Regulatory Impact Analysis in relation to the Regulation of Lobbying Bill 2013

1 Introduction

Regulatory Impact Assessments (RIA) requires

(i) a clear identification of objectives,
(ii) structured consultation with stakeholders,
(iii) detailed examination of impact, and
(iv) consideration of the use of alternatives to regulation.

2 Descriptions of Policy Context and Objectives

2.1 The positive role of lobbying in the democratic process

Vibrant communication and dialogue and close interaction and engagement between government and citizens are central to a well-functioning democracy and are vital to support informed and evidence-based decision making. It helps ensure that the policy formulation and development process benefits from full information and that all individuals, groups and interests in society have an opportunity to contribute to it. It also supports the political process in finding a balance between competing interests, in fostering consensus and in helping to guide and educate public and political debate.

Interest groups, representative bodies, industry and civil society organisations, NGOs, charities and third party professional lobbyists all provide crucial input and feedback to the political and public administration systems through communication of the views and concerns of the public to Government. However, they also clearly seek to influence the policy and decision-making process in order to align it to their goals and objectives. These goals and objectives may reflect a private, commercial or sectional interest or what may be represented as a wider public interest or benefit.

By seeking to regulate those involved in this process the aim is not to restrict the flow of information, opinions, perspectives or proposals feeding into policy making or legislation but rather to bring about significantly greater transparency so that the public at large will know who is seeking to influence whom in respect of what in relation to public policy.

It is appropriate that this activity is open to public scrutiny as part of the desirable checks and balances which help ensure any attempt to seek to exert undue or improper influence on the conduct of policy formulation and development, political decision making and preparation and implementation of legislation is discouraged.

The reports of the Mahon and Moriarty Tribunals have highlighted *inter alia* the risk that the legitimacy of the political system could be eroded by the corrosive impact of secrecy and undue influence. The regulation of lobbying is one of a suite of measures which the

Government is taking to address, through an extensive programme of political and government reform, the serious concerns which have emerged in this area.

Transparency Ireland has referred to a study undertaken in 2009[1] in which it was stated that Irish business leaders perceived that public policy in Ireland was *"…unduly influenced to a greater degree than many low-income countries. This phenomenon, known as Legal Corruption[2], is especially prevalent in jurisdictions where influence is sold or trafficked through lawful means such as lobbying or through informal networks reinforced by political donations.[3]* In relation to the US *"The International Monetary Fund has also identified a link between the influence brought to bear on the regulation of financial services and the current international financial crisis*."[4]

By regulating lobbying activity through registration and reporting requirements, the aim is to strengthen public confidence in politics and in the business of government, to increase the accountability of decision makers and to subject public policy making, and those who seek to influence it, to greater openness, transparency and to the potential for appropriate independent scrutiny.

The value of regulation of lobbying in fostering a culture of integrity is supported by the Organisation for Co-operation and Development (OECD) which states that:-
"…a sound framework for transparency in lobbying is crucial to safeguard the public interest, promote a level playing field for business and avoid capture by vocal interest groups…" [5]

The Programme for Government contains a commitment to introduce a statutory register of lobbyists and rules governing the conduct of lobbying. The fundamental objective of this commitment, which guides the proposed policy approach, is to ensure that there is an appropriate degree of transparency regarding lobbying activity. Greater transparency in this area, in tandem with the proposed strengthening of anti-corruption legislation, would also be expected to both discourage the scope for, and assist in the detection of, the type

[1] National Integrity Systems Study for 2009
[2] According to Transparency International (*p16 National Integrity Systems, Transparency International Country Study Ireland 2009*) legal corruption arises where, while no laws may be broken, personal relationships, patronage, political favours and political donations are believed to influence political decisions and policy to a considerable degree. The report highlights that the situation is compounded by a lack of transparency in political funding and lobbying.
[3] Daniel Kaufman, *Legal Corruption*, World Bank Institute, 2005, http://siteresources.worldbank.org/INTWBIGOVANTCOR/Resources/Legal_Corruption.pdf.
[4] Igan D., Mishra P., Tressel T., *Working Paper WP/09/287 A Fistful of Dollars: Lobbying and the Financial Crisis*, International Monetary Fund, 2009. The authors found a statistical correlation between lenders who engaged with policy-makers most intensively on issues of mortgage lending, and those who were most negatively affected during the current crisis. These lenders had looser lending standards measured by loan-to-income ratio, greater tendency to securitise, and faster-growing mortgage loan portfolios. The authors conclude that preventing a future crisis might require weakening the political influence of the financial industry or greater transparency in how public policy is influenced.
[5] OECD January 2010. *Transparency and Integrity in Lobbying* p.1.

of corrupt conduct that has been facilitated through the lobbying process as set out in the report of the Mahon Tribunal.

The Programme for Government also contains a proposal for the introduction of a two-year 'cooling off' period which would apply to senior public servants, ministers and special advisers which would prevent them for working in a role in the private sector involving a potential conflict of interest with their previous public service role. Internationally, this issue is usually addressed as part of lobbying legislation.

The Public Service Reform Plan 2011 contains a commitment to prepare legislation to meet these objectives in 2012 with a proposed implementation date early in 2013.

2.2 Integrated programme of political reform

The reasons for regulating lobbying in Ireland are all grounded in the principal necessity of enhancing transparency. If true transparency can be achieved, there will not only be greater clarity surrounding policy decisions, but public faith in the political system will be somewhat, restored. This must be a primary objective within the Irish political sphere.

In parallel with these proposals on the regulation of lobbying, consideration is also being given to a root and branch review of the Ethics and Standards in Public Office codes of legislation to strengthen that framework and to put in place robust arrangements, taking account of lessons learned from the Mahon and Moriarty Tribunals. Proposals have been published to enhance Freedom of Information legislation and increase the level of transparency in how business is conducted within the public sphere. Another important element of this programme for political reform is the Whistleblowers Bill which will support those who identify wrongdoing and have the courage to bring the matter to light. These initiatives are complementary to the lobbying proposals and will help to achieve the overall goal of greater transparency in key areas of Irish life.

3 Identification of Policy Options

3.1 International approaches to the regulation of lobbying

The Department of Public Expenditure and Reform commenced a review of international approaches to the regulation of lobbyists at the end of 2011. Research was undertaken of lobbying regulation in Canada, USA, Australia, New Zealand and several European countries. The regulation in place in the European Union institutions was also analysed, as were the proposals for a self-regulatory regime in the UK.

As a part of this research the Government Reform Unit in the Department engaged with the Commissioner of Lobbying in Canada and with the Integrity Commissioner in Ontario who provided information on the practical functioning of registers of lobbyists in these jurisdictions.

Reports on various aspects of lobbying regulations implemented in different jurisdictions further informed the research. These included reports carried out on lobbying regulation in Canada, the UK and Australia (see Appendix 1).

3.2 Independent international analysis / academic research

Supplementing the international research, the academic research referred to was:-

(i) *Regulating Lobbying: A Global Comparison* by Raj Chari, John Hogan and Gary Murphy,

(ii) Analysis published by the OECD on the subject of lobbying including:-

a. *Lobbyists, Government and Public Trust: Promoting Integrity by Self-Regulation, (2009);*

b. *Lobbyists, Government and Public Trust* (vol.1), (2009).

The Department of Environment, Community and Local Government commissioned research in 2005 from Trinity College Dublin/Dublin City University to establish a clear profile of formal systems for regulating lobbyists in public life in certain jurisdictions thereby facilitating an assessment of their relevance to public life in Ireland. Their research report, entitled "*Examining and Assessing the Regulation of Lobbyists in Canada, the USA, the EU Institutions, and Germany"* was published in 2006.

3.3 Private Members' Bills

There have been five Private Members' Bills (PMBs) published on the topic of regulation of lobbying since 1999 and one draft Bill.[6] Four of the PMBs were introduced by the Labour Party and one was introduced by Fianna Fáil. Fine Gael included a draft Lobbying Bill in their "*New Politics"* document published in 2010. The Department reviewed these proposals as part of their research into appropriate legislative frameworks for the regulation of lobbying.

3.4 Wider Policy Context

In developing the proposals on the regulation of lobbying particular regard has also been given to the wider policy context and, in particular, to serious concerns about the lack of transparency in the decision-making and public policy processes. In this context, careful consideration has been given to the findings and recommendations recently published in the "*Final Report of the Tribunal of Inquiry into Certain Planning Matters and Payments"* (Mahon Tribunal Report).

4 Consultation

4.1 First phase of public consultation

[6] The Labour Party introduced PMBs in 1999, 2000, 2003 and 2008. Fianna Fáil introduced a PMB in 2012 and Fine Gael published a draft bill in the New Politics Paper in 2012 within the *Open Government* draft bill.

In December 2011 submissions were invited from interested parties on key issues relating to options for the design, structure and implementation of an effective regulatory system for lobbying in Ireland. The consultation process was based on the agreed OECD Principles for Transparency and Integrity in Lobbying which was the subject of a Recommendation by the OECD Council in February 2010.

The response to the consultation process was positive and approximately sixty organisations and individuals submitted views to the Department (see list at Appendix 2). The main themes emerging from these submissions included:-

(i) The need for a clear definition of lobbying, who should be included or excluded as lobbyists and what exemptions should apply:
(ii) The need to have regard to the rules relating to the charitable tax-exempt status of charitable organisations:
(iii) The requirement for independent oversight and monitoring of any regulatory system:
(iv) The preservation of normal constituent access to his or her political representatives:
(v) The need for an easily accessible registration system with minimum bureaucracy in registering or updating; and
(vi) Support for a statutory 'cooling off' period to address the 'revolving door' issue relating to movement between the public and the private sector.

