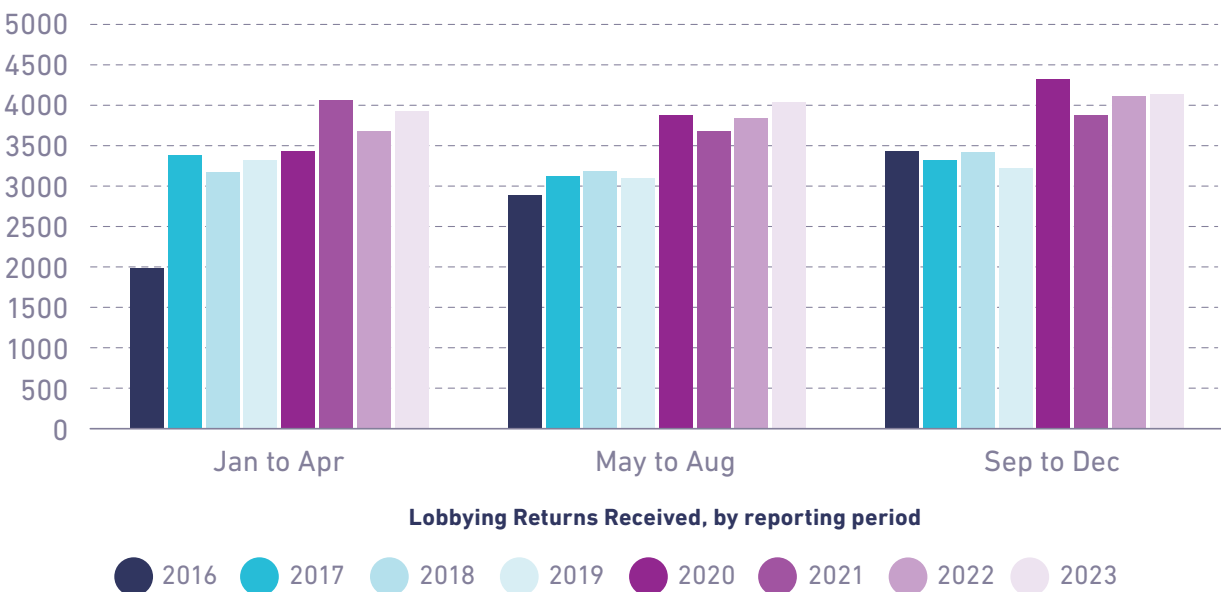


Figure 3 – Top five public policy matters lobbied about in 2022

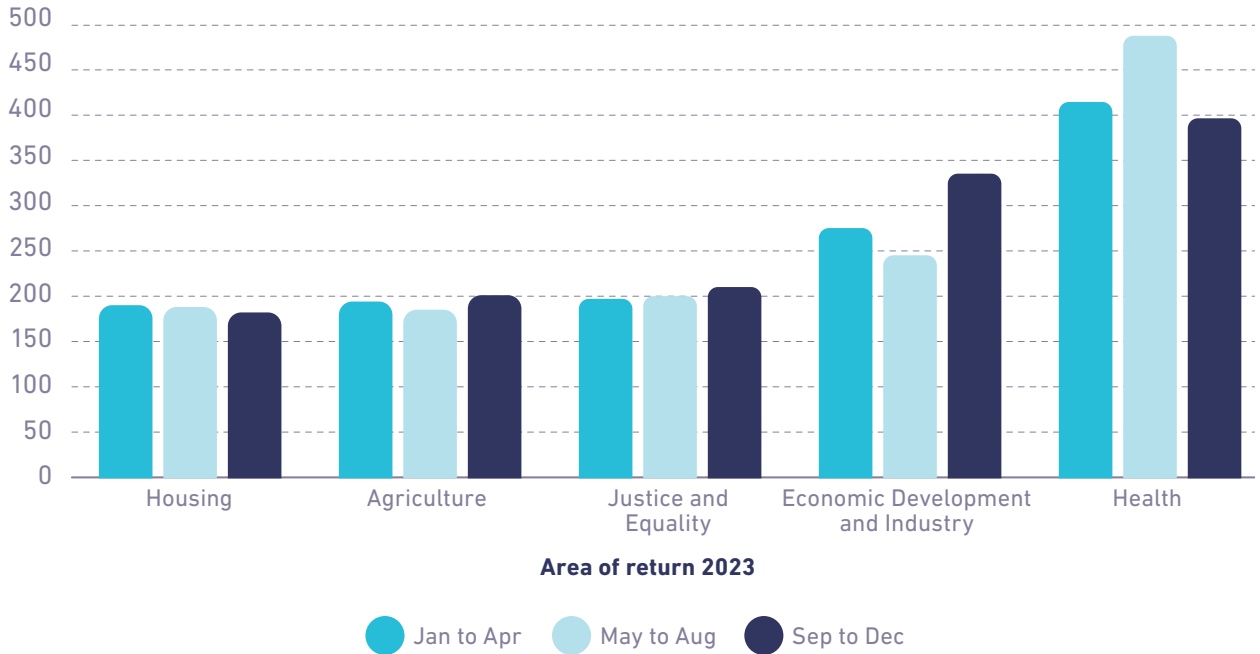


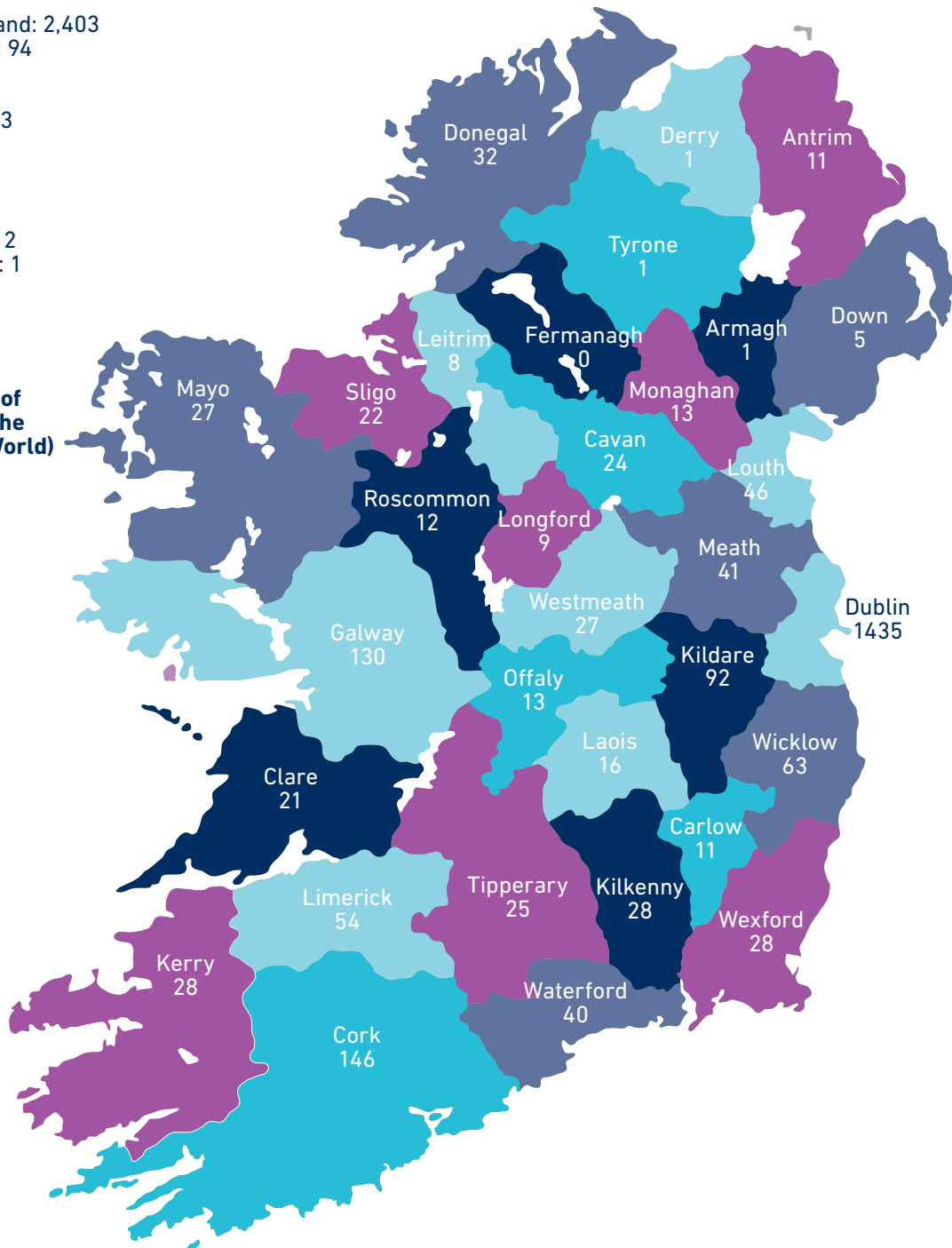
Figure 4 – Applications to waive post-public employment cooling-off period, 2015 to 2023

