

Ref: 15/0038/PER

18th

February 2015

Senator Paul Coughlan
Government Chief Whip
Seanad Éireann
Dublin 2

Re. Regulation of Lobbying Bill 2015

Dear Paul

Thank you for your letter of 3 February setting out your views on a number of issues relating to the Regulation of Lobbying Bill 2015.

Section 5 (2) (c) relates to bodies which exist primarily to take up particular issues or advocacy type bodies. Examples of the type of organisation this provision is intended to cover would be Transparency Ireland or The Irish Georgian Society etc. Representative organisations referred to in section 5 (2) (b) would include organisations such as the IFA or any unions etc. where the primary focus of the organisation is to represent its members.

It has always been my policy intention that unpaid volunteers would not be captured by the requirement to register under the Bill. This was signalled on the publication of the Bill. This is primarily to ensure that the Bill is workable from a practical perspective. During the consultation process, stakeholders made it clear that, very often, they do not have information on what communications their volunteers are conducting, particularly in a large and dispersed organisation such as the IFA etc. Their concerns centred on the administrative burden of capturing such information and a concern with inadvertent non-compliance given the likely incomplete nature of that information. From a policy point of view, I am also happy that much of the communications undertaken by local volunteers would not be of a sufficiently high-level to warrant inclusion on the register in the public interest. Section 5 (3) clarifies that a representative body or an advocacy body which exists primarily to take up particular issues will only be required to register a relevant communication where it is made by an employee of the body or by a remunerated officeholder whose functions relate to the activities of the body as a whole and not by volunteers of the body.

I can confirm that it is not intended that section 5 (9) (c) will capture companies that are participating in public procurement exercises through eTenders or who are in receipt of a grant following a normal grant application process. The Bill is not intended to discourage communications on any of these issues.

With regard to the phrase "apart from any matter relating only to the implementation of any such policy, programme, enactment or award or of a technical nature" at the end of section 5 (9), I can confirm that it is my intention that an SME with over 10 employees responding to a request for a proposal or an organisation applying for a grant would not be required to register on the lobbying register as these types of activities would be considered to fall within the "implementation" category.

In relation to section 8 (1) and a definition of "lobbying activities", this definition is contained in section 5 of the Bill. I have included an information note at appendix 1 which might help in clarifying this point further.

An extensive communications programme will be required on enactment of this legislation to ensure that everyone involved is fully aware of their responsibilities. Section 17 of the Bill specifically provides that the Standards in Public Office Commission (SIPOC), who will be the regulator under the Bill, can make available information with a view to promoting awareness and understanding of the legislation. Work has already commenced on developing this communications programme and officials from my Department are working closely with their colleagues in SIPOC on this task.

I have always been clear in my views about lobbying and its important and vital place in our democracy. The purpose of lobbying by individuals or groups is to inform Government as to different societal and sectoral perspectives on public policy matters and also to seek to influence decisions taken at political and administrative level. The institutions of Government need to hear from these varying interests in order to make well informed and grounded decisions balancing wider societal needs against the needs, expectations and experiences of varying interests across the economic and social spectrum. The aim of this Bill is unequivocally not to restrict this flow of information, opinions, perspectives or proposals feeding into policy making or legislation but rather to bring about significantly greater transparency around this process. I will be working to ensure that this is what happens in practice and the review of the Act will provide an opportunity to assess any problems arising in the light of experience and allow me to develop appropriate resolutions if required.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brendan', written in a cursive style.

Brendan Howlin TD
Minister for Public Expenditure and Reform

Appendix 1:

Information Note on the Regulation of Lobbying Bill 2014

1. What is the objective of the Bill?

The key objective in introducing a register of lobbying is to make information available to the public on the identity of those who are communicating with Government and senior civil and public servants on public policy matters.

The Bill establishes a web based registration system of lobbying activity which will tell us

“Who is lobbying whom about what?”