A more detailed summary of the key issues which emerged from the submissions is at Appendix 3. A number of these contributors subsequently were invited to meet with officials from the Department to discuss specific issues contained in their submissions. A note summarising some of the main points identified from these meeting is at Appendix 4.

4.2 Policy Paper

In July 2012 the Department published a policy paper entitled 'Regulation of Lobbying Policy Proposals'. The policy paper was developed primarily on the basis of:-

- the OECD principles which formed the basis for the public consultation carried out earlier this year;
- international research, expert assessments and analyses of best practice in lobbying regulation in other jurisdictions;
- the content of several Private Members Bills published since 1999; and
- the views received in the responses to the public consultation as well discussions at subsequent meetings with some of the contributors to the consultation.

In overall terms the paper examines what activity should be the subject of regulation through the introduction of a lobbying register.

The paper was published to communicate to the public and to all interested parties, including Government Departments and public bodies under their aegis, the main

elements of the Minister's proposed policy approach to the development of legislation governing lobbying regulation.

In addition to informing the general public of the key aspects of the proposed regulatory system, the publication of this policy paper was also intended to allow stakeholders to provide their views on, for example, key implementation issues relating to the Minister's proposed policy approach. A summary of the key recommendations contained in the policy paper to achieve this objective is set out in Appendix 5.

4.3 Public Seminar

Following the publication of the policy proposals, a public seminar on the regulation of lobbying in Ireland was hosted by the Department of Public Expenditure and Reform on 5 July 2012. This provided an opportunity to discuss these proposals and options for the proposed regulatory system and to debate issues that emerged from the consultation process. The key issues which arose at the public seminar include:

1. Challenges that may arise for the operation of the register in light of the level and degree of intensity of contacts and communication between bodies and individuals lobbying and the lobbied;
2. The type of summary information that should be contained in the proposed quarterly reports which will demonstrate appropriately the nature, scope, intensity and type of lobbying activity carried out;
3. Whether the name of the organisation rather than the individual lobbying or lobbied should be used;
4. If the focus should be on determining an appropriate definition of lobbying rather than, for example, seeking to define what constitutes a lobbyist;
5. The appropriate and proportionate level of coverage for civil and public servants as 'lobbied persons';
6. The matters on which it is proposed a registration and reporting requirement will arise if lobbying takes place on them;
7. The proposed circumstances in which unpaid directors, officeholders in representative bodies, NGOs or charities would be required to register;
8. The criteria / conditions that might allow for (i) distinctions between significant and less-significant contacts, (ii) communication in relation to participation on government-sponsored groups or (iii) responding to requests for information received from public bodies which on account of their factual content do not provide a significant opportunity to influence.
9. The proposed 'cooling-off" period;
10. The main issues that could be addressed by an Implementation Advisory Group.

4.4 Second phase of public consultation

Following the public seminar a further consultation phase on lobbying took place focusing on the issues raised at the seminar. The consultation document setting out these issues is at Appendix 6.

5 Analysis of Costs, Benefits and Impacts

5.1 Policy Rationale for Regulation of Lobbying

As outlined in paragraph 2 above, Government needs to be open to outside interests and ideas. Lobbying should, therefore be regarded as a force for good and as an essential element of the democratic process. Individuals and organisations legitimately and reasonably want to influence decisions that may affect them. Government in turn needs access to the knowledge and views that lobbying can bring. Lobbying provides decision-makers with valuable insights, information, policy perspectives, identification of and debate regarding different policy options.

This role is critical given the complexity of public policy and government decision making and the wider impact of government. Evidence-based lobbying based on and underpinned by rigorous research and analysis can improve the quality of decision-making.

5.2 The case for Regulation

Lobbying practices are deeply embedded in our democratic framework. However, greater openness and transparency on public policy formulation, development and decision-making is considered central to securing more effective public governance. Unregulated lobbying creates risks in terms of the lack of openness, transparency and the integrity of the political and administrative decision-making. As highlighted in the final report of the Mahon Tribunal such lobbying can exacerbate corruption risks. Even small gifts and other benefits of a minor value that arise in the context of the lobbying process can engender a sense of obligation or reciprocity.[7] Unregulated lobbying can also erode the legitimacy of democratic governance by undermining political equality between citizens or even from being seen to have this effect.[8]

The primary purpose of lobbying by individuals or groups with different interests is to influence decisions taken at political and administrative level. There is, therefore, a strong public interest in knowing who is lobbying whom about what. Unregulated lobbying can give rise to significant public concern about the role of vested interests in policy making and risk that privileged or excessive influence may result in sub-optimal public policy decisions which might be made to suit private agendas to the overall detriment of the community and society at large. In this regard, the Mahon Tribunal recommended the regulation of lobbying to secure significantly greater transparency over

[7] The Mahon Tribunal Report, p2532 (1.60).

[8] While it is not possible to have influence without access it is possible to have access but not wield any influence.

the lobbying process and the implementation of appropriate professional standards governing the conduct of lobbyists.

5.3 Goal of Regulation

The key objective in introducing a register of lobbying is to make information available to the public on the identity of those seeking to influence public policy decisions. This will allow the wider public to reach informed evidence-based judgements about the extent to which different interest groups are able to access and have accessed, and may be able to influence and have influenced, decision making and help underpin public confidence by assuaging concerns that lobbying carried out behind closed doors could override the interests of the whole community.

Regulation would be expected to contribute to the further professionalisation of and increase the public understanding of lobbying. It is also hoped that public perceptions of the lobbying profession would improve through the introduction of a system of regulation and that lobbying would, therefore, cease to be a pejorative term. Lobbying regulation is expected to serve a valuable function in promoting openness and transparency, supporting integrity and enhancing the efficiency of the public policy making and decision making processes. Regulation of lobbying renders politicians and government officials more accountable[9] and in and of itself helps promote transparency.[10] It is essential that the regulatory regime put in place must be balanced and fair to all parties and designed in a manner compatible with the constitutional framework and appropriately aligned with the positive elements of Ireland's prevailing political culture.

As highlighted above since communication is the essence of policy making the introduction of lobbying regulation cannot be allowed to impede the flow of information from the public and other bodies. It is vital that lobbying is defined in a manner which ensures that individual members of the public do not hesitate to offer their views to government. The international experience of lobbying regulation is such that there is no reason to believe that regulation will make it more difficult to gain access to key policy and decision makers. The introduction of lobbying regulation in other jurisdictions seems to have been accepted as a fact of life and has not given rise to any unintended deleterious effects.

5.4 Costs and Consideration of administrative burden concerns

A key priority for implementation of lobbying regulation is that the administrative burden is proportionate. The Department recognises that this is likely to be the main cost arising from the perspective of stakeholders. Based on the Department's assessment, informed by the submissions made, its further consultations with some contributors to the process and issues raised at the seminar, the most significant challenge in implementing the

[9] Accountability refers to taking responsibility and having to justify to citizens actions that are taken.
[10] Transparency refers to the ease with which the public can monitor not only the government with respect to its activity but also examine which private interests are attempting to influence how public policy is formulated.

regulatory regime will be to ensure that the sheer volume of information required to be registered is not such that the register is overwhelmed by it and the transparency which the register is intended to secure substantially eroded as a result.

The major concerns expressed by stakeholders in the submissions and at the seminar on the question of the administrative burden were around the disclosure of information and voluminous requests. A number of submissions expressed serious concern at a possible requirement to register every contact or communication due to the voluminous nature of contact with public bodies by some organisations. The administrative burden associated with such detailed reporting was considered potentially unreasonable, particularly by a number of representative organisations. Of concern also was the question of burdensome registration of multiple contacts on a single issue. The submissions varied in their view of how the register should be updated. Views ranged from quarterly updates to annual reports. Participants at the seminar agreed that the disclosure of information should be proportionate and not give rise to an onerous administrative burden. Concern was expressed regarding the practical challenge of operating a register in light of the level and degree of intensity of contacts / communications between bodies and individuals lobbying and the lobbied. The issue of including financial data (e.g. the amount spent on lobbying activities) was also raised with differing views expressed as to the public interest and administrative feasibility in disclosing such information on the register.

The overall purpose of the register is to provide the public with access to sufficient information regarding lobbying activities relating to public policy and decision making in order to enable the assessment of the nature and extent of that lobbying and to re-assure the public that it conforms to the public interest. The priority is, therefore, to put in place a balanced approach which delivers transparency but not at the cost of excessive or onerous reporting requirements. Once a first registration has been completed a crucial issue relates to the ongoing reporting requirement. This reporting is the major determinant of the administrative burden created by the regulatory regime in terms both of the legal requirements for disclosure to the oversight/supervisory body responsible for the register as well as the internal procedures and systems which must be put in place by each organisation or individual which is subject to regulation.

It is proposed that the emphasis should be placed on meaningful and structured reporting for the register on, for example:-

- the specific nature of the issues on which lobbying has taken place,
- the person(s) who has been the subject of lobbying, and
- sufficient information to determine the nature, scope, intensity and type of lobbying activity.

These reporting requirements should be equivalent to the management information already compiled by bodies engaged in lobbying so that no significant additional burden will be imposed on the gathering of information for the purposes of registering. For example, consultant lobbyists would already hold this information for reporting / billing purposes; commercial interests would hold this information for reporting to senior management / board level; and, other registrants would be likely to report what they seek to communicate / disseminate to their membership or to the media.