Applications received									
	2015	2016	2017	2018	2019	2020	2021	2022	2023
Ministers	-	-	-	-	-	-	-	-	-
Ministers of State	-	-	-	-	-	-	-	-	-
Ministerial advisors	-	1	3	2	2	8	5	-	3
Prescribed public servants	-	1	2	-	-	-	-	-	-
TOTAL	-	2	5	2	2	8	5	-	3

Figure 5 - Regional location of registrants at end 2023

Island of Ireland: 2,403
 Great Britain: 94
 Belgium: 19
 USA: 16
 Switzerland: 3
 France: 2
 Germany: 2
 Israel: 1
 Italy: 1
 Netherlands: 2
 New Zealand: 1
 Portugal: 1
 Australia: 1
 Canada: 2
Total: 145

Total (Island of Ireland and the Rest of the World) 2023: 2,548







2023

**Tuarascáil Bhliantúil um
Brústocaireacht a Rialáil**



Coimisiún um Chaighdeán in Oifigí Poiblí
Standards in Public Office Commission

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Arna dearadh ag wonder works



Tuarascáil Bhliantúil 2023

Contents

Caibidil a hAon: Clárúcháin agus Tuairisceáin Brústocaireacht 7

1.1 Cláraithe nua 8

1.2 Tuairisceáin ar ghníomhaíochtaí brústocaireachta 9

Caibidil a Dó: Oibríochtaí Rialála 10

2.1 Iarratais ar fhoilsiú moillithe 11

2.2 Imscrúduithe faoin Acht 11

2.3 Iarratais ar thoilú chun srianta iarfhostaíochta a tharscaoileadh 12

2.4 Cionta coiriúla faoin Acht 13

2.5 Faisnéis faoi Oifigigh Phoiblí Ainmnithe ar shuíomhanna gréasáin comhlachtaí poiblí 15

Caibidil a Trí: Cumarsáid agus For-Rochtain 16

3.1 Gníomhaíochtaí for-rochtana 17

Caibidil a Ceathair: Athrú Reachtaíochta: An tAcht um Brústocaireacht a Rialáil agus an Oireachtais (Liúntais do Chomhaltaí) (Leasú), 2023 18

4.1 Achtaíodh an tAcht um Brústocaireacht a Rialáil agus an Oireachtais (Liúntais do Chomhaltaí) (Leasú) 2023 ar an 22ú Meitheamh 2023 19

4.2 Príomhathruithe ar an Acht 19

Aguisín a hAon: Ról Maoirseachta an Choimisiúin faoin Acht um Brústocaireacht a Rialáil 2015 agus faoin Acht um Brústocaireacht a Rialáil agus an Oireachtais (Liúntais do Chomhaltáí) (Leasú), 2023 **21**

Forbhreathnú ginearálta	22
An Clár Brústocaireachta	23
Forálacha eile	23
Iarratais chun moill a chur ar fhoilsiú faoi alt 14 den Acht	23
Tréimhse “shuaimhnithe” dá bhforáiltear faoi alt 22 den Acht	24
Oibleagáidí faoin Acht a Sheachaint nó a Thimpeallú	25
Achomhairc	25
Forálacha imscrúdaithe agus forfheidhmithe	25
Ionstraimí Reachtúla	25

Aguisín a Dó: Staitisticí **26**

Fíor 1 – Líon iomlán na gcláraithe ag deireadh na bliana	27
Fíor 2 – Tuairisceáin brústocaireachta faighte, de réir tréimhse tuairiscithe	27
Fíor 3 – Na cúig ábhar beartais phoiblí is mó a ndearnadh brústocaireacht fúthu i 2023	28
Fíor 4 – Iarratais ar thréimhse shuaimhnithe iar-fhostaíocht phoiblí a tharscaoileadh, 2015 go 2023	28
Fíor 5 – Suíomh réigiúnach na gcláraithe ag deireadh 2023	29



Réamhrá

I gcomhréir le forálacha alt 25(1) den Acht um Brústocaireacht a Rialáil, 2015, tá áthas orm tuarascáil bhliantúil an Choimisiúin um Chaighdeán in Oifigí Poiblí don bhliain 2023 ar rialáil brústocaireachta a chur faoi bhráid gach Tí den Oireachtas.

I rith 2023, lean an Coimisiún ag déanamh maoirseachta ar chláirúcháin agus ar thuairisceáin brústocaireachta, d'eisigh sé roinnt cinntí reachtúla faoi fhorálacha an Achta agus rinne sé gníomhaíochtaí imscrúdaithe agus forghníomhaithe. Chuaigh an Coimisiún i dteagmháil freisin le geallsealbhóirí éagsúla, intíre agus idirnáisiúnta, chun faisnéis a roinnt agus dea-chleachtais a mhalartú. Thar ceann an Choimisiúin, ba mhaith liom buíochas a ghabháil le foireann an Aonaid um Rialáil Brústocaireachta as a gcuid oibre ag tacú leis an gCoimisiún le bliain anuas.

Garrett Sheehan

Cathaoirleach

An Coimisiún um Chaighdeán in Oifigí Poiblí

Meitheamh 2024

Caibidil a hAon:

Clárúcháin agus Tuairisceáin
Brústocaireachta



Caibidil a hAon

Clárúcháin agus Tuairisceáin Brústocaireachta

Faoin Acht um Brústocaireacht a Rialáil, 2015, seolann duine gníomhaíochtaí rialáilte brústocaireachta más rud é, go hachomair, go ndéanann an duine cumarsáid go díreach nó go hindíreach le hoifigeach poiblí ainmnithe faoi 'ábhar ábhartha', lena n-áirítear forbairt nó criosú talún, agus nach bhfuil an chumarsáid eiscthe go sonrach, agus go bhfuil an duine:

- > fostóir le níos mó ná 10 bhfostaí lánaimseartha, is ionadaí nó comhlacht saincheist-bhunaithe é le fostaí lánaimseartha amháin nó níos mó, nó
- > íoctha chun cumarsáid a dhéanamh thar ceann duine de na daoine a gcuirtear síos orthu thuas.

