

# The Regulation of Lobbying in Ireland

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# Purpose of presentation

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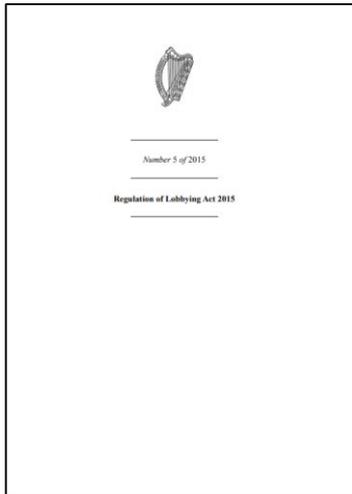
- Overview of the regulation of lobbying in Ireland
  - Origins of lobbying regulation
  - Framework/structure of the Regulation of Lobbying Act
- Approach to implementation
- Results to date
- Challenges and lessons learned
- Discussion/questions

# The origins of lobbying regulation in Ireland

- Commissions of inquiry (Mahon, Moriarty) into planning irregularities
- GRECO recommendations
- Private members' bills
- Government legislation
  - Review of international models
  - 2014 Bill
  - 2015 Act



# Framework of the Act



- Independent lobbying registrar
- Registration of lobbyists (wide ranging scope)
- Regular submission of returns (prescribed deadlines 3 times/year, includes nil returns)
- Web-based public registry (lobbyist, lobbied, subject, intended result)
- Post-employment restrictions for **some** public officials
- Investigation and enforcement provisions
- Legislative review mechanism

# What is covered? The Three-Step Test

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- Communication must meet the “three step test” to be considered lobbying – communication must be:
  1. Made by a person within the scope of the Act
  2. To a Designated Public Official
  3. About a relevant matter
- Act makes no distinction regarding method, venue or formality of communication
  - Mail, telephone, in-person, electronic, social media
  - Office, social setting, casual encounter, other
  - If the three steps are met, it is lobbying

# Step 1: Persons within scope

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



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

## Step 2: Designated public officials

- Ministers, Ministers of State
- Members of Dáil Éireann, Seanad Éireann
- Members of the European Parliament for Irish constituencies
- Members of Local Authorities
- Special advisors
- Prescribed senior civil and public servants



## Step 3: Relevant matters

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

**Apart from** matters relating only to the **implementation** of any such policy, programme, enactment or award **or of a technical nature**

## Exemptions (s.5(5))

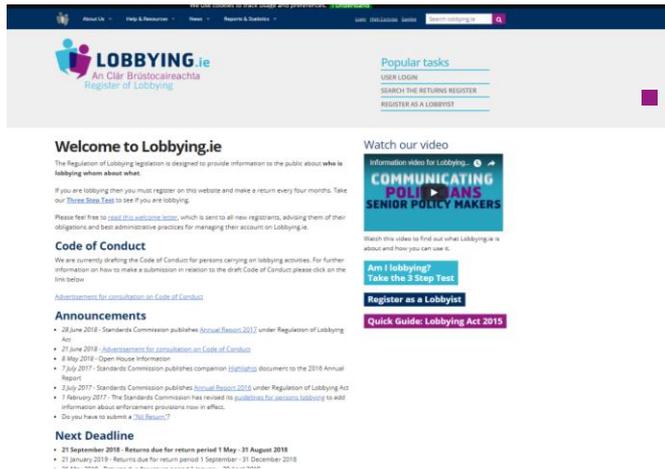
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Several types of communications are exempt from requirement to register:

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

# Key Elements of Register: How it works

- Apply to register after first communication
- Administrative tools (messaging, reminders, dashboards)
- Returns 3x/year
  - Nil returns mandatory
  - One return per subject
  - Prescribed reporting periods/deadlines
    - 1 Sept – 31 Dec: Returns due 21 Jan
    - 1 Jan – 30 Apr: Returns due 21 May
    - 1 May – 31 Aug: Returns due 21 Sept
- Enforcement
  - Fixed payment notices and online payment
  - Manual notification of other contraventions