It is not recommended that each and every lobbying contact between a registrant and a public official should be recorded on the register. This approach reflects the potentially very large number of individual contacts that often take place both in respect of significant public policy issues but also on what would be regarded as specialist and technical issues. Of course the latter issues may sometimes emerge as matters of significant public concern at a later stage.

In view of the fact that it is intended to implement a system of regulation for lobbying where previously there was none, a phased and measured approach may be appropriate in the first instance. In this context, it is proposed that for the initial period of the operation of the lobbying register, while there will be a legal obligation to register, the Registrar will promote compliance through its powers in providing advice, guidance and support to registrants rather than through the exercise of its investigatory and enforcement powers. In circumstances that a new detailed regulatory system is being introduced with a comprehensive scope where none previously existed, careful management of the risks of various serious unintended consequences is required. It is proposed that after its first year of operation the Minister will carry out a review of the effectiveness and efficiency of the operation of the regulatory system which will allow for an informed assessment to be made of the progress achieved and the point at which the Registrar should employ full powers of investigation and enforcement.

5.5 "Cooling-Off" period

The Programme for Government commits to amending "*…the rules to ensure that no senior public servant (including political appointees) or Minister can work in the private sector in any area involving a potential conflict of interest with their former area of public employment, until at least two years have elapsed after they have left the public service."*

A proposed cooling-off period, in the context of the regulation proposed, refers to a period of time after leaving office during which former office holders (and possibly others) would be barred from engaging in certain activity where a potential conflict of interest arises with their former area of public employment. This measure has been introduced in other jurisdictions although the period of time chosen has varied. The measure is sometimes identified as designed to address the "revolving door syndrome" which arises when individuals move from a ministerial or senior administrative role to a private sector employment in a closely related area where a conflict of interest exists or might be perceived to exist between their new and previous role (see Appendix 7 for information on good practice in this area and positions adopted in other jurisdictions).

6 Enforcement and Compliance

6.1 Oversight Body

An oversight body is required to monitor and promote compliance with the requirements of the regulations. The body chosen to discharge this role must possess adequate institutional capacity including administrative independence, competence and authority which are indispensable for implementing legislation effectively. In addition, it must be independent of political pressures and be provided with sufficient resources to carry out its role.

In the current economic climate, it is considered preferable to place the regulatory function within an existing body rather than create a new Agency. The General Scheme proposes the Standards in Public Office (SIPO) as the body best placed to fulfill this role particularly as they have the responsibility for the management of compliance with the Ethics and Standards in Public Office code of legislation.

6.2 Costs of enforcement and compliance

The additional annual costs of SIPO associated with enforcement and compliance are estimated at €0.4m. In addition, once-off set up costs in relation to the establishment of the register, initial education and information campaign, etc, are estimated at €0.3m.

7 Review

The consultation process has demonstrated the complexity of the issues arising in relation to the introduction of regulation in this area for the first time. The Minister wishes to ensure that that the correct balance is achieved between the need for maximum transparency in public policy making and the need to avoid unnecessary administrative burden on those sectors which interact with Government. The General Scheme therefore proposes review of the legislation 18 months after commencement in light of experience with implementation of the regulatory arrangements.

8 Summary – Consistency with Better Regulation Principles

The Revised RIA Guidelines (June 2009) state that RIA should contribute to achieving the six principles of Better Regulation identified in the Government White Paper Regulating Better (Department of the Taoiseach, 2004) and that these principles should always be taken into account when evaluating different options and deciding whether a particular regulatory option should be pursued.

This section of the RIA assesses in overall terms how the proposals for the regulation of lobbying are aligned with the six principles of Better Regulation.

1. **Necessity** – *is the regulation necessary? Can we reduce red tape in this area? Are the rules and structures that govern this area still valid?*

The **necessity** for the proposals is underpinned by:-

- The relevant proposal contained in the Programme for Government
- The requirement to implement appropriately the recommendations contained in the final report of the Mahon Tribunal relating to the regulation of lobbying

The OECD and other international bodies have also highlighted the strong rationale for the regulation of lobbying in view of the contribution it can make to increased transparency and integrity in public life. The case for regulation of lobbying is also demonstrated by the regulations in force internationally and the initiatives currently underway in a number of other jurisdictions to regulate lobbying.

2. **Effectiveness** – *is the regulation properly targeted? Is it going to be properly complied with and enforced?*

As set out above, a major objective of the extensive consultations and policy analysis carried out in the course of the development of these proposals was to seek to ensure the effectiveness of the proposed approach. In this context, very careful attention has been given by the Department to the examination and assessment of international best practice in order that the proposals for regulating lobbying in Ireland as set out in the General Scheme of the Bill build on what has been found to be successful internationally, learn from the lessons available from difficulties, gaps and weaknesses in the regulation of lobbying and proposals for such regimes that have emerged in other jurisdictions, while at all times taking into account the unique and atypical features of the Irish political and administrative system that must inform and guide the regulatory approach. A comprehensive assessment of effectiveness will take place after the registration system has been in place for one year which will enable a determination to be made as to the appropriate timeframe to grant full enforcement powers to the Registrar of lobbying.

3. **Proportionality** – *are we satisfied that the advantages outweigh the disadvantages of the regulation? Is there a smarter way of achieving the same goal?*

As discussed above, the proposed statutory regulation of lobbying is included in the Programme for Government and is a central element of the Minister's agenda for political reform and open government. However, the case for a statutory system is strongly borne out by the deficiencies that have been identified in self- / non-statutory regulatory systems. This is illustrated in particular by the extensive work carried out by the OECD examining self-regulation of lobbyists.

The adoption of a **proportionate** approach to regulation has been a major priority in the development of these legislative proposals. The General Scheme contains a significant number of provisions specifically designed to ensure that the regulatory regime operates in a balanced and proportionate manner including for example:-
- the proposed exclusion from the definition of matters on which lobbying takes place for issues relating to the technical aspects of implementation of existing rules or regulations or specific statutory entitlement;

- the proposed stepped or incremental approach to the definition of lobbied persons to ensure that the establishment of the register of lobbying is initially focused on specific priority areas;
- the particular attention paid in the design of the proposed legislation to ensuring that normal, conventional interaction and engagement between individual citizens and their political representatives does not give rise to a registration requirement;
- the proposed exclusion of particular interactions from the lobbying register where the registration obligation arises from a contact initiated by an official and strictly in circumstances where the interaction is otherwise captured under a transparency code;
- the proposed provisions allowing in strictly limited circumstances for a Minister to issue a certificate delaying publication of lobbying activity where its disclosure could give rise to a serious adverse effect on the financial interests of the State;
- the powers which it is proposed will be provided to allow the Minister make secondary legislation to ensure that the operation of the regulatory system is effective and efficient
- the proposed arrangements for the commencement of provisions relating to the investigatory and enforcement powers of the Registrar.

4. **Transparency** – *have we consulted with stakeholders prior to regulating? Is the regulation in this area clear and accessible to all? Is it supported by good explanatory material?*

As detailed above, a detailed, comprehensive and extensive series of consultations were carried out by the Department of Public Expenditure in the preparation of these legislative proposals for the regulation of lobbying. Independent commentators have characterised this consultative process as an example of best practice particularly in terms of the high level of **transparency** involved. Full details of the consultative process are available on the Department's website *www.per.gov ie*

5. **Accountability** – *is it clear under the regulation precisely who is responsible to whom and for what? Is there an effective appeals process?*

The legislative proposals contained in the General Scheme of the Bill have been drafted with the assistance of a senior legal adviser to ensure that there is a high level of clarity regarding the accountability relationships which it is proposed will be put in place under the regulatory regime. The project also benefitted from the advice and guidance of Lobbying Registrar for the State of Ontario (Canada) who highlighted the importance of ensuring that the proposals established clear lines of **accountability**. An appeals mechanism based on appropriate precedents from other statues is included in the proposed legislation.

6. ***Consistency*** – *will the regulation give rise to anomalies and inconsistencies given the other regulations that are already in place in this area? Are we applying best practice developed in one area when regulating other areas*

In the analysis leading to the finalisation of the proposals, a particular focus for the Department was to ensure an appropriate alignment between the proposed regulatory

system for lobbying and the requirements currently applying to the potential "lobbied" under Freedom of Information and other transparency initiatives under consideration. A major theme which emerged from the consultative process was to ensure that the regulation of lobbying and transparency initiatives applying to public servants and political representatives should be complementary and self-reinforcing. This **consistency** of approach is considered critical to the effectiveness to both the proposals for regulating lobbying and other measures and initiatives that are being advanced as part of the open government agenda by the Minister for Public Expenditure and Reform.

9 Conclusion – A Balanced Approach to Regulation

The Regulatory Impact Assessment has considered the following aspects of the proposed regulation of lobbying activity:

- the policy context and objectives
- the range of policy options based on national and international research
- the views of stakeholders as expressed through an extensive consultations process
- an analysis of the costs, benefits and impacts
- enforcement and compliance arrangements
- the need for review

This analysis and in particular the feedback from the consultation process informed the drafting of a General Scheme of a Bill and, in particular, took on board the views of stakeholders in relation to the importance of developing a system which is easy to use and minimises the administrative burden on those registering. The Heads of the Bill were circulated to all Government Departments for their views prior to their presentation to Government. Subject to Government approval, the Minister for Public Expenditure & Reform intends to forward the General Scheme of the Bill to the Joint Oireachtas Committee on Finance, Public Expenditure and Reform for their views prior to the finalisation of the drafting of the Bill.

Appendix 1

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The United States (US)
Federal Legislation
The Lobbying Disclosure Act.