Ceanglaítear orthu siúd a sheolann gníomhaíochtaí brústocaireachta rialáilte, nó a bhfuil sé ar intinn acu déanamh amhlaidh, clárú leis an gCoimisiún. Nuair a bheidh siad cláraithe, ceanglaítear ar chlárúcháin tuairisceáin ar ghníomhaíocht brústocaireachta a chur isteach maidir le trí thréimhse tuairiscithe gach bliain, is iad sin: 1ú Eanáir - 30ú Aibreán, 1ú Bealtaine - 31ú Lúnasa agus 1ú Meán Fómhair - 31ú Nollaig. Ní mór tuairisceáin a chur isteach laistigh de 21 lá tar éis dheireadh na tréimhse tuairiscithe.

1.1 Cláraithe nua

Ligeann an **Tástáil Trí Chéim** do chlárúcháin ionchasacha a chinneadh an bhfuil nó an mbeidh siad ag déanamh gníomhaíochtaí brústocaireachta, rud a chiallaíonn go bhfuil ceangal orthu clárú. Tá an tástáil, chomh maith le treoirlíne eile ar an reachtaíocht, ar fáil ar shuíomh gréasáin lobbying. ie. A luaithe a chinneann siad clárú, déanann foireann an Choimisiúin athbhreithniú ar gach clárúcháin nua chun a sheiceáil go bhfuil sé de cheangal ar an duine clárú agus go ndearna siad amhlaidh i gceart. I gcás inar chláraigh duine trí thimpiste, bainfidh an Coimisiún an clárú agus aon tuairisceáin ghaolmhara.

Seoltar litir chuig gach cláraí nua a leagann béim ar spriocdhátaí na tréimhse tuairiscithe, na cleachtais is fearr a mholtar do riaradh cuntas agus sonraí ar fhorálacha forfheidhmithe i gcás neamhchomhlíonadh.

Ba é an líon iomlán brústocairí cláraithe ag deireadh 2023 ná 2,538. B'ionann é sin agus glanmhéadú de 108 ar an 2,430 cláraí ag deireadh 2022. Is féidir tuilleadh faisnéise ar iomláin dheireadh na bliana a fheiceáil in **Aguisín a Dó**.

1.2 Tuairisceáin ar ghníomhaíochtaí brústocaireachta

Tráth comhlánaithe na tuarascála seo, tá níos mó ná 12,000 tuairisceán ar ghníomhaíochtaí brústocaireachta curtha isteach maidir leis na trí thréimhse tuairiscithe i 2023. Féadfaidh an líon sin athrú le himeacht ama, de réir mar a dhéantar tuairisceáin dhéanacha do 2023 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 a bhfuil éileamh orthu sna tuairisceáin.

Rinneadh athbhreithniú ar gach tuairisceán brústocaireachta a cuireadh isteach i 2023 chun a fhíorú gur chomhlíon siad an tAcht, go raibh an fhaisnéis a soláthraíodh soiléir agus fiúntach, agus gur soláthraíodh í ar an modh agus ar an bhfoirm chuí. I gcás ina sainithnítear earráidí nó neamhchomhlíonadh cheanglais an Achta, déanann an Coimisiún teagmháil leis an gcláraí chun aghaidh a thabhairt ar an gceist.

Má chinneann 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 ceartúchán a iarraidh, de réir mar is iomchuí. Go ginearálta, comhoibríonn cláraitheoirí go pras nuair a iarrrtar orthu a dtuairisceáin a leasú nó breis faisnéise a sholáthar. Sa chás go mbaineann an Coimisiún tuairisceán mícheart ag baint úsáide as a chumhachtaí, measfar nach bhfuil an tuairisceán déanta ag an gcláraí ar an gcéad dul síos agus féadfar a mheas go neamhchomhlíontach lena n-oibleagáidí faoin Acht.

Rinne an Coimisiún 1,026 iarratas ar fhaisnéis bhreise le linn 2023. I ngach cás, soláthraíodh an fhaisnéis riachtanach agus réitíodh aon cheist. Dá réir sin, ní raibh aon chás inar lean an Coimisiún ar aghaidh le tuairisceán a bhaint i 2023 mar gheall ar easpa ratha an fhaisnéis a iarradh a sholáthar.

Caibidil a Dó:

Oibríochtaí Rialála



Caibidil a Dó

Oibríochtaí Rialála

2.1 Iarratais ar fhoilsiú moillithe

Go ginearálta, tá sonraí maidir le brústocairí 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 i gclárú an duine nó ina ghníomhaíochtaí brústocaireachta a chur ar ais, ar chúiseanna sonraíthe. Tá ról an Choimisiúin maidir le hiarratais a chinneadh chun moill a chur ar fhoilsiú leagtha amach in **Aguisín a hAon** den tuarascáil seo.

Rinneadh iarratas amháin i 2023 chun moill a chur ar fhoilsiú tuairisceáin ar an gclár faoi alt 14 den Acht, agus deonaíodh an t-iarratas sin. Tá an tréimhse moille imithe in éag anois agus tá an tuairisceán foilsithe.

2.2 Imscrúduithe faoin Acht

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

Déanann rúnaíocht an Choimisiúin monatóireacht ar ghníomhaíocht brústocaireachta neamhchláraithe nó neamhthuiriscithe trí fhaisnéis foinse oscailte, amhail ailt sna meáin agus fógraí ar na meáin shóisialta, ó fhaisnéis a fhaigheann an Coimisiún, nó ó fhaisnéis atá ar an gclár féin.

Tugadh dhá imscrúdú ar brústocaireacht neamhthuiriscithe féideartha anonn ó 2022 go 2023, agus seoladh dhá imscrúdú eile le linn na bliana. Chríochnaigh an tAonad Gearán agus Imscrúduithe tuarascáil imscrúdaithe amháin i 2023, agus dhún an Coimisiún an cheist. Bhí trí imscrúdú ar siúl ag deireadh 2023.

Ar leithligh, bhí ionchúiseamh a tugadh anonn ó 2022 le teacht os comhair na gcúirteanna. Tharla an t-ionchúiseamh seo mar gheall ar easpa ratha tuairisceáin brústocaireachta a chur isteach, arna n-ionchúiseamh faoi alt 20(2) den Acht. Bhain an brústocaire comhlíonadh amach ina dhiaidh sin i 2023, agus tharraing an Coimisiún an t-ionchúiseamh siar.

2.3 Iarratais ar thoiliú chun srianta iarfhostaíochta a tharscaoileadh

Forálann alt 22 den Acht go mbeidh iar-Airí, Airí Stáit, comhairleoirí speisialta agus oifigigh phoiblí shinsearacha a forordaíodh faoi alt 6(1) den Acht faoi réir tréimhse 'shuaimhnithe' bliana amháin tar éis dóibh an oifig a fhágáil, agus le linn an ama sin ní féidir leo gabháil do ghníomhaíochtaí brústocaireachta i gcúinsí sonracha le linn na tréimhse sin, ná a bheith fostaithe ag duine a sheolann gníomhaíochtaí brústocaireachta nó seirbhísí a sholáthar dó in imthosca sonracha, ach amháin le toiliú an Choimisiúin.

Féadfaidh duine atá faoi réir na tréimhse shuaimhnithe iarratas a dhéanamh chuig an gCoimisiún ar tharscaoileadh. Tá tuilleadh faisnéise maidir le forálacha alt 22 agus ról an Choimisiúin i ndáil leis leagtha amach in **Aguisín a hAon** den tuarascáil seo.

Féadfar toiliú an Choimisiúin chun brústocaireacht a dhéanamh nó chun dul i mbun fostaíochta le fostóir brústocaireachta a lorg ag aon tráth roimh, nó le linn, na tréimhse reachtúil athbhreithnithe. Má dhiúltaítear d'iarratas ar phost ar leith, ní choisceann rud ar bith ar an duine iarratas a dhéanamh ar thoiliú arís maidir le ról difriúil.