2. Who is a lobbyist?

Lobbyists (*the “who” in the question*) are defined in the Bill as the following persons who make or manage or direct the making of any **relevant communications**:-

- An Employer i.e. if the person has more than 10 full time employees (and the relevant communications are made on the person’s behalf);
- Representation bodies i.e. bodies that exist primarily to represent the interest of their members and have 1 or more full time employees (and the relevant communications are made of behalf of any of the members);
- “Advocacy” type bodies i.e. bodies that exist primarily to represent the interests of their members and have 1 or more full time employees (and the relevant communications are made in furtherance of any of those issues);
- Professional third party lobbyists i.e those who are paid by a client to lobby on the clients behalf; or
- Any person lobbying about the development of zoning of land.

3. What are Relevant Communications?

Relevant communications are communications (whether oral or written) **made personally** (either directly or indirectly) **to a designated public official in relation to a relevant matter**, unless it is an exempt communication.

4. Who are the lobbied (designated public officials)?

The lobbied (*the “whom” in the question*) are referred to in the Bill as designated public officials and are defined in the Bill as

- Ministers and Ministers of State,

- Members of Dáil Éireann and Seanad Éireann,
- Members of the European Parliament for constituencies in the State,
- Members of local authorities,
- Special Advisers, and
- Public servants as prescribed (initially this will be Secretaries General and Assistant Secretaries in the Civil Service and Chief Executive Officers and Directors of Services in Local Authorities).

5. What are lobbying activities (relevant matters)?

The relevant matters about which lobbyists are communicating with the lobbied (*the “what” in the question*) are defined in the Bill as communications about

- The initiation, development or modification of any public policy or programme,
- The preparation or amendment of legislation, or
- The award of any grant, loan, or other financial support. Contract or other agreement, or of any licence or other authorisation involving public funds etc.

apart from matters relating only to **implementation** of any such policy, programme, enactment, award, etc. or **matters of a technical nature**).

So when a lobbyist communicates with one of the lobbied about one of the listed relevant matters then the he or she must register on the lobbying register.

Once registered, the lobbyist will have to make a return of their lobbying activities 3 times a year (at the end of April, August and December).

6. Are there exemptions?

There are a number of exemptions set out in Section 5 of the Bill.

If you are unsure as to whether one or those exemptions applies to your communications, you may seek guidance from the Regulator.

7. What type of information will a lobbyist have to put on the register?

Registration Details

- (a) The person's name (i.e. the name of the business, corporate body, etc. conducting lobbying activities);
- (b) The person's business address or if there is no business address the address at which the person normally resides;
- (c) The person's business or main activities;
- (d) Any e-mail address, telephone number or website address relating to the person's business or main activities;
- (e) Any registration number issued to the person by the Companies Registration Office; and
- (f) (If a company) the person's registered office.

Return Details

- (a) The names of any public service body and the designated public officials communicated with;
- (b) The subject of the lobbying communications and the results they were intended to secure;
- (c) The extent and type of lobbying activities (while this doesn't require details of each individual contact, the information supplied must be sufficient to meet the transparency objectives of the Bill);
- (d) The name of the person who has primary responsibility for carrying on lobbying activities within the organisation;
- (e) The name of any person who is or was a designated official, who is employed by or providing services to the registered person, and is engaged in lobbying activities; and
- (f) 3rd party lobbyists will also have to provide information about their clients similar to the information required under 'registration details' above.

8. Who is the Regulator?

The Standards in Public Office Commission is the Regulator. The Commission will oversee the implementation of the register, monitor compliance, provide guidance and assistance and where necessary investigate and pursue breaches of legal requirements in due course.

9. When will the Register come into operation?

It is intended that the Register will **come into operation in mid-2015**. (For example if a **1 May 2015** commencement date were selected, anyone covered by the legislation would be obliged to make a return in respect of lobbying activities carried out in the period **1 May 2015 to 31 August 2015**. **The first such return would need to be submitted to the Regulator by 21 September 2015**).