State Legislation
Comprehensive Government Ethics Reform Act, Tennessee, 2006.

The European Union

Legislation/Codes of Conduct
Interinstitutional Agreement on the European Transparency Register.

Treaty on the Functioning of the European Union (TFEU).

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The Council of Europe
Recommendation
Recommendation 1908 of the Parliamentary Assembly of the Council of Europe, *Lobbying in a Democratic Society (European Code of Good Conduct on Lobbying),* 2010: http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta10/erec1908.htm

Poland
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France
Legislation/Rules/Codes
Instruction Générale du Bureau de l'Assemblée Nationale, article 26: http://www.assemblee-nationale.fr/representants-interets/index.asp#code

Rules of Procedure of the National Assembly 2010, article 79: http://www.assemblee-nationale.fr/english/8ac.asp

Représentants d'intérêts à l'Assemblée Nationale, code de conduite applicable aux représentants d'intérêts adopté par le Bureau le 2 juillet 2009: http://www.assemblee-nationale.fr/representants-interets/index.asp#code

Règlement du Sénat et Instruction Générale du Bureau, XXII bis:
http://www.senat.fr/reglement/reglement_mono.html#toc296

Code de conduite applicable aux groupes d'intérêts au Sénat: http://www.senat.fr/role/groupes_interet.html

Arrêté du Questure définissant les droits d'accés au Palais du Luxembourg des représentants des groupes d'intérêts, Arrêté no.2010-1258: http://www.senat.fr/role/groupes_interets_aq.html

Germany
Rules

Rules of Procedure of the German Bundestag: https://www.btg-bestellservice.de/pdf/80060000.pdf

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Web-based Research

The United Kingdom (UK)
United Kingdom Public Affairs Council (UKPAC): http://www.publicaffairscouncil.org.uk/

Canada
Canadian Federal Register of Lobbyists: http:-//www.ocl-cal.gc.ca/eic/site/012.nsf/Intro (The annual reports conducted by the Commissioner are also available on this website).

Register of Lobbyists in Ontario: https:-//lobbyist.oico.on.ca/LRO/GeneralSettings.nsf/vwEnHTML/Home.htm

The United States (US)
The US Federal Register of Lobbyists: http:-//disclosures.house.gov/ld/ldsearch.aspx

National Conference of State Legislatures, information database on ethics: http:-//www.ncsl.org/legislatures-elections/ethicshome/50-state-chart-lobby-definitions.aspx

The European Union
The EU Transparency Register: http:-//europa.eu/transparency-register/index_en.htm

France
The French *Assemblée Nationale* Register of Lobbyists: http:-//www.assemblee-nationale.fr/representants-interets/liste.asp

The French *Sénat* Register of Lobbyists: http://www.senat.fr/role/groupes_interet.html

Germany
The German *Bundesanzeiger* where the list of associations and interest groups is published each year: https:-//www.bundesanzeiger.de/ebanzwww/wexsservlet

Australia
The Australian Register of Lobbyists: http:-//lobbyists.pmc.gov.au/who_register.cfm

Additional Links
Raj Chari, John Hogan and Gary Murphy research: http://regulatelobbying.com/

Office of the Revenue Commissioners: http://www.revenue.ie/en/index.html

The Public Relations Institute of Ireland (PRII): http://www.prii.ie/

Standards in Public Office Commission (SIPO): http://www.sipo.gov.ie/en/

The Code of Athens:
http://www.prii.ie/show_content.aspx?idcategory=1&idsubcategory=1

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Lisbon: http://www.prii.ie/show_content.aspx?idcategory=1&idsubcategory=1

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http://www.echr.coe.int/nr/rdonlyres/d5cc24a7-dc13-4318-b457-5c9014916d7a/0/englishanglais.pdf

Appendix 2

Submissions to the Department of Public Expenditure and Reform's First Phase Public Consultation Process

Initials	Title
ASH Ireland	Action on Smoking and Health
	Age Action Ireland Ltd.
	Alcohol Action Ireland
AOI	Association of Optometrists Ireland
	Barnardos
	BirdWatch Ireland
	Chambers Ireland
CAI & CCAB-I	Chartered Accountants Ireland and Consultative Committee of Accounting Bodies
	Conor McGrath Public Affairs
Cúram	Cúram (Irish Parent & Carers NGO)
	Department of Jobs, Enterprise and Innovation
	Dr Elaine Byrne (Adjutant Lecturer, Trinity College)
DIMA	Dublin International Insurance & Management Association
	Eve Rowan, Ciara O'Sullivan and Killian Keys (DIT Students)
FODO	Federation of Ophthalmic and Dispensing Opticians
FODO	Federation of Ophthalmic and Dispensing Opticians (Letter)
	Fianna Fáil
FLAC	Free Legal Advice Centers Ltd.
	GCF Consulting
	Hume Brophy
IPAV	Institute of Professional Auctioneers and Valuers
IBEC	Irish Business & Employers' Confederation
ICS	Irish Cancer Society
ICTR	Irish Charities Tax Reform Group
ICTU	Irish Congress of Trade Unions
ICSH	Irish Council for Social Housing
IFA	Irish Farmers Association
IHF	Irish Heart Foundation
	Irish Hospice Foundation
IMO	Irish Medical Organisation
INOU	Irish National Organisation for the Unemployed
IPU	Irish Pharmacy Union
IPOA	Irish Property Owners Association
ISCP	Irish Senior Citizens Parliament
ISME	Irish Small and Medium Enterprises Association
ITIC	Irish Tourist Industry Confederation
	JohnPlayer
	Law Society of Ireland
	Mason Hayes & Curran
	Nessa Childers M.E.P.

	Older & Bolder
	One Family
	PolicyAction
PIBA	Professional Insurance Brokers Association
PRCA	Public Relations Consultants Association Ireland
PRII	Public Relations Institute of Ireland
RAI	Restaurants Association of Ireland
RGDATA	Retail Grocery, Dairy & Allied Trades Association
SJI	Social Justice Ireland
SVP	Society of St. Vincent de Paul
TASC	TASC
	The Advocacy Initiative
	The Advocacy Statement Designed
ASI	The Alzheimer Society of Ireland
treoir	The National Federation of Services for Unmarried Parents and their Children
	The Wheel
	Transparency Ireland
	Valuation Office
VOICE	Voice of Irish Concern for the Environment
Arthur Cox	Working Group of Irish Charity Law Practitioners
Arthur Cox	Working Group of Irish Charity Law Practitioners (Australian Definition)

Appendix 3

Summary of Key Issues emerging from the submission received

- Support for regulation of lobbying – there is overwhelming support for the proposal in principle. Some concerns are expressed that regulation should not hinder interaction with Government.
- Scope of registration – the submissions include varied opinions on which organisations and groups should be included. The views expressed relate to professional lobbyists, representative bodies, charities, trade unions and employer groups, professional services (accounting, legal firms), not for profit organisations and grassroots advocacy.
- Status of Charities – the submissions express a concern that advocacy activities be treated differently or excluded and that the tax status of charities should not be compromised by their inclusion in a lobbying register.
- Definition of lobbying – there is broad consensus that clarity is required on the definition of lobbying. Issues raised include discussion as to whether a threshold should apply below which regulation would not apply i.e % of time spent on lobbying, budget, size of organisation, status and purpose of organisation, etc. The preservation of normal constituent access to political representatives is also raised.
- Ease of use – there is general agreement on need for accessibility & minimum bureaucracy in registering
- Costs – The general view emerging from the submissions is that costs should not apply to those registering.
- Detail of information to be supplied on register – there are varied opinions on level of detail necessary. Views range from registration of basic details on the organisation and subject matter to dates and descriptions of meetings, details of funding sources, financial information re spend on lobbying, background of individuals, etc.
- Code of conduct – those who commented on this issue favour a code of conduct to accompany regulation.
- Cooling off period - general support for the idea of 2 year period prior to re-employment of politicians or public servants where a conflict of interest exists.
- Oversight – there is support for independent oversight of the regulatory system.

Appendix 4

Regulation of Lobbying
Meetings with contributors to the consultation process

Background
The Government Reform Unit met with some of the contributors to the public consultation on lobbying regulation to discuss further and clarify some issues highlighted in their submissions. This note summarises some of the main points identified by the Unit from these meetings[11].

Summary of Key Points

- There was strong support for the principle of lobbying regulation and a preference for a mandatory rather than a voluntary approach.

- The protection of ordinary citizen access to representatives is a concern.

- There was less agreement evident on what might be appropriate definitions of lobbying and lobbyist.

- There was a divergence of views on whether bodies or organisations that are not remunerated for lobbying (i.e. bodies other than consultant lobbyists) should be required to register.

- Some contributors felt that representative organisations should not be required to register because there is already complete transparency surrounding their activities.

- The term 'lobbyist' has negative conations for, in particular, representative bodies and charitable organisations and the terminology adopted in the legislation needs careful consideration. Some suggested alternatives for the lobbing register were "Transparency" or "Public Affairs" register.

- There were mixed views (i.e. strong support and strong opposition) on whether a tiered approach should be adopted to regulation with different requirements for different categories of registrants.

- There was some consensus that there should be a stronger focus on appropriately defining the activity of "lobbying" rather than concentrating on determining a definition of a "lobbyist".

[11] PRII, PRAC, IFA, IBEC, ICTU, Transparency International, The Wheel, Elaine Byrne, Conor McGrath. This note represents the Unit's interpretation of the points made at these meeting and no specific attribution should be assumed to any parties above.