Bhí trí iarratas ann, gach ceann acu ó chomhairleoirí speisialta, i 2023. Léiríonn an cás-staidéar seo a leanas na cineálacha imthosca a thagann chun cinn agus na tosca a chuir an Coimisiún san áireamh agus cásanna den sórt sin á gcinneadh.

Cás-staidéar

Chuaigh an t-iarratasóir, a bhí ina chomhairleoir speisialta roimhe seo le roinn rialtais, i dteagmháil leis an gCoimisiún ag lorg toiliú chun post a ghlacadh le heagraíocht ar an gClár Brústocaireachta. D'iarr an t-iarratasóir ar an gCoimisiún aon mhí dhéag den tréimhse shuaimhnithe a tharscaoileadh. Cuireadh in iúl don Choimisiún gur tairgeadh an ról don iarratasóir tar éis próiseas iomaíoch. Dheimhnigh an t-iarratasóir agus an cláraí araon nach mbeifí ag súil go mbeadh an t-iarratasóir rannpháirteach in aon ghníomhaíochtaí brústocaireachta toirmisceithe a bhaineann le hiarfhostóir an iarratasóra nó le haon oifigeach poiblí ainmnithe bainteach le linn na tréimhse iomchuí ná comhairle a thabhairt ina leith. Dheimhnigh an cláraí nach raibh sé i gceist aige brústocaireacht a dhéanamh ar iarfhostóir an iarratasóra le linn na coda eile den tréimhse shuaimhnithe reachtúil. Dheimhnigh siad freisin nach mbeadh an t-iarratasóir páirteach in aon ghníomhaíochtaí brústocaireachta atá dírithe ar iarchomhlacht poiblí nó ar iar-chomhghleacaithe an duine.

Chomhaontaigh an Coimisiún tarscaoileadh a dheonú don aon mhí dhéag deiridh den tréimhse shuaimhnithe, faoi réir roinnt coinníollacha a ceapadh chun a áirithiú nach ndéanfaidh an duine gníomhaíochtaí brústocaireachta in imthosca a leagtar amach in alt 22.

2.4 Cionta coiriúla faoin Acht

Forálann an tAcht do roinnt cionta coiriúla mar gheall ar sháruithe ar cheanglais an Achta. Féadfaidh an Coimisiún imeachtaí achoimre i leith ciona a thionscnamh agus a ionchúiseamh, agus féadfaidh an Stiúrthóir Ionchúiseamh Poiblí imeachtaí ar díotáil a thionscnamh.

Forálann alt 21 go bhféadfaidh an Coimisiún fógra íocaíochta shocraithe €200 a sheirbheáil ar dhuine a bhfuil cion déanta acu, lena n-áirítear tuairisceán 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 ar ghníomhaíochtaí brústocaireachta, lena n-áirítear tuairisceán nialasach, a dhéanamh faoin spriodhata reachtúil. Is cion é teip chun tuairisceán a dhéanamh, nó tuairisceán a dhéanamh tar éis an spriodhata ábhartha. Tá duine faoi dhliteanas ar chiontú achomair as tuairisceán déanach a chur isteach ar fhíneáil €2,500.

Eisíodh 455 fógra íocaíochta shocraithe san iomlán maidir le tuairisceáin dhéanacha i 2023. Bhí 145 acu seo le haghaidh tuairisceáin dhéanacha i dtréimhsí roimh 2023.

Chealaigh an Coimisiún 44 fógra íocaíochta shocraithe i 2023, mar a leanas:

- > chuir fadhb theicniúil ar lobbying.ie cosc ar an duine tuairisceán a chur isteach in am
- > tharla earráid riaracháin inar chuir an duine tuairisceán dúblach isteach go hearráideach don tréimhse mícheart, agus/nó
- > níor ceanglaíodh ar an duine clárú agus gur chláraigh siad trí thimpiste.

Íocadh 399 fógra íocaíochta shocraithe as tuairisceáin dhéanacha i rith na bliana. Bhí 285 acu sin le haghaidh tuairisceáin dhéanacha sa chéad dá thréimhse de 2023.

Eisíodh 36 fógra ionchúisimh ionchasacha i 2023 mar gheall ar neamhíocaíocht fógraí íocaíochta shocraithe.

Cionta eile

Áirítear le sárúithe ábhartha eile ar an Acht teip chun clárú, teip chun tuairisceán a dhéanamh, teip chun comhoibriú le himscrúdú de chuid an Choimisiúin nó ordú ó oifigeach údaraithe, agus faisnéis mhíchruinn, bhréagach nó mhíthreorach a sholáthar d'aon ghnó don Choimisiún. Ina leith seo dlítear an duine, ar é nó í a chiontú go hachomair, d'fhíneáil uasta de €2,500, nó má chiontaítear ar díotáil iad, fíneáil neamhtheoranta agus/nó príosúnacht dhá bhliain ar a mhéad.

Go praiticiúil, is minic a bhíonn ar an gCoimisiún ionchúiseamh a dhéanamh i gcás inar theip ar brústocairí clárúithe tuairisceán a dhéanamh ar feadh tréimhse ábhartha. Eisiúnn an Coimisiún fógra cionta chuig aon chláraí gur theip orthu tuairisceán a dhéanamh faoin spriocdháta, agus tugtar dhá sheachtain breise don duine chun tuairisceán ar ghníomhaíochtaí brústocaireachta a chur isteach. Má theipeann ar an duine an tuairisceán a chur isteach faoin dáta sin, féadfaidh an Coimisiún dul ar aghaidh leis an gcion a ionchúiseamh.

I 2023, d'eisigh an Coimisiún 126 fógra san iomlán ag cur in iúl do chlárúithe go raibh sé ar intinn acu ionchúiseamh a dhéanamh murar cuireadh isteach tuairisceán ar ghníomhaíochtaí brústocaireachta (neamhthuirisceáin). I gcásanna nár ghá don chláraí a bheith ar an gclár, toisc go raibh siad, agus/nó an chumarsáid, lasmuigh de raon feidhme an Achta, ceartaíodh an clár agus scriosadh tuairisceán nó clárúchán an duine, de réir mar ba chúí. I ngach cás eile, chomhlíon an cláraí (agus thabhaigh siad fógra íocaíochta shocrúithe maidir le híocaíocht dhéanach) agus níor leanadh le hionchúiseamh.

Cionta a ionchúiseamh

I 2023, d'eisigh an Coimisiún 162 fógra san iomlán maidir le hionchúiseamh féideartha i leith cionta a bhain le neamhthuirisceáin (126 cás) agus tuairisceáin dhéanacha (36 cás). Cé gur comhlíonadh formhór na bhfógraí seo ag na clárúitheoirí, tionscnaíodh dhá ionchúiseamh mar gheall ar chionta inar theip orthu tuairisceán a chur isteach don tréimhse ábhartha. Tugadh ionchúiseamh breise mar gheall ar teip chun tuairisceán a dhéanamh anonn ó 2021. I dhá chás, baineadh amach comhlíonadh ina dhiaidh sin agus tharraing an Coimisiún na hionchúisimh siar. D'fhan ionchúiseamh amháin, a tionscnaíodh i 2022, os comhair na gcúirteanna ag deireadh 2023.

Lean an Coimisiún le comhlíonadh a spreagadh ar an gcéad dul síos. Laghdaigh for-rochtain agus cumarsáid éifeachtach le brústocairí clárúithe ag céim luath go héifeachtach líon na gcomhad a d'fhéadfadh a bheith curtha ar aghaidh le haghaidh ionchúisimh murach sin. Comhlíonann formhór na ndaoine a n-oibleagáidí a luaithe a dhéanann Aonad Gearán agus Imscrúduithe an Choimisiúin teagmháil leo.