# What is disclosed?

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- Identity of lobbyist (and client, if applicable)
  - Person primarily responsible
- Identity of person(s) lobbied
- Relevant period/dates
- Subject matter and intended result
- Mechanism of lobbying (meetings, phone calls, texts etc.)
  - Grassroots campaigns
- Frequency (estimated range)
- Involvement of current/former public officials in lobbying
- ***Note: Expenditure on lobbying activities not disclosed***

# Contraventions and Enforcement

- Contraventions of Act:
  - Lobbying without registering
  - Failure to submit return by deadline (including nil)
  - 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
  - Conviction on summary basis: max fine €2,500
  - Conviction on indictment: fines and/or imprisonment up to 2 years



# Post-employment restrictions

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- Applies to some public officials
  - Ministers, Ministers of State, Ministerial advisors
  - Senior civil/public servants
  - Does not apply to TDs, Senators, MEPs, local councillors
- One year cooling-off period in which they cannot:
  - Lobby former colleagues or former public body
  - Be employed by someone who lobbies former colleagues/public body
- May apply for waiver/reduction of cooling-off period
  - Commission may refuse or grant consent with/without conditions
- No provisions for enforcement

# Powers of the Standards Commission

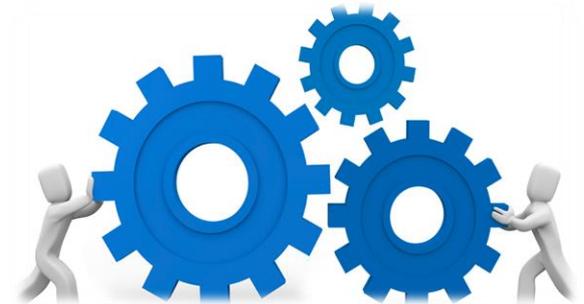
- Registrar of Lobbying (s.9)
- Develop/oversee web-based public register (s.10)
- Matters for decision (may be appealed):
  - Information on register (ss.10(5))
  - Delayed publication (s.14)
  - Post-employment (s.22)
- Code of Conduct (s.16)
- Provide guidance, promote understanding (s.17)
- Power to investigate (s.19)
- Levy *Fixed Payment Notices* (low level fines) for late returns (s.21)
- Offences provisions (s.20)
- Annual reports to Oireachtas (s.25)



# Approach to Implementation

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- Extensive pre-planning
  - Involvement in legislative development
- Early stakeholder engagement
  - Project board for systems development
  - Advisory group on implementation
- Early development of systems/supports
  - User testing and pilot period
  - Continuous learning
  - Website, guidelines, FAQs, videos
  - Extensive communications and outreach strategy
- Incremental commencement of Act
  - Main provisions/enforcement/Code of Conduct



# Implementation challenges

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- Scope of legislation (broad DPO community, wide range of potential lobbyists)
  - Required extensive communications strategy
- Concerns of DPOs and lobbyists over potential “chill”, whether such regulation necessary/possible in small country (@5 million)
- Growing pains:
  - Quality of information on returns
  - Deadlines/nil returns
  - Regional disparities in registrations
  - Potential under-representation of certain sectors
  - “Voluntary registration” an enforcement challenge

# Lessons learned

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- Incremental approach effective
- Consultative approach (advisory group, user testing) helpful
- Knowledge key to compliance:
  - Ongoing communications/outreach; tailored info tools
  - Analysis of underrepresented sectors/groups
- Need for constant review of register (language, processes)

# Results to date

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- @2,100 registrants from all sectors of economy
- Main groups:
  - Business representative groups
  - Charities/advocacy
  - Health care/pharma
  - Financial services
  - Community development
  - Construction/development
- Includes multinationals, domestic, foreign registrants

## Results to date (2)

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- >47,000 returns on system - top subjects:
  - Health; Economic development & industry; Agriculture; Justice & equality; Housing
- Enforcement
  - Over 1,000 fines levied for late returns to date
  - Numerous investigations launched into possible breaches
  - One conviction for non-returns
  - Other prosecutions settled where compliance achieved or person outside scope