- Strong concerns were expressed relating to the administrative burden that registration could potentially create including:-
    - it would not be possible to maintain an accurate record of all lobbying communications owing to the volume of such communications in many instances;
    - supplying extensive information about every contact or communication would not necessarily enhance transparency; and
    - the requirement to furnish voluminous amounts of information would also create a significant administrative and financial burden for registrants.

- The EU Transparency Register was referenced by a number of contributors as a good example of an appropriate level of regulation.

- All contributors highlighted particular aspects of the "culture of lobbying" in Ireland and the highly accessible nature of the political system as a particular challenge in putting an effective, efficient and workable system of regulation in place generating the required level of transparency and not giving rise to an excessive or disproportionate administrative burden.

- One contributor strongly advocated including background work outside of direct lobbying within the scope of the regulatory system and also highlighted a potential loophole if HQ personnel in the government political parties were not included within the definition of a person "lobbied".

- The challenge involved in defining who should be included within the definition of someone "lobbied" was stressed in light of the large number of persons at different levels in the civil and public service that perform particular roles and have particular responsibilities in relation to for example, policy development, legislation and administrative decisions.

- A number of different suggestions were made in relation to enforcement and sanctions including 'naming and shaming', fines, removal from the register, access restrictions and imprisonment.

- Many contributors highlighted the necessity to balance the need to deter non-compliance through enforcement measures with the need for the regulator to advise, guide, inform and educate registrants on the operation of the regulatory system. The requirement for the regulator to communicate effectively and regularly with registrants was stressed.

- Some contributors were strongly against any exemptions or exclusions from registration requirements, some others highlighted particular issues around for example, commercially sensitive information and issues connected to collective bargaining.

- There was strong support for putting in place a code of conduct for registrants.

- No objections were expressed to the introduction of a proposed "cooling-off" period.

- The general consensus was that there should be no fee for registration.

- The design and operation of the regulatory system should be such that it does not have any impact on the tax-exempt status of charities.

- Some contributors highlighted the risk of a significant potential loophole in the proposed regulatory system if legal professional privilege is extended to encompass lobbying activity carried out by the legal profession leading to a displacement of lobbying to legal firms to avoid regulation that would otherwise apply.

- Several contributors emphasised the need for parallel strengthening of transparency and disclosure requirements which applied to "lobbied" persons including, for example:
    - the restoration and extension of Freedom of Information legislation;
    - consideration of the role of public office holders in lobbying; and
    - the suggested publication of Ministerial diaries.

- There was a strong consensus that a key objective of the design of the lobbying system should be to avoid any negative affect on:-
    - the ability of individuals or organisations to make representations to political representatives (whether these contacts fell within the regulatory system or were outside of it); and
    - the openness and accessibility of Ireland's political system.

Appendix 5

Regulation of Lobbying Policy Proposals
Summary of Key Recommendations

1. A comprehensive definition of **lobbying** is recommended extending to all communication by;
   a) individuals employed by an organisation,
   b) or acting as an officeholder of a body (other than a purely voluntary body with no remunerated officers or employees),
   c) or receiving fees or remuneration from a third party for making or organising or planning that communication,

   on specific policy, legislative matters or prospective decisions with designated public officials or officeholders.

2. The **matters on which lobbying takes place** would encompass the following:-
   a) the development of, or any amendment to, legislation,
   b) the development of, or any change in the rules or regulations of, any scheme, public programme or policy,
   c) the implementation arrangements for, or the administration of, any scheme or public programme or policy,
   d) the awarding of any grant, contribution or any financial benefit by a public body, and
   e) any specific decision of the public body lobbied that is of benefit or potential benefit to the person lobbying, or to a client of that person, other than a decision that is a matter of entitlement.

3. All natural or legal persons engaged in the activity defined as lobbying under the proposed legislation (**i.e. lobbyists**) would have an obligation to register and report on lobbying activity (subject to the exemptions summarised at 7. below).

4. The **lobbied** targeted by lobbyists are those senior public officials (i.e. officeholders and senior civil and public servants) driving policy formulation, the development of legislative proposals, providing advice and making political and significant administrative decisions. The report of the Mahon Tribunal recommends that lobbying of national and local public officials should be included in any regulatory regime. It is, therefore, proposed in the paper that a definition of designated public officials, i.e. the lobbied, should include the following:-
   a) Ministers and Ministers of State,
   b) TD's, Senators and members of their staff,
   c) Members of Local Authorities,
   d) Special Advisers, and
   e) Senior Civil and Public Servants.

5. The information that should be submitted for publication in the lobbying register should include:-

a) The name, address, business telephone number, and principal place of business of the registrant,
b) For those operating on behalf of third parties, the name, address, principal place of business of the registrant's client and clients on whose behalf lobbying has been undertaken,
c) The general business/commercial interest, representative/advocacy role of the registrant,
d) The specific policy or legislative issues or areas of public administration of interest to the registrant, including the name of the Bill or other identifier of the legislation, and
e) The names of leading employees responsible for lobbying.

6. Reports on lobbying activity should be made by registrants on a quarterly basis within 10 working days of the expiry of the previous quarter providing information on:-

a) the specific nature of the issues on which lobbying has taken place,
b) the person(s) who has/have been the subject of lobbying,
c) summary information to determine the nature, scope, intensity and type of the lobbying activity over that period, and
d) any changes in the registration information already submitted.

7. **Exemptions and Exclusions** should comprise:-

a) All officials of foreign Governments in the State,
b) UN officials, EU officials and officials of other international organisations,
c) All communications that strictly fall under legal privilege or other privilege (as would be recognised by the courts in legal proceedings),
d) Communications made in response to a request by a public official strictly requesting factual information,
e) Any communications/contacts, the disclosure of which could cause a threat to the safety of a person, and
f) Open and transparent public consultations should be excluded where all elements of the consultative process are a matter of public record, e.g. Parliamentary or Oireachtas Committee hearings.

8. The regulatory system for lobbying must be underpinned by effective enforcement by an appropriate **oversight/supervisory body** with the appropriate skills, resources and capacity to regulate effectively as well as the power to impose **sanctions** for non-compliance and misconduct.

9. A **review** mechanism should be put in place.

10. The lobbying legislation should facilitate the introduction of a **"cooling-off"** period to meet the commitment contained in the Programme for Government ensuring that no senior public servant (including political appointees) or Minister can work in the private sector in any area involving a potential conflict of interest with their former

area of public employment, until at least two years have elapsed after they have left the public service.

Appendix 6

Regulation of Lobbying

Introduction
The consultation process carried out by the Department earlier this year was based on the broad principles that might inform the development of proposals for lobbying regulation.

Following publication of the policy proposals which drew on the outcome of this consultation and the seminar on these proposals in early-July the Department wishes to consult on some specific issues to further inform the preparation of legislative proposals.

Key Issues following Farmleigh Seminar

Lobbying regulation
The proposed introduction of an appropriate regulatory system for an important and beneficial activity was welcomed. There is broad agreement that the regulatory system should be mandatory.

Disclosure of information
Participants agreed that the disclosure of information should be proportionate and not give rise to an onerous administrative burden.

Concern was expressed regarding the practical challenge of operating a register in light of the level and degree of intensity of contacts / communications between bodies and individuals lobbying and the lobbied.

The issue of including financial data (e.g. the amount spent on lobbying activities) was also raised with differing views expressed as to the public interest and administrative feasibility in disclosing such information on the register.

Title of Legislation
The possible renaming of the Lobbying Register to a Transparency Register or a Public Affairs Register was raised.

Information requirements
Further examination and consultation is required on how best to operationalise the recommendation that the proposed quarterly reports on lobbying activity should contain summary information to determine the nature, scope, intensity and type of lobbying activity carried out.

It was suggested that this type of information required should be easily accessible from the management information systems, diaries and reports of organisations engaged in lobbying or advocacy activity.

Confidential information

The requirement was raised for a practical and workable distinction between the information required to be disclosed for a lobbying register and confidential / commercially sensitive information connected to the lobbying activity that would not be subject to disclosure.

Commercially sensitive communications / contacts / meetings

A particular focus is required on the limited number of circumstances in which the contact itself would be potentially confidential or commercially sensitive (e.g. meetings on proposed foreign direct investment) and how it might be treated in a register, for example through delayed publication.

Naming of the person lobbying and the person lobbied

The option was raised of not requiring the disclosure of the names of the persons lobbying or lobbied but rather disclosing the name of the organisation or body lobbying and the grade / office-held / position etc. of the lobbied. The objective underlying this approach is understood to be to prevent appropriate and legitimate lobbying engagements being represented unfairly in the public domain and to ensure that the introduction of a lobbying register does not discourage engagement with lobbyists. Consideration is required on how this approach could work in practice as well as whether it would be regarded as meeting appropriate standards of openness and transparency. The likelihood that the relevant information would be obtained through some other mechanism (e.g. Freedom of Information) was also raised.

Definitions

There was broad consensus that defining (the activity of) lobbying should be the primary focus of attention for the legislation. It was stressed that some bodies / organisations involved in activity that would fall under the proposed definition of lobbying would not wish to have themselves described or characterised as lobbyists as they would see themselves representing a broader public interest. The definition of lobbying should avoid what can be artificial or technical restrictions (e.g. relating to the time 'spent' lobbying).

The scope of the 'lobbied' needs to be carefully designed to ensure it strikes an appropriate balance between coverage – in terms of capturing significant decision-makers / senior advisers – but is not so broad that contact with a large number of civil and public servants gives rise to undue registration and reporting requirement.