Glacann an Coimisiún cur chuige nach bhfuil chomh trócaireach céanna le brústocairí a dhéanann brústocaireacht gan chlárú, a chailleann tréimhsí fillte arís agus arís eile agus/nó a dteipeann orthu cloí nó teagmháil a dhéanamh leis an gCoimisiún. I gcásanna den sórt sin, rachaidh an Coimisiún ar aghaidh chuig ionchúiseamh.

2.5 Faisnéis faoi Oifigigh Phoiblí Ainmnithe ar shuíomhanna gréasáin comhlachtaí poiblí

Ceanglaítear leis an Acht go gcaithfidh gach comhlacht a bhfuil oifigigh poiblí ainmnithe acu — seirbhísigh poiblí nó sealbhóirí oifige eile nó daoine atá forordaithe i rialacháin Aireachta — liosta suas chun dáta de na hoifigigh poiblí ainmnithe sin a fhoilsiú. Soláthraíonn ár suíomh gréasáin lobbying.ie naisc ábhartha chuig na leathanaigh seo.

Roimh dheireadh gach tréimhse tuairisceáin, iarrtar ar chomhlachtaí poiblí liosta a sheiceáil, agus a nuashonrú de réir mar is gá, a thaispeánann ainm, grád agus mionsonraí gearra ar ról agus ar fhreagrachtaí gach oifigigh poiblí ainmnithe a fhorordaítear don chomhlacht. Iarrtar orthu freisin faisnéis a dheimhniú agus a nuashonrú a bhaineann le grúpaí oibre nó le tascfhórsaí a oibríonn faoina gcoimirce.

I mí Eanáir agus i mí Mheán Fómhair 2023, rinne an Coimisiún teagmháil le gach comhlacht poiblí a raibh oifigigh poiblí ainmnithe acu chun a fhíorú go raibh an fhaisnéis suac chun dáta, lena n-áirítear na nithe seo a leanas:

- > go raibh leathanach um Rialáil Brústocaireachta ag gach comhlacht ábhartha
- > cibé ar foilsíodh an t-ainm(neacha) agus na poist a bhí ann ar an leathanach; agus
- > go raibh faisnéis ábhartha ag gach comhlacht ar a shuíomh gréasáin maidir leis an gCód₂ Trédhearcachta d'aon ghrúpa oibre faoina gcoimirce.

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

Bhí torthaí an tsuirbhé seo spreagúil. Chinn an Coimisiún go raibh leathanach tiomnaithe ar an suíomh gréasáin ag gach comhlacht poiblí lena liostaítear oifigigh poiblí ainmnithe mar aon leis an bhfaisnéis ábhartha a bhaineann lena seasamh. Foilsíodh an fhaisnéis ábhartha ar a leathanach um Rialáil Brústocaireachta freisin ag gach comhlacht a bhfuil grúpa ag feidhmiú faoin gCód Trédhearcachta.

² Faoi Alt 5(7) den Acht leagann an “Cód Trédhearcachta” amach conas is féidir le comhlachtaí poiblí ábhartha áirithe, cosúil le grúpaí comhairleacha aireachta, a ngníomhaíochtaí a dhéanamh ar bhealach trédhearcach. Trí chloí leis an gCód Trédhearcachta, chomhlíonfadh cumarsáidí laistigh de na comhlachtaí sin an díolúine ón gceanglas maidir le gníomhaíochtaí brústocaireachta a chlárú agus tuairisciú a dhéanamh orthu

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 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 le linn 2023. Ceadáíonn seisiúin fhíorúla do rannpháirtíocht ó aon láthair agus ní chuireann siad aon srianta ar rannpháirtithe a d'fhéadfadh a bheith faoi réir teorainneacha taistil de bharr srianta ama nó airgeadais. Leanann for-rochtain ag baint úsáide as na meáin shóisialta de bheith ina mhodh éifeachtach chun dul i dteagmháil leis an bpobal i gcoitinne agus leis na daoine aonair agus na heagraíochtaí sin a bhfuil (d'fhéadfadh a bheith) oibleagáidí orthu clárú agus tuairisceáin a dhéanamh faoin Acht.

Áiríodh le for-rochtain i 2023;

- > Láithreoireachtaí Tí Oscailte ar líne ar rialáil brústocaireachta do chláraithe nua agus ionchasacha
- > Rannpháirtíocht i gCruinniú Bliantúil Líonra Rialálaithe Brústocaireachta na hEorpa
- > Tacaíocht rialta ó ranna rialtais, comhlachtaí poiblí agus comhairlí contae le fiosrúcháin ar fhorálacha agus oibleagáidí faoin Acht um Brústocaireacht a Rialáil 2015

Caibidil a Ceathair:

Athrú Reachtaíochta: An tAcht
um Brústocaireacht a Rialáil
agus an Oireachtas (Liúntais
do Chomhaltaí) (Leasú), 2023

Caibidil a Ceathair

Athrú Reachtaíochta: An tAcht um Brústocaireacht a Rialáil agus an Oireachtais (Liúntais do Chomhaltaí) (Leasú), 2023

4.1 Achtaíodh an tAcht um Brústocaireacht a Rialáil agus an Oireachtais (Liúntais do Chomhaltaí) (Leasú) 2023 ar an 22ú Meitheamh 2023.

Rinneadh leasuithe suntasacha ar an Acht um Brústocaireacht a Rialáil 2015 leis an Acht.

Tá sé d'aidhm ag na leasuithe comhlíonadh agus forghníomhú a neartú, go háirithe an fhoráil 'shuaimhnithe', agus freisin trí chlásal 'frithsheachaint' a chur isteach. D'fhonn níos mó trédhearcachta a thabhairt do ghníomhaíocht brústocaireachta agus deireadh a chur le bealaí éalaithe neamhbheartaithe, leathnaíonn sé forálacha an Achta chuig gníomhaíocht brústocaireachta ag comhlachtaí ionadaíocha agus saincheisteacha áirithe. Cruthaíonn Acht 2023 córas smachtbhannaí airgeadais riaracháin ar féidir a fhorchur i gcás roinnt sárúithe ábhartha, lena n-áirítear sárú ar an bhforáil 'shuaimhnithe'. Méadaíonn sé freisin an t-achar ama a imeoidh idir athbhreithnithe reachtúla ar an reachtaíocht brústocaireachta go cúig bliana.

4.2 Príomhathruithe ar an Acht

- > Faoi Alt 5(1)(c), leathnaítear scóip an Achta chun aon duine a *'dhéanann, nó a bhainistíonn nó a stiúirann déanamh aon chumarsáide ábhartha maidir le forbairt nó criosú talún'* a áireamh.
- > Ní mór fostaí amháin ar a laghad a bheith ag eagraíocht ionadaíoch nó saincheist-bhunaithe chun a bheith faoi raon an Achta. Leathnaíonn an tAcht Leasaithe an raon feidhme seo chun aon eagraíocht ionadaíoch nó saincheist-bhunaithe a chuimsiú, gan aon fhostaithe lánaimseartha, ina mbeadh ar a laghad duine amháin de chomhaltaí an chomhlachta faoi raon feidhme an Achta dá mbeadh an comhalta nó na comhaltaí sin le gníomhaíochtaí brústocaireachta a sheoladh lasmuigh de. an corp. (Ag leasú Ailt 5(2) agus 5(3) den Acht).
- > Tá díolúine nua curtha leis faoi Alt 5(5)(p) lena n-áirítear cumarsáidí ó pháirtí polaitíochta chuig a chomhaltaí ar oifigigh phoiblí ainmnithe iad agus a dhéantar go heisiach mar chomhaltaí den pháirtí polaitíochta lena mbaineann.
- > Faoi Alt 8 den Acht tá cosc ar aon duine cláraithe a bhfuil a iontráil ar an gclár marcáilte faoi Alt 11(4) mar scortha de ghníomhaíochtaí brústocaireachta a sheoladh.
- > Faoi Alt 11 ní mór an seoladh ag a dhéanann duine gnó nó ag a mbíonn príomhghníomhaíochtaí an duine, nó an seoladh ag a bhfuil gnáthchónaí ar an duine, a chur san áireamh sna sonraí a sholáthraíonn an cláraí.

