



An Bille um Brústocaireacht a Rialáil (Leasú), 2020
Regulation of Lobbying (Amendment) Bill 2020

Meabhrán Mínitheach
Explanatory Memorandum



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EXPLANATORY MEMORANDUM

Introduction

The purpose of this Bill is to give effect to a number of the changes recommended by the Standards in Public Office Commission in their submissions for legislative review in May 2019. This Bill seeks to amend the Principal Act being the Regulation of Lobbying Act 2015.

Section 1 – Interpretation - This section defines the Principal Act as the Regulation of Lobbying Act 2015.

Section 2 - Amendment of section 11 of Principal Act - Under the Act, a representative body is only within the scope of the Act if it has one or more full-time employees.

Subsection (1) amends the definition of a representative body to cover those representative bodies that exist primarily to advocate on behalf of their members who do not have full-time employees. This section also widens the definition of representative bodies to capture informal coalitions of business interests where same have been formed to lobby as a group of mutual industry interest.

Subsection (2) increases transparency in respect of lobbying activities by requiring members of the body/coalition to be named on returns.

This section gives effect to the Recommendation 1 of the Standards in Public Office Commission submissions of May 2019.

Section 3 - Amendment of section 11 of Principal Act - Section 11(1)(c) and 11(1)(d) of the Act require that an application to register must include information and contact information respectively about the applicant's business or "main activities". Section 11(1)(b), however, only includes a reference to carrying on business but omits any reference to main activities.

This section of the Bill ensures that all appropriate contact information is provided, and for the sake of completeness and consistency, section 11(1)(b) is brought in line with subsections 11(1)(c) and (d) by the insertion of the words "main activities".

This section gives effect to the Recommendation 8 of the Standards in Public Office Commission submissions of May 2019.

Section 4 - Duties of Designated Public Officials - This section of the Bill inserts a new section into the Act relating to the duties of the Designated Public Officials ("DPO's").

This section provides that where the DPO becomes aware that a person or body carrying on lobbying activities has failed to comply with the

registration of lobbying activities, the DPO shall cease all communication with that person or body and inform them of the reason why such communication has ceased.

Further, the DPO shall inform the Standards in Public Office Commission (“the Commission”) of the cessation of communication.

Where the Commission becomes aware of lobbying activity by a person or body who has failed to comply with the registration provisions of the Act, the Commission can direct the DPO to cease communication.

Similarly, where the Commission becomes aware of lobbying activity by a person or body who has been found guilty of a contravention in accordance with the provisions of the Act, the Commission can direct the DPO to cease communication.

The Commission has the authority to determine the duration of the cessation of communication in the above situations and can determine when communication may be re-established.

This section gives effect to the Recommendations 18 and 19 of the Standards in Public Office Commission submissions of May 2019.

Section 5 - Amendment of Section 16 of Principal Act - Subsection (1) amends the Act by directing that persons comply with the code of conduct, rather than simply having to have regard to the code.

Subsection (2) amends the Act by giving the Commission power to investigate and report on breaches of the code of conduct. The Commission may now also consider whether a person or body has complied with the code of conduct when investigating or making a decision to prosecute an offence under section 20 of the Act. Furthermore, an authorised officer appointed under section 19 of the Act shall take into consideration when carrying out an investigation, whether a person carrying on lobbying activities has complied with the code of conduct. This section also directs the Commission to prepare an annual report specifically relating to the code of conduct and a copy of it to be laid before each House of the Oireachtas no later than 30 June in the year following that to which it relates.

Subsection (2) gives effect to the Recommendations 10 and 11 of the Standards in Public Office Commission submissions of May 2019.

Section 6 - Amendment of section 18 of Principal Act - This section amends section 18 of the Act to provide for further contraventions including:

- Failing to follow the direction of the Commission in respect of the cessation of communication under the newly inserted section 16;
- Contravening section 22(1) which provides for the cooling-off period after a DPO leaves office; and
- Where a person or body takes an action where the intended purpose of the action is to avoid or circumvent the obligations imposed by the Act.

This section gives effect to the Recommendations 12, 16 and 20 of the Standards in Public Office Commission submissions of May 2019.

Section 7 - Amendment of section 22 of Principal Act - Subsection (1) provides that the cooling-off period for a DPO upon leaving public office should be extended from the current 1-year period, to a 2-year period.

Subsection (2) provides for the extension of the scope of section 22 include public bodies and DPOs with whom a person may had significant involvement, influence or contacts.

Subsection (3) provides that the public service body to which the DPO is assigned shall inform the DPO of his or her obligations and duties under Section 22 of this Act. Furthermore, a public body may seek the advice of the Commission in relation to this.

Subsection (3) also provides that the details of any successful application for consent to waive the cooling-off period made by a DPO to the Commission shall be published in the annual report of the Commission.

This section gives effect to the Recommendations 13, 14 and 15 of the Standards in Public Office Commission submissions of May 2019.

Section 8 - Amendment of section 25 of Principal Act - Section 25(2) (c) of the Principal Act