The need for absolute clarity on the intended scope of the regulatory system emerged as a critical issue at the seminar in particular in relation to whether voluntary activities are excluded. The policy proposals recommend the need for the adoption of a comprehensive approach extending to third party consultation lobbyists and in-house lobbyists in commercial organisations, representative bodies, NGOs, charities.

The policy proposals also state that local voluntary organisations engaging with their local political representatives would not be included. Insofar as officeholders / board members / directors in representative bodies, charities and NGOs are concerned, in order to support the adoption of a comprehensive approach and avoid any potential loopholes, it is proposed that they would be subject to registration requirements in circumstances that the organisation included remunerated employees and:-

- they received any fee or remuneration for the performance of their role and/or

- the relevant individual held office at national (rather than at local or regional) level.

Some participants drew attention to a concern that the scope of matters which might fall under the lobbying regime is so broad the approach may not appropriately distinguish communications on significant matters relating to policy and decision-making in respect of which greater transparency would be warranted and communications on routine administrative functions carried out by public bodies where there does not seem to be any compelling reason for requiring greater transparency.

It was suggested that the proposed policy approach could be developed further if it was more strongly informed by information and perspectives on the nature and volume of engagement and interaction between interest groups and public authorities.

In subsequent discussions with some parties on reporting requirements for lobbying regulation, it was suggested that the scope for an appropriate differentiation should be examined between:-

- ongoing engagement between interest groups and public authorities on for example routine administrative details of the implementation of particular schemes and arrangements strictly within the parameters of settled policy and / or the legislative framework already in place and
- circumstances in which there is contact on substantive policy or legislative issues.

There is a clear expectation that in the case of the former the dialogue would not be taking place at top level. In addition, there was a recognition that it may on occasion be the case that arising from the former discussions significant issues would arise for decision in effect migrating the discussions into the latter 'significant' category.

Some key issues to be assessed in this regard-

- how it is proposed this distinction might be operationalised in terms of reporting requirements for lobbying regulation
- whether in terms of the proposed overall legislative approach it is legally feasible to make the distinction between 'significant' and 'other' lobbying as outlined above
- whether such legal definitions would in practice provide sufficient clarity and certainty for potential registrants
- the consistency of any such approach with the objectives of the initiative overall.

It is, however, argued that there might be significant benefits in terms of the administration and proportionality of the regulation regime overall if such an approach was legally feasible and could work in practice, providing it was consistent with the overall objectives of the establishment of a system of lobbying regulation.

<u>Piloting the proposed lobbying register</u>

Once further work has been carried out to refine the proposed definitions they should be 'road-tested' to determine the administrative and information requirements which they might create.

Exclusions

There was broad support for the principle highlighted in the policy paper that normal citizen interaction with public representatives on their own behalf (or as part of a grassroots lobbying campaign) should be excluded from any regulatory requirements.

The need to differentiate between collective bargaining activities and national campaigns carried out by the trade union movement was also raised.

Some participants made the point that in view of the potential voluminous informational requirements that the register could create that it should be limited to what was termed "significant contacts". The view was put forward that participation on government-sponsored groups or responding to requests for information from Government Departments where the role of representative bodies was characterised as communicating information rather than seeking to influence should not be included on the register.

Legal professional privilege

The requirement for an exclusion for legal professional privilege was queried as there should be a clear differentiation between lobbying activity and circumstances in which legal professional privilege might apply. The risk was drawn to an otherwise significant loophole being created.

Grassroots lobbying

It is likely that it will be necessary for organisations that launch, manage or direct grassroots lobbying campaigns to provide that information on the lobbying register.

Lobbying by organisations / individuals not located in Ireland

A question was raised whether there may be a potential loophole if lobbying carried out by individuals / organisations that are not domiciled in Ireland was not subject to registration requirements. It was confirmed that the policy intention was that all lobbying carried out in this jurisdiction falling within the legal definition of the activity would be disclosed on the register.

Lobbying of international organisations

The question of whether international organisations should be included within the scope of the regulatory regime as persons 'lobbied' was aired on account of the influence of these organisations in national policy and decision making. International precedents, diplomatic and broader policy considerations would not seem to support this proposal in addition to the practical legal difficulties that would arise in effect in seeking to adopt an extra-territorial approach.

Supervision and oversight

There was strong consensus of the importance of putting in place independent oversight of the regulatory system with an effective, practical and sensible regulator to apply the legislation. The vital role of the regulator particularly in the early years of the regime in providing education, advice and guidance for registrants was emphasised.

Sanctions

There was a strong perspective expressed that the adoption of a strong enforcement and sanction based approach by the regulator from the outset would not be optimal as it would not encourage the development of an appropriate open, co-operative and collaborative approach to the implementation of the regulatory system.

There was also some discussion of the scope for introducing a clear distinction between the role of the regulator in, for example, issuing an advisory notice to registrants where some issue relating to a minor technical / inadvertent breaches of the regulations arose and the importance of the potential for strong and effective fines and other sanctions where this is persistent and / or for serious breaches of the rules.

"Cooling-off" period

There was general agreement for the recommendation in the policy paper from the Programme for Government relating to the adoption of an "a cooling-off period" prior to employment in an area where a potential conflict of interest exists.

The question was raised whether in addition to those categories identified in the Programme for Government commitment the 'cooling-off' rules should also be imposed on senior officials in Government party headquarters.

The proposed two-year duration of the cooling-off period was seen by some participants as potentially too long.

The possible need for this to apply where a lobbyist might become a lobbied person where a direct conflict of interest might exist was also raised.

The approach adopted to this issue in the State of Ontario was mentioned as an option to be considered as an alternative to a blanket 'cooling-off' restriction (particularly given the legal / constitutional issues that the proposals may create). In Ontario relevant persons and potential employers consult with the Integrity Commission to determine what restrictions (or 'ethical wall') may be required in relation to a post-public service employment to ensure that the risk of any actual or perceived conflicts of interest arising are minimised. This aligns with the approach adopted in Ireland for senior civil servants in terms of the work of the Outside Appointments Board.

Charities

The benefit of a formal communication to the Charities Section from the Revenue Commissioners was highlighted confirming that the creation of a registration requirement for a charitable body under the proposed lobbying regime would not have any implications for their tax-empt status.

The Department of Public Expenditure of Reform's understanding is that providing advocacy activity carried out by a charity is consistent with the organisation's charitable objects registration should have no implications for its tax-empt status.

Formal confirmation of this position will be sought from the Revenue Commissioners. It may be the case that the Revenue Commissioners will wish to review the General Scheme of the Lobbying Regulation Bill or text of the Bill in advance of providing this clarification.

Registration Fee
There was broad opposition to the proposal that a registration fee should be charged. One of the concerns expressed was the risk that access to key decision makers might be represented as requiring payment of a fee.

Implementation Advisory Group
This was seen as a good idea and several participants expressed interest in participating on this proposed Group.

Proposed review of the legislation
This proposal was also strongly supported as it would help ensure that there is an opportunity for an early amendment of the legislation to ensure that it operates as effectively and efficiently as possible. It was noted that the international experience is that legislation relating to lobbying regulation does require to be revised to address issues that are not anticipated at the time the legislation is initially put in place.

Implementation Process
There was support for the legislation being implemented on a phased basis. For example consideration could be given to initially putting a registration requirement in place involving lobbying at central and local government level and assessing how that works in place in advance of introducing a broader requirement relating to engagement / interaction with the broader public service (e.g. regulatory bodies, non-commercial State bodies etc.)

Obligations on the lobbied
There was a strong focus on what was expressed as the onus on the 'lobbied' to help ensure appropriate openness and transparency of lobbying activity. In this regard the requirement was highlighted for consistency between requirements under lobbying regulation with those arising under ethics, Freedom of Information and whistleblower protection legislation. In general terms it was proposed that some reciprocal disclosure requirements should be placed on the lobbied. In specific terms the publication of diaries of officeholders and other such measures in place in the UK was highlighted.

In addition, in subsequent discussions the need was highlighted for public bodies who have ownership and responsibility for structured processes of engagement, discussion and consultation on important public policy issues to ensure that there is appropriate openness and transparency regarding the objectives / purpose, conduct and content of these processes. Careful examination is required by public bodies in this context of how the conduct of these processes aligns with policy proposals relating to lobbying regulation.

The Register
There was general agreement that a key priority for implementation was to ensure that the register should be user-friendly in terms of registering information and reviewing that information. A concern was expressed regarding the general accessibility of web-based system, particularly for older people.

Consultation Questions

Lobbying regulation

Q1. What specific information / evidence can be provided to the Department to shed further light on or support the point above relating to the scope for differentiating between different types of lobbying and what changes in the proposed regulatory approach are suggested as a result?

Disclosure of information

Q2. Please set out the specific challenges that may arise for the operation of the register in light of the level and degree of intensity of contacts and communication between bodies and individuals lobbying and the lobbied and how is it proposed they should they be addressed?

Q3. What should be the summary information contained in the proposed quarterly reports which will demonstrate appropriately the nature, scope, intensity and type of lobbying activity carried out?

Naming of the person lobbying and the person lobbied

Q4. Please advise your view on whether a proposed approach of requiring solely the name of the organisation rather than the individual lobbying or lobbied meets transparency objectives for lobbying registration?

Definitions

Q5. Is the proposed focus on determining an appropriate definition of lobbying rather than, for example, seeking to define what constitutes a lobbyist, considered the best way forward?

Q6. Please provide your views on what would represent an appropriate and proportionate level of coverage for civil and public servants as 'lobbied persons'.