# Impact of Register

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- Enhanced transparency
  - Information available that was not previously published
  - Used by journalists, academics, NGOs, business, government
  - Often used in conjunction with Freedom of Information
- Part of growing trend towards lobbying regulation
- Better balance in policy-making
  - Grow business
  - Monitor competition
  - Used by journalists, academics, NGOs, business, government

# Key recommendations for reform

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- Enforcement powers re post-employment rules
- Cover informal coalitions
- Cover communications by any office holder of organisation (whether or not remunerated)
- Enforcement powers for Code of Conduct
- Obligations for DPOs to decline meetings with non-compliant lobbyists

# Thank you

## Questions??

Visit our website:  
[www.lobbying.ie](http://www.lobbying.ie)



The screenshot shows the LOBBYING.ie website homepage. At the top is a navigation bar with links for 'About Us', 'Help & Resources', 'News', 'Reports & Statistics', 'Login', 'User/Contact', 'Guests', and a search bar. Below the navigation bar is the LOBBYING.ie logo and a list of 'Popular tasks' including 'USER LOGIN', 'SEARCH THE RETURNS REGISTER', and 'REGISTER AS A LOBBYIST'. The main content area features a 'Welcome to Lobbying.ie' section with introductory text and links to 'Three Step Test', 'read this welcome letter', and 'Code of Conduct'. There is also a 'Watch our video' section with a video player for 'COMMUNICATING POLICYMAKERS SENIOR POLICY MAKERS'. Below this is a 'Next Deadline' section with a list of dates and return periods. At the bottom, there are 'Online Services' (Register as a lobbyist, Search the Directory) and a footer with 'Contact Us' and 'Additional links'.

**Welcome to Lobbying.ie**  
The Regulation of Lobbying legislation is designed to provide information to the public about **who is lobbying whom about what**.  
If you are lobbying then you must register on this website and make a return every four months. Take our [Three Step Test](#) to see if you are lobbying.  
Please feel free to [read this welcome letter](#), which is sent to all new registrants, advising them of their obligations and best administrative practices for managing their account on Lobbying.ie.  
**Code of Conduct**  
We are currently drafting the Code of Conduct for persons carrying on lobbying activities. For further information on how to make a submission in relation to the draft Code of Conduct please click on the link below  
[Advertisement for consultation on Code of Conduct](#)  
**Announcements**  

- 28 June 2018 - Standards Commission publishes [Annual Report 2017](#) under Regulation of Lobbying Act
- 21 June 2018 - [Advertisements for consultation on Code of Conduct](#)
- 8 May 2018 - Open House Information
- 7 July 2017 - Standards Commission publishes companion [Highlights](#) document to the 2016 Annual Report
- 3 July 2017 - Standards Commission publishes [Annual Report 2016](#) under Regulation of Lobbying Act
- 1 February 2017 - The Standards Commission has revised its [guidelines for persons lobbying](#) to add information about enforcement provisions now in effect.
- Do you have to submit a "Nil Return"?

**Next Deadline**

- 21 September 2018 - Returns due for return period 1 May - 31 August 2018
- 21 January 2019 - Returns due for return period 1 September - 31 December 2018
- 21 May 2019 - Returns due for return period 1 January - 30 April 2019

**Online Services:**

- [Register as a lobbyist](#)  
From 1st September 2015 you will need to register and verify your details before you can record your lobbying activity.
- [Search the Directory](#)  
Search the Directory of Registrants.

**Contact Us**  
The Register of Lobbying is maintained by the Standards in Public Office Commission.  
**Address:** Standards in Public Office Commission | 18 Lower Leeson Street, Dublin 2 | D02 HE97 | Ireland  
Tel: +353 (0)1 639 5722 | Email: [info@lobbying.ie](mailto:info@lobbying.ie) | Twitter: @LobbyingIE  
**Additional links**

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- [iStock](#)