- > Faoi Alt 22(6) déantar foráil nach mór do gach comhlacht seirbhíse poiblí oifigigh poiblí ainmnithe ábhartha a chur ar an eolas faoina n-oibleagáidí faoi Alt 22. Ina theannta sin, faoi 22(7) ní mór don chomhlacht seirbhíse poiblí an Coimisiún um Chaighdeán in Oifigí Poiblí a chur ar an eolas nuair a bheidh oifigeach poiblí ainmnithe iomchuí ag fágáil a fhostaíochta nó a fostaíochta.
- > Faoi Alt 18 tá sárú nua curtha leis. Faoi 18(f) is sárú é má dhéanann duine aon ghníomh a bhfuil an cuspóir beartaithe acu chun oibleagáidí an duine faoin Acht a sheachaint nó a shárú.
- > Maidir le sárú ábhartha faoi Alt 18 (f) (oibleagáidí an duine a sheachaint nó a shárú faoin Acht) nó faoi Alt 22(1) (Gan tarscaoileadh ar an tréimhse shuaimhnithe a lorg) féadfar mionsmachtbhanna nó mórsmachtbhanna a fhorchur. Comhairle, iomardú nó rabhadh a bheidh i mionsmachtbhanna. Is é a bheidh i mór-smachtbhanna ná smachtbhanna airgeadais nach mó ná €25,000, toirmeasc ar an duine clárú ar an gClár ar feadh tréimhse nach faide ná dhá bhliain, agus toirmeasc ar an duine tuairisceán a dhéanamh nó a bheith tugtha ar feadh tréimhse nach faide ná dhá bhliain.

Aguisín a hAon :

Ról Maoirseachta an Choimisiúin faoin Acht um Brústocaireacht a Rialáil 2015 agus faoin Acht um Brústocaireacht a Rialáil agus an Oireachtais (Liúntais do Chomhaltaí) (Leasú), 2023

Aguisín a hAon:

Ról Maoirseachta an Choimisiúin faoin Acht um Brústocaireacht a Rialáil 2015 agus faoin Acht um Brústocaireacht a Rialáil agus an Oireachtais (Liúntais do Chomhaltaí) (Leasú), 2023

Forbhreathnú ginearálta

Forálann an tAcht go ndéanfaidh duine a thagann faoi raon feidhme an Achta cumarsáid ábhartha (go ndéanann sé/sí brústocaireacht) má dhéanann an duine cumarsáid le hoifigeach poiblí ainmnithe faoi ábhar ábhartha. Ní mór d'aon duine a dhéanann brústocaireacht clárú agus tuairisceáin rialta ar líne ar a ghníomhaíocht brústocaireachta a chur isteach.

Leagtar amach in Alt 5(1) agus (2) den Acht na catagóirí daoine atá faoi raon feidhme an Achta, is iad sin:

- > duine a bhfuil níos mó ná 10 bhfostaí lánaimseartha acu;
- > duine a bhfuil fostaí lánaimseartha amháin nó níos mó acu agus ar comhlacht é atá ann go príomha chun ionadaíocht a dhéanamh ar leasanna a chomhaltaí (dá ngairtear “comhlacht ionadaíoch”) agus go ndéantar na cumarsáidí ábhartha thar ceann aon cheann de na comhaltaí;
- > duine a bhfuil fostaí lánaimseartha amháin nó níos mó acu agus ar comhlacht é atá ann go príomha chun dul i ngleic le saincheistanna áirithe (dá ngairtear “comhlacht saincheist-bhunaithe”) agus go ndéantar na cumarsáidí ábhartha chun aon cheann de na saincheistanna sin a chur chun cinn;
- > Aon eagraíocht ionadaíoch nó saincheist-bhunaithe, gan aon fhostaithe lánaimseartha, a mbeadh ar a laghad duine amháin de chomhaltaí an chomhlachta faoi raon feidhme an Achta dá mbeadh an comhalta nó na comhaltaí sin le gníomhaíochtaí brústocaireachta lasmuigh den chomhlacht a sheoladh.
- > aon duine (duine aonair nó eagraíocht) a dhéanann “cumarsáid ábhartha” maidir le forbairt nó criosú talún nach é a bpríomháit chónaithe phríobháideach; agus
- > “brústocaire gairmiúil” nó tríú páirtí a íoctar as gníomhaíochtaí brústocaireachta a sheoladh thar ceann duine a thagann laistigh de cheann de na catagóirí daoine thuas.

Áirítear ar oifigigh phoiblí ainmnithe, (OPA) chun críocha an Achta, Airí agus Airí Stáit, Comhaltaí de Dháil Éireann agus Sheanad Éireann, Comhaltaí de Pharlaimint na hEorpa do thoghcheantair Éireannacha, agus Comhaltaí d'údaráis áitiúla. Áiríonn OPA freisin comhairleoirí speisialta agus na fostaí sa tseirbhís phoiblí agus na státseirbhísigh is sinsearaí a forordaíodh le hordú ón Aire.

Baineann ábhar ábhartha le tionscnamh, forbairt nó modhnú aon bheartais phoiblí nó aon chlár phoiblí; achtachán a ullmhú; nó aon deontas, iasacht nó tacaíocht airgeadais eile, conradh nó comhaontú eile, nó aon cheadúnas nó údarú eile a bhaineann le cistí poiblí a dhámhachtain. Is cumarsáidí ábhartha freisin iad nithe a bhaineann le criosú agus forbairt talún.

Forálann alt 5(5) den Acht do roinnt díolúintí ar rud a mheastar a bheith ina cumarsáid ábhartha.

Tá díolúine nua curtha leis faoi Alt 5(5)(p) lena n-áirítear cumarsáidí ó pháirtí polaitíochta chuig a chomhaltaí ar oifigigh phoiblí ainmnithe iad agus a dhéantar go heisiach mar chomhaltaí den pháirtí polaitíochta lena mbaineann.

An Clár Brústocaireachta

Is córas gréasán-bhunaithe é an clár féin. Chomh maith leis an gclár ar líne a chur san áireamh, tá uirlisí faisnéise agus treorach ar an suíomh gréasáin lobbying.ie a mhíníonn na próisis clárúcháin agus fillte.

Níl aon chostas ar chlárú, ar thuaisceáin a chur isteach nó ar rochtain a fháil ar an bhfaisnéis atá iontu. Cé go bhfuil freagracht mhaoirseachta ag an gCoimisiún as bunú agus cothabháil an chláir, tá an t-ábhar faoi stiúir an fhaisnéis atá sna hiarratais ar chlárú agus sna tuairisceáin a chuireann cláraitheoirí isteach.

Ní mór d'aon duine atá ag déanamh brústocaireachta clárú agus tuairisceáin a chur isteach trí huair in aghaidh na bliana, a chlúdaíonn “tréimhsí iomchuí” forordaithe (1ú Eanáir - 30ú Aibreán, 1ú Bealtaine - 31ú Lúnasa, agus 1ú Meán Fómhair - 31ú Nollaig). Ní mór na tuairisceáin a chur isteach faoi na “dátaí iomchuí” forordaithe faoi seach (21ú Bealtaine, 21ú Meán Fómhair agus 21ú Eanáir, faoi seach).