Q7. Please comment on the matters on which it is proposed a registration and reporting requirement will arise if lobbying takes place on them. Are there particular categories which might be excluded?

Q8 Please provide your views on the proposed circumstances in which unpaid directors, officeholders in representative bodies, NGOs or charities would be required to register.

Exclusions

Q9 Please advise on criteria / conditions that might allow for (i) distinctions between significant and less-significant contacts, (ii) communication in relation to participation on government-sponsored groups or (iii) responding to requests for information received from public bodies which on account of their factual content do not provide a significant opportunity to influence. Please advise your assessment on whether such distinctions are feasible in each case?

Cooling off period

Q10 Please provide any further views you have on proposed 'cooling-off" period.

Implementation Advisory Group

Q11. What do you believe should be the main issues that could be addressed by an Implementation Advisory Group?

Other Issues

Q12 Please provide any further comments, observations or suggestions you have on any aspect of the proposed policy approach or the issues raised in this note.

Deadline for replies

Please submit your observations to lobbying@per.gov.ie by Friday 7th September 2012.

Appendix 7

Note on definition of conflict of interest and duration of the restriction

A. Post-Public Employment: Good Practices for Preventing Conflict of Interest OECD 2010

1. Definition of Conflict of Interest: Conflict of interest is defined in this publication as "a conflict between the public duty and private interests of public officials, in which public officials have private-capacity interests which could improperly influence the performance of their official duties and responsibilities" [Managing Conflict of Interest in the Public Service:OECD Guidelines and Country Experiences, OECD, 2004, p. 15].

The publication goes on to explain in Chapter 1 that "post-public employment offences occur when public officials use, or appear to use, information or contacts acquired while in government to benefit themselves, or others, after they leave government. However, conflict of interest related to post-employment can also occur before officials actually leave public office. For example, a serving public official can give preferential treatment to a business firm with a view to obtaining employment with that firm after leaving government. If the official is successful in obtaining that employment and leaves government, he or she had an actual conflict-of interest situation related to post-public employment. The former official, for example, can also use confidential information obtained while in government to the benefit of his or her new employer. Thus, conflict of interest related to post-public employment can arise both from:

- the use of someone's current public office for private gain (*e.g.* making a biased decision to benefit a prospective employer);
- the wrongful exploitation of someone's previous public office (*e.g.* misusing sensitive official information for the illicit benefit of the former public official or his or her new employer)."

2. Types of post-public employment offences: Chapter 2 reviews the five major types of post-public employment offences. It begins by examining a problem area that arises before the official actually leaves government: seeking future employment outside the public service. Problem areas involving public officials after they have left office include: conducting post-employment lobbying back to government institutions; switching sides in the same process; or using insider information. The problem resulting from the re-employment or re-engagement of former officials by public organisations, for example, to do the same tasks they performed in the private or non-profit sectors, is also considered. The publication explains that "a common remedy for post-employment lobbying back to government institutions is the imposition of a cooling-off period – defined as a designated period of time during which former public officials cannot accept employment with certain private sector organisations or cannot represent any entity in dealings with specified parts of the government where those representations are likely to constitute a real or apparent conflict of interest. For many public servants who have left government, it may be adequate to restrict their access to their former departments or agencies, but for senior officials, especially ministers with extensive contacts,

information and influence, government-wide prohibitions may be considered necessary. Furthermore, restrictions may also prohibit using information obtained during public office that has been classified as "confidential" until that information loses its classification or is otherwise disclosed by the government."

3. Principles for managing post-public employment problems: The Principles for Managing Post-Public Employment Conflict of Interest in the Public Service (the Post-Public Employment Principles) organise essential components of a post-public employment system within a comprehensive and coherent structure. The Principles are set out in chapter 3 of the OECD publication "Managing Conflict of Interest in the Public Service:OECD Guidelines and Country Experiences, OECD, 2004" and provide a point of reference against which policy makers and managers in public sector organisations can review the strengths and weaknesses of their current post-public employment system and modernise it in light of their specific context, including existing needs and anticipated problems.

Post-Public Employment Principles:

Problems arising primarily while officials are still working in government

1. Public officials should not enhance their future employment prospects in the private and non-profit sectors by giving preferential treatment to potential employers.
2. Public officials should, in a timely manner, disclose their seeking or negotiating of employment and offers of employment that could constitute a conflict of interest.
3. Public officials should, in a timely manner, disclose their intention to seek and negotiate employment and the acceptance of an offer of employment in the private and non-profit sectors that could constitute a conflict of interest.
4. Public officials, who have decided to take up employment in the private and non-profit sectors, should, where feasible, be excused from current duties that could constitute a conflict of interest with their likely responsibilities to their future employer.
5. Before leaving the public sector, public officials who are in a position to become involved in a conflict of interest should have an exit interview with the appropriate authority to examine possible conflict-of-interest situations and, if necessary, determine appropriate measures for remedy.

Problems arising primarily after public officials have left government

6. Public officials should not use confidential or other "insider" information after they leave the public sector.
7. Public officials who leave the public sector should be restricted in their efforts to lobby their former subordinates and colleagues in the public sector. An appropriate subject matter limit, time limit or "cooling-off" period may be imposed.
8. The post-public employment system should take into consideration appropriate measures to prevent and manage conflict of interest when public officials accept appointments to entities with which the officials had significant official dealings before they left the public sector. An appropriate subject matter limit, time limit or cooling-off period may be required.

9. Public officials should be prohibited from "switching sides" and representing their new employer in an ongoing procedure on a contentious issue for which they had responsibility before they left the public sector.

Duties of current officials in dealing with former public officials
10. Current public officials should be prohibited from granting preferential treatment, special access or privileged information to anyone, including former officials.
11. Current public officials who engage former public officials on a contractual basis to do essentially the same job as the former officials performed when they worked in a public organisation should ensure that the hiring process has been appropriately competitive and transparent.
12. The post-public employment system should give consideration on how to handle redundancy payments received by former public officials when they are re-employed.

Responsibilities of organisations that employ former public officials
13. Private firms and non-profit organisations should be restricted in using or encouraging officials who are seeking to leave or who have left government to engage in activities that are prohibited by law or regulation.

4. Key pillars of the Post-Public Employment good Practice Framework: The OECD publication sets out that an effective post-public employment system through which the principles can be implemented and encompasses the following key pillars and characteristics:

1. The post-public employment system contains the instrument(s) needed to deal effectively with its current and anticipated post-public employment problems and emerging concerns.
2. The post-public employment instrument(s) is (are) linked, where feasible, with instrument(s) dealing with conflict of interest in the public sector and with the overall values and integrity framework.
3. The post-public employment system covers all of the entities for which post-public employment is a real or potential problem, and meets the distinctive needs of each entity.
4. The post-public employment system covers all of the important risk areas for post-public employment conflict of interest.
5. The restrictions, in particular the length of time limits imposed on the activities of former public officials, are proportionate to the gravity of the post-public employment conflict of interest threat that the officials pose.
6. The restrictions and prohibitions contained in the post-public employment system are effectively communicated to all affected parties.
7. The authorities, procedures and criteria for making approval decisions in individual post-public employment cases, as well as for appeals against these decisions, are transparent and effective.
8. The enforcement sanctions for post-public employment offences are clear and proportional, and are timely, consistently and equitably applied.

9. The effectiveness of the policies and practices contained in each post-public employment system is assessed regularly and, where appropriate, is updated and adjusted to emerging concerns.

5. The cooling off period: This issue is discussed in pages 67 to 71 of the publication. Key points from this section of the publication include:

- "although the overall aim of the cooling-off period is to maintain confidence in government and public decision making, it can also provide a learning period for both former officials and those in the government to become used to their new relationship *vis-à-vis* one another, and ensure that decisions are not influenced by previous relationships, be they friendship or animosity."
- "There is substantial variation from country to country and also within countries in the length of the time limits adopted to ward off post-public employment offences."
- "Although debates often focus on the length of the cooling-off period, length is less important than whether the limits are effective in preventing and managing post-public employment conflicts of interest and whether the limits are fair, proportionate and reasonable in light of the seriousness of the potential offence."
- "In the problem areas of switching sides and using insider information, fixing time limits in terms of months or years is usually inappropriate because the duration of the threat cannot be predicted in advance. It is linked to the life of the matter and lasts until the relevant procedure or negotiation on a contentious issue is finished. Concerning insider information, the ban remains valid until the information is unclassified or made public."
- "As senior officials pose a greater risk, time limits are more commonly applied, or are applied more strictly, to decision makers, politicians and senior public servants than to other officials. For example, **Canada**'s experience with post-public employment offences has resulted in a longer disqualification period for **Cabinet ministers** (extended from two years to **five** years) than for **other public officeholders** and for **public servants** in executive positions (**one** year)".
- "Time limits in general range from **one** year (*e.g.* in Ireland, Poland and the Slovak Republic) to **two** years (*e.g.* in Japan, Korea, the Netherlands, Turkey and the United Kingdom). A **six-month maximum** period was introduced by the Post-Employment Guidelines for Politicians in Norway."
- "A specific **five-year** ban on lobbying was introduced in **Canada** for ministers, ministerial staffers and senior public servants. The Prime Minister issued in February 2006 the Conflict of Interest and Post-employment Code for Public Office Holders which toughened the prohibition of post-public employment lobbying for certain public office holders for a period of five years after leaving public office. The Federal Accountability Act (FAA), one of the government's top five priorities on taking office in February 2006, made substantive changes to 45 statutes, including the Lobbyist Registration Act. In the implementation of the FAA, several new legislations addressed

post-public employment issues, including the new Conflict of Interest Act and the new Lobbying Act. The latter, which came into force in July 2008, **extends the five-year ban** on lobbying to a broader group of individuals named "former designated public office holders" (DPOHs). This category includes both politicians such as **ministers, minister of state, ministerial staffers and former designated members of the Prime Minister's transition team as well as senior executive positions in the public service, for example deputy minister or chief executive officer**."

