



Office of the Registrar of Lobbyists

*The Lobbying Act -
Summary of New Requirements
Presentation to the Government Relations Institute of Canada
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Government of Canada
Gouvernement du Canada

Canada

What's Lobbying

Lobbying is communicating with a public office holder, for payment in respect of:

- ❖ The development of any legislative proposal,
- ❖ Introduction, defeat or amendment of any Bill or resolution,
- ❖ Making or amendment of any regulation,
- ❖ Development or amendment of any policy or program,
- ❖ Awarding of any grant, contribution or other financial benefit,
- ❖ Awarding of any contract,
- ❖ Arranging a meeting between a public office holder and any other person.



Public Office Holders (POH)

Means any officer or employee of Her Majesty in right of Canada and includes:

- ❖ A member of the Senate or the House of Commons and any person on the staff of such a member,
- ❖ A person who is appointed to any office or body or with the approval of the Governor in Council or a minister of the Crown, other than a judge receiving a salary under the *Judges Act* or the lieutenant governor of a province,
- ❖ An officer, director or employee of any federal board, commission or other tribunal as defined in the *Federal Courts Act*,
- ❖ A member of the Canadian Armed Forces, and
- ❖ A member of the Royal Canadian Mounted Police.



The Types of Lobbyist

Consultant Lobbyist

- ❖ A person who is hired to communicate on behalf of a client. This individual may be a professional lobbyist but could also be any individual who, in the course of his or her work for a client, communicates with or arranges meetings with a public office holder

In-Houses Lobbyist (Corporations)

- ❖ A person who works for compensation in an entity that operates for profit

In-Houses Lobbyist (Organizations)

- ❖ A person who works for compensation in a non-profit entity



What's New in the Lobbying Act (LA)

- ❖ A Commissioner of Lobbying
- ❖ Concept of Designated Public Office Holder (DPOH)
- ❖ Mandatory On-line registration
- ❖ Monthly Disclosure of lobbying activities
- ❖ Prohibition of contingency fees
- ❖ Post-employment prohibition on lobbying for DPOH and designated members of Prime Minister's transition teams
- ❖ Extension of the period during which possible summary conviction infractions or violations may be investigated and/or prosecuted
- ❖ Doubling of the monetary penalties



Commissioner of Lobbying

- ❖ Independent Agent of Parliament
- ❖ Authority to enforce the LA and the Code
- ❖ Enhanced investigative powers
- ❖ The explicit duty to provide outreach and educational programs
- ❖ Current employees of the Registrar's Office will become staff of the Commissioner's Office



Designated Public Office Holders (DPOH)

The LA defines DPOH as:

- ❖ A minister of the Crown or a minister of state and any person employed in his or her office who appointed under subsection 128(1) of the *Public Service Employment Act*,
- ❖ Any other public office holder who, in a department within the meaning of paragraph (a), (a.1) or (d) of the definition “department” in section 2 of the *Financial Administration Act*, occupies the senior executive position, whether by the title of deputy minister or an assistant deputy minister or occupies a position of comparable rank, and
- ❖ Any individual who occupies a position that has been designated by regulation under the provisions of the *Lobbying Act*.



Additional Designated Public Office Holders (DPOH)

Eleven additional positions or classes of positions as per the *Designated Public Office Holder Regulations*.

- ❖ Chief of the Defence Staff
- ❖ Vice Chief of the Defence Staff
- ❖ Chief of Maritime Staff
- ❖ Chief of Land Staff
- ❖ Chief of Air Staff
- ❖ Chief of Military Personnel
- ❖ Judge Advocate General
- ❖ Any positions of Senior Advisor to the Privy Council Office to which the office holder is appointed by the Governor in Council
- ❖ Deputy Minister (Intergovernmental Affairs) Privy Council Office
- ❖ Comptroller General of Canada
- ❖ Any position to which the office holder is appointed pursuant to paragraph 127.1(1)(a) or (b) of the *Public Employment Act*



Contingency Fees

- ❖ The LA prohibits consultant lobbyists from charging and accepting contingency fees and prohibits clients from paying contingency fees.
- ❖ Rather than indicating whether the payment is in part or in whole a contingency fee, the lobbyist is now required to confirm that no contingency fee was accepted.
- ❖ The *Financial Administration Act* has been amended to allow the Governor in Council to fix terms in contracts that prohibit payments of contingency fees relating to any contractual arrangements with the federal government.



Contingency Fees Implementation

The *Federal Accountability Act* provides two transitional measures for undertakings made prior to the coming into force of the LA:

- ❖ Any contingency fee arrangements mentioned in a return filed under the LRA will be permitted after July 2, 2008, but only for the duration of the undertaking,
- ❖ The prohibition does not apply to contingency fee arrangements associated with undertakings that are made during the 10-day period prior to July 2, 2008.

Undertakings that are made on or after July 2, 2008, whether with a past, present, or new client, will not be permitted to include payment of contingency fees.



5-Year Prohibition on Lobbying

The LA prohibits, for a period of 5 years, former DPOH and designated former members of Prime Minister's transition teams from:

- ❖ Acting as a consultant lobbyist for the prescribed period,
- ❖ Carrying out lobbying activities on behalf of an organization for the prescribed period,
- ❖ Being employed as an in-house lobbyist (corporation) for the prescribed period if lobbying constitute a significant part of the individual's duties (20% rule).



Exemptions to the 5-Year Prohibition on Lobbying

- ❖ It does not apply to any DPOH who occupied their position only because of participation in an employment exchange program such as Interchange Canada.
- ❖ The Commissioner may grant exemptions to the 5-year prohibition in certain situations described in the LA.



Effective Dates for this Prohibition

- ❖ For transition team members, the prohibition is effective for individuals who ceased to carry out their function after January 24, 2006.
- ❖ For all DPOH except Assistant Deputy Ministers and individuals who are of equivalent rank, the prohibition is effective for those who cease such duties after July 2, 2008.
- ❖ For Assistant Deputy Ministers and individuals who are of an equivalent rank, the prohibition is effective for those who cease such duties after the six-month period following July 2, 2008.



Penalties (Breaches of the Act)

- ❖ Up to \$50,000 and/or 6 months in jail on summary conviction
- ❖ Up to \$200,000 and/or 2 years in jail on indictment
- ❖ Charges cannot be laid on summary conviction:
 - No later than 5 years after which the Commissioner became aware of the subject-matter of the proceedings.
 - No later than 10 years after which the subject-matter of proceedings arose.



For More Information ...

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