Ní mór go léireodh an tuairisceán cé air a ndearnadh brústocaireacht, ábhar na gníomhaíochta brústocaireachta agus na torthaí a raibh an duine ag iarraidh a bhaint amach. Ní mór cineál agus méid na gníomhaíochta brústocaireachta a léiriú sna tuairisceáin freisin. Más thar ceann cliaint a rinneadh an ghníomhaíocht brústocaireachta, ní mór sonraí an chliaint a sholáthar 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 ar chlárú nó ina thuaisceán gníomhaíochtaí brústocaireachta más rud é go bhféadfaí a bheith ag súil le réasún go ndéanfadh foilsiú na faisnéise:

- > Drochthionchar tromchúiseach aige ar leasanna airgeadais an Stáit, an gheilleagair náisiúnta nó leasanna gnó go ginearálta nó leasanna gnó de chineál ar bith daoine (iarratas arna dhéanamh faoi alt 14(1)(a) den Acht), nó
- > Cailliúint ábhartha airgeadais a chur faoi deara don duine lena mbaineann an fhaisnéis nó dochar tromchúiseach a dhéanamh do sheasamh iomaíoch an duine sin i mbun slí bheatha, ghairme nó ghnó an duine sin nó toradh aon idirbheartaíochta nó conarthacha eile atá ar bun 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(i) Rialtais ábhartha. Ní cheanglaítear ar an gCoimisiún dul i gcomhairle le hAire(i) má dhéantar iarratas faoi alt 14(1)(b). (Féadfaidh an Coimisiún, áfach, a mheas gur cuí dul i gcomhairle le hAire ar iarratas alt 14(1)(b).

Forálann alt 14(9) den Acht nach mór don Choimisiún, nuair a fhoilsítear na tuairisceáin ina dhiaidh sin, míniú a fhoilsiú ar an bhfáth ar cuireadh moill ar fhoilsiú na faisnéise.

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 dtuairisceán gníomhaíochtaí brústocaireachta.

Tréimhse “shuaimhnithe” dá bhforáiltear faoi alt 22 den Acht

Forálann alt 22 den Acht go mbeidh Airí, Airí Stáit, comhairleoirí speisialta agus oifigigh poiblí shinsearach a forordaíodh chun críocha alt 6(1) den Acht faoi réir tréimhse “shuaimhnithe” bliana, agus le linn an t-am sin nach féidir leo gabháil do ghníomhaíochtaí brústocaireachta i gcúinsí sonracha, nó a bheith fostaithe ag duine a sheolann gníomhaíochtaí brústocaireachta, nó seirbhísí a sholáthar dó, i gcúinsí sonracha. Is í an tréimhse shuaimhnithe ná an tréimhse bliana ón dáta a scoir an duine de bheith ina OPA.

Is iad na himthosca ina bhfuil feidhm ag alt 22 den Acht ná cumarsáidí a dhéanamh a chuimsíonn gníomhaíochtaí brústocaireachta a sheoladh:

- > Aon chomhlacht seirbhíse poiblí a raibh an duine fostaithe leis nó a raibh oifig nó post eile aige/aici sa bhliain sular fhág sé/sí, nó
- > Maidir le duine a bhí ina OPA freisin agus a bhí fostaithe nó a shealbhaigh oifig nó post eile leis an gcomhlacht seirbhíse poiblí sin sa bhliain sular fhág an duine sin.

Féadfaidh duine atá faoi réir na tréimhse shuaimhnithe aon bhliana iarratas a dhéanamh chuig an gCoimisiún ar tharscaoileadh na tréimhse shuaimhnithe.

Féadfaidh an Coimisiún a chinneadh toiliú a thabhairt gan choinníoll le laghdú nó le tarscaoileadh na tréimhse shuaimhnithe nó féadfaidh an Coimisiún a chinneadh toiliú a thabhairt le coinníollacha a ghabhann leis. Féadfaidh an Coimisiún a chinneadh an t-iarratas a dhiúltú ar feadh na tréimhse shuaimhnithe ar fad nó ar feadh cuid di.

Oibleagáidí faoin Acht a Sheachaint nó a Thimpeallú

Tá sárú nua curtha leis faoin Acht Leasaithe 2023. Faoi 18(f) is sárú é má dhéanann duine aon ghníomh a bhfuil sé mar chuspóir aige nó aici oibleagáidí an duine faoin Acht a sheachaint nó a thimpeallú.

Achomhairc

Faoi alt 23 den Acht féadfaidh duine a bhfuil éagóirithe leis an gcinneadh ón gCoimisiún faoi alt 10(5) (a bhaineann le tuairiscí ar fhaisnéis mhícheart ar an gclár), alt 14 (foilsíú moillithe), nó alt 22 (tréimhse shuaimhnithe) achomharc a dhéanamh in aghaidh chinneadh an Choimisiúin. Tá painéil d'oifigigh neamhspleácha achomhairc bunaithe ag an Roinn Caiteachais Phoiblí agus Athchóirithe chun éisteacht le hachomhairc dá leithéid. Faoi alt 23 tarchuirtear an t-achomharc chuig oifigeach achomhairc neamhspleách a fhéadfaidh seasamh le cinneadh an Choimisiúin, nó é a chur ar ceal agus cinneadh eile a chur ina ionad.

Forálann alt 24 den Acht gur féidir achomharc a dhéanamh chuig an Ard-Chúirt i gcoinne chinneadh an oifigigh achomhairc.

Forálacha imscrúdaithe agus forfheidhmithe

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

Ar deireadh, foráiltear leis an Acht Leasaithe 2023 d'athbhreithniú reachtach a dhéanfar gach cúig bliana. 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 le haghaidh leasuithe ar an Acht.

Ionstraimí Reachtúla

Tá seacht n-ionstraim reachtúla tugtha isteach faoin Acht, is iad sin:

- > *Rialacháin an Achta um Brústocaireacht a Rialáil, 2015 (Oifigigh Phoiblí Ainmnithe) (S.I. 144 de 2019);*
- > *An tOrdú fán Acht um Brústocaireacht a Rialáil, 2015 (um Thosach Feidhme) (S.I. 152 de 2015);*
- > *Na Rialacháin fán Acht um Brústocaireacht a Rialáil, 2015 (Achomharc), 2015 (S.I. 366 de 2015);*
- > *Rialacháin an Achta um Brústocaireacht a Rialáil, 2015 (Oifigigh Phoiblí Ainmnithe) (S.I. 367 de 2015);*
- > *An tOrdú fán Acht um Brústocaireacht a Rialáil, 2015 (um Thosach Feidhme), 2016 (S.I. 360 de 2016);*
- > *Na Rialacháin fán Acht um Brústocaireacht a Rialáil, 2015 (Fógra Íocaíochta Shocraithe), 2016 (S.I. 361 de 2016); agus*
- > *Na Rialacháin fán Acht um Brústocaireacht a Rialáil, 2015 (Oifigigh Phoiblí Ainmnithe), 2016 (S.I. 362 de 2016).*