- "In the **United States**, the Honest Leadership and Open Government Act (HLOGA) was enacted in September 2007. HLOGA includes amendments to the post-public employment restrictions by extending the one-year cooling-off bar for **Senators and Cabinet level officials** to **two years** and requires the House and the Senate to post on the Internet the beginning and ending dates of the restrictions for each departing legislator and staff member covered by the restriction."
- "In **Germany**, the **five-year** cooling-off period as a maximum can be applied for civil servants if they leave service before they reach retirement age, which is 65. However, this time limit is up to three years in the case of retiring civil servants and during the period when they receive a transitional allowance (usually two years but maximum three years) for fixed-term volunteer soldiers."
- "When public officials definitively leave public service in **France**, for a period of **five** years they cannot:
  - exercise private activities determined by the administration;
  - participate financially in private enterprises that have a relationship with the former public sector employer."
- "The **Australian Lobbying Code of Conduct** was released in May 2008 to establish prohibitions on engaging in lobbying activities by former officials in the public service, namely:
  - In the public service **senior executives and equivalents** have a **one-year** cooling-off period in which they are prohibited from engaging in lobbying government representatives on any matters on which they have had official dealings as public servants over their last 12 months of employment. Similar rules apply to members of the defence force at the level of colonel and above.

  The Code also places post-separation employment restrictions on other categories of government representatives, including:
  - **Former ministers and parliamentary secretaries** must not engage in lobbying activities for an **18-month period** after they leave on any matters on which they have had official dealings over the last 18 months in office.
  - Former **ministerial staff** employed in the offices of ministers and parliamentary secretaries at the advisor level and above must not engage in lobbying activities for a **one-year period** after they leave on any matters on which they have had official dealings over their last year in employment."
- "While in certain cases a persuasive argument can be made for time limits as long as five years, allowing some discretion in the application of the limits

will help ensure fairness and avoid unduly strict constraints on the rights of former officials."

B. Duration of restrictions in place elsewhere not referred to in OECD publication

'Regulating Lobbying a Global Comparison' (Raj Chari, John Hogan and Gary Murphy) advises of additional restrictions in place elsewhere.

In Florida, there is a two year cooling off period, before legislators can regulate as lobbyists, but this only refers to former office holders who lobby the particular government body or agency that employed them.

In Quebec, politicians cannot act as lobbyists for two years after leaving office and high level civil servants have a similar one year restriction. In British Columbia again politicians cannot act as lobbyists for two years after leaving office and high level civil servants also have the same two year restriction. Both Ontario and Newfoundland have one year restrictions for politicians and civil servants while Nova Scotia has a six month restriction for both categories.

Hungary has no cooling off period mentioned in its legislation.

C. Regulation of Lobbying Policy Proposals July 2012

The Department of Public Expenditure and Reform's Policy Proposals (July 2012) advises of additional restrictions in relation to EU institutions. Chapter 12 of the Policy document deals with the cooling-off period.

EU Institutions
Any former MEP who engages in lobbying directly linked to the European Union decision making process shall not benefit from the facilities granted to former Members for the duration of the activity in question. [12]

Former Commissioners cannot engage in any lobbying activity of Commissioners and their staff for 12-18 months after leaving office. Indeed any activity pursued by a former Commissioner during this period will need to be approved by the Commission.[13]

[12] Code of Conduct for Members of the European Parliament with respect to financial interests and conflict of interest, Annex 1, Article 6, in Rules of Proceedure of the European Parliament.
[13] EU Institutions, Code of Conduct for Former Commissioners, 2011, Section 1.2.

Index of Effectiveness
In their work 'Regulating Lobbying a Global Comparison' Chari, Hogan and Murphy included the presence of a 'cooling off' period as a factor in calculating scores in creating an index of an effective regulatory system.

In the *2008 Private Member's Bill the Labour Party* states that a Member of Dáil Éireann or of Seanad Éireann shall not engage in any lobbying activities. It also states that a person who is a director or member of, or who occupies a position of employment in a public body, shall not for the duration of such appointment, membership or employment, and for 2 years thereafter, engage in lobbying activities in respect of the business or affairs of that body. A special adviser is subject to similar rules.

This creates a 'cooling off' period for former members of public bodies and former special advisers but does not mention former office holders.

In the *Fine Gael draft lobbying Bill* contained in the "New Politics" document 2010 it is stated that a one year 'cooling off' period for ex local and central government officials would be applied. The Fine Gael draft Bill states that public officials would be restricted from engaging in lobbying activity for three years after leaving office.

Although the *Mahon Tribunal Report* does not directly make the recommendation that a cooling-off period be implemented, several related points are made. The Report notes that "*…corruption risks stem from the fact that, having left public office, public officials are frequently engaged as lobbyists. Consequently, in some instances, a public official's behaviour in office may be influenced by the promise of a lucrative career as a lobbyist on leaving that office. Moreover, former public officials who are engaged as lobbyists may obtain privileged access from their former colleagues and may be privy to inside information which is not available to their competitors. This raises questions regarding both the fairness and the transparency of government decisions*."[14]

D. Definitions of conflict of interest in other jurisdictions

1. Canadian Conflict of Interest Act 2006

Conflict of interest

*Section 4 of the 2006 Act***:** For the purposes of this Act, a public office holder is in a conflict of interest when he or she exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person's private interests.

The same definition is used in British Columbia legislation (Members Conflict of Interest Amendment Act, 2010).

2. Public Service of Ontario Act, 2006

[14] The Mahon Tribunal Report p2637 (6.06)

No specific definition of conflict of interest is included but the Act includes sections on prohibited conduct such as benefiting self, spouse or children, disclosing confidential information, accepting gifts, giving preferential treatment, hiring family members, engaging in business, etc.

3. US State definitions

The link below **gives a table of US State definitions of conflict of interest. These deal in the main with ethical frameworks while in Office** and the pursuit of "outside employment" activies **rather than post employment situations**. They give a good overview of the approach to addressing conflict of interest issues generally at State level.

http://www.ncsl.org/legislatures-elections/ethicshome/50-state-table-conflict-of-interest-definitions.aspx

E. Norway – Post employment guidelines for the public service and politicians

Two sets of post-employment guidelines were introduced in 2005 in Norway which established new measures for both politicians and public servants, namely:

- **"Temporary disqualification":** This refers to a ban for **up to six months** after leaving office, on an employee **being employed by, or performing services for**, an organisation outside the public service that has or can have contact with the employee's sphere of responsibilities as a **civil servant or politician**. The same applies to organisations outside the public service that, for other reasons, have or could have special advantages due to the employee's position as a civil servant or politician.

- **"Abstinence from involvement in certain cases":** This refers to a ban for **up to one year** after leaving office, for an employee **to become involved in cases or areas** that involve the employee's spheres of responsibilities as a **civil servant or politician**.

There are **three special factors in Norway that might justify actions** such as temporary disqualification and/or abstinence from involvement in certain cases from the state employer:

- The need to protect internal information:
- The need to protect other organisations' trade secrets:
- The need to safeguard the general public's confidence in the public service:

Key points re the guidelines for the **Public Service**:

- Where the nature of the position so requires a clause on temporary disqualification and/or abstinence from involvement in certain cases in connection with transition to a new position will be included in the employment contract from the beginning of an employment relationship.
- Such a clause will primarily be relevant for:

- key jobs, executive positions or positions with a special responsibility and influence;
- positions in close contact with the positions mentioned above;
- positions with authority to negotiate or purchase.

➢ The clause in the contract requires the employee to inform the employer of any offer of new positions that he or she might consider. The employer may grant full or partial exemption from temporary disqualification and/or abstinence from involvement in certain cases based on an application from the employee.

➢ The employee has the right to remuneration during the period of temporary disqualification. The remuneration shall correspond to the salary on leaving the position plus holiday pay.

➢ An employment contract also covers agreed damages (of up to 6 months salary) if the employee behaves at variance with the temporary disqualification or abstinence from involvement in certain cases, or breaches the obligation for mandatory reporting.

Key points re the guidelines for **politicians**:

➢ The Post-Employment Guidelines for Politicians are almost identical to the guidelines for the public service with some exceptions, primarily regarding the process and decision making on post-employment prohibitions.

➢ The Standing Committee on Outside Political Appointments has the authority to decide that a politician should not work or provide services for an organisation outside the public service after his engagement as a minister, political secretary or political adviser

➢ At least two weeks before starting the new position, the politician is required to voluntarily inform the committee on:

- starting a new job or accepting a position outside the public service; or
- starting a business.

This requirement does not apply if it is obvious that temporary disqualification or abstinence from involvement would not be a viable option. The obligation to provide information applies to all new positions taken up within one year of leaving public office.

➢ Where temporary disqualifications are ordered, the politician – similarly to public servants – shall receive remuneration during the temporary disqualification period corresponding to the net salary he or she received on leaving, plus holiday pay and pension costs.

➢ If the obligation for providing information is breached or the politician has behaved at variance with an imposed disqualification or abstinence from involvement in certain cases, the Standing Committee on Outside Political Appointments can require agreed damages (of up to six months salary) to be paid to the State.