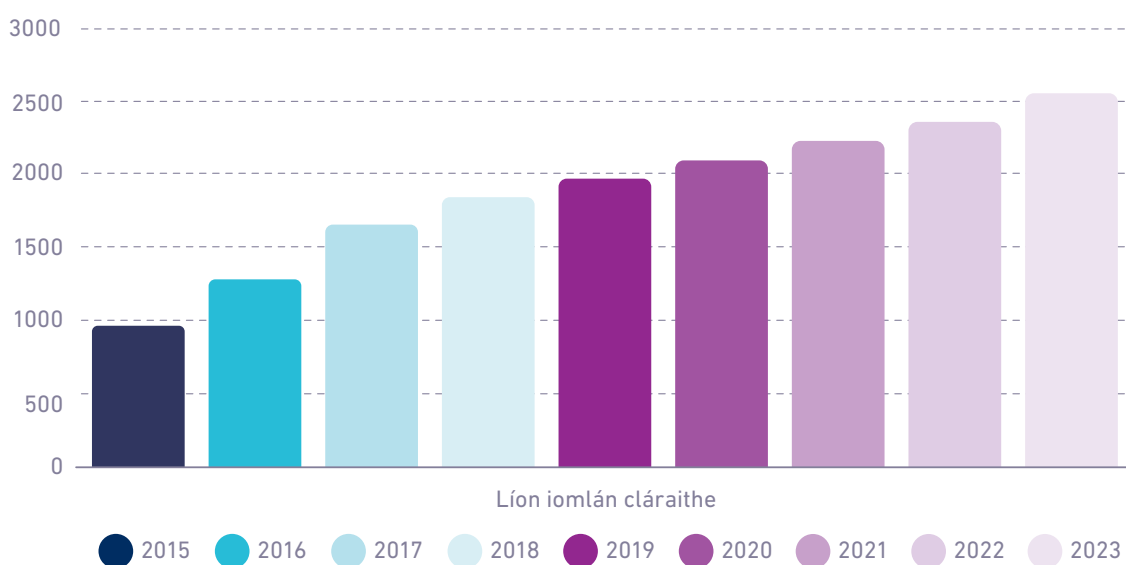
Aguisín a Dó:

Staitisticí

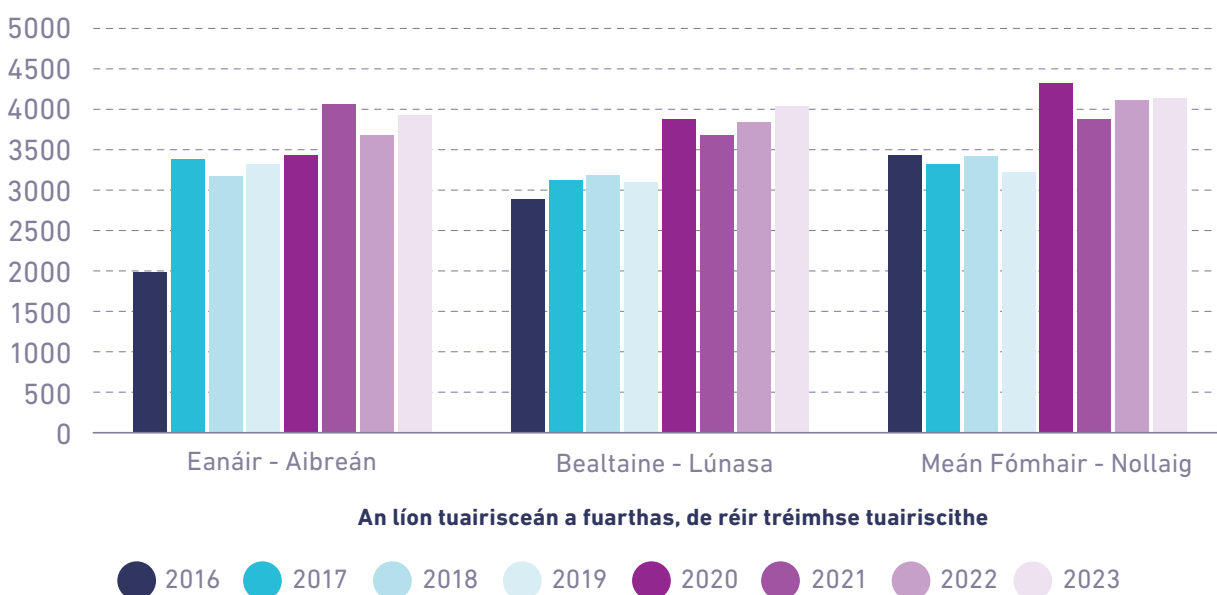


Aguisín a Dó: Staitisticí

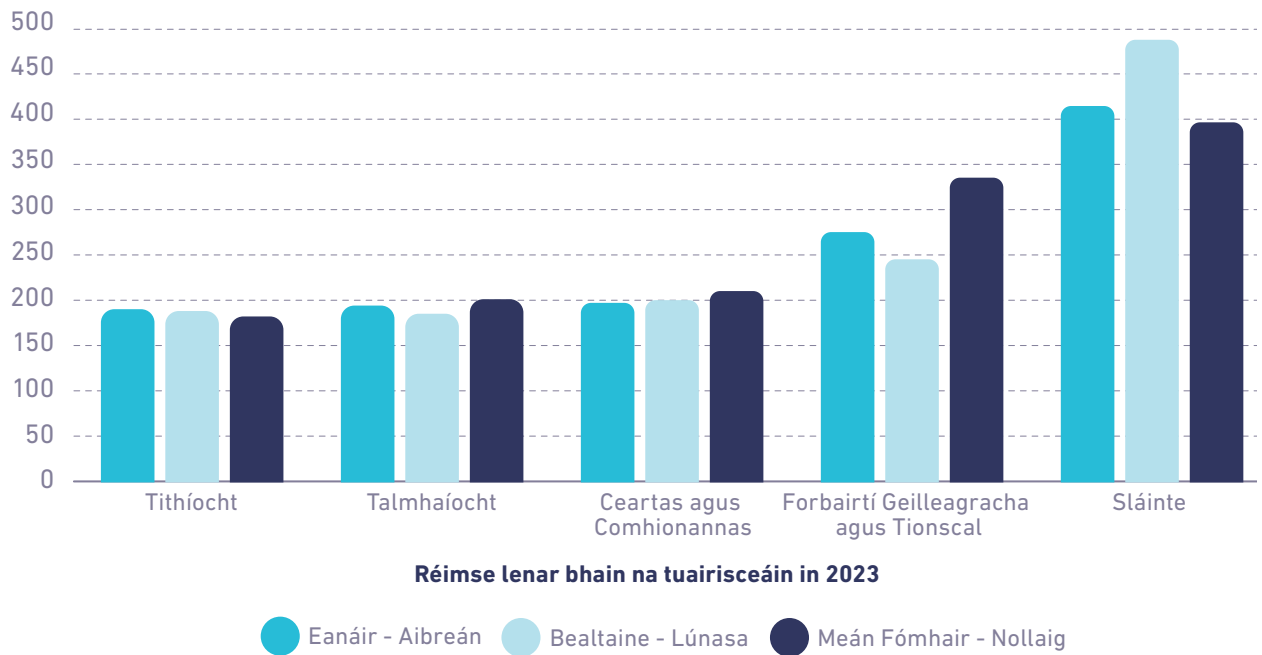
Fíor 1 – Líon iomlán na gcláraithe ag deireadh na bliana



Fíor 2 – Tuairisceáin brústocaireachta faighte, de réir tréimhse tuairiscithe



Fíor 3 – Na cúig ábhar beartais phoiblí is mó a ndearnadh brústocaireacht fúthu i 2023



Fíor 4 – Iarratais ar thréimhse shuaimhnithe iar-fhostaíocht phoiblí a tharscaoileadh, 2015 go 2023

Iarratais faighte									
	2015	2016	2017	2018	2019	2020	2021	2022	2023
Airí	-	-	-	-	-	-	-	-	-
Airí Stáit	-	-	-	-	-	-	-	-	-
Comhairleoirí de chuid an Aire	-	1	3	2	2	8	5	-	3
Seirbhíseach poiblí forordaithe	-	1	2	-	-	-	-	-	-
IOMLÁN	-	2	5	2	2	8	5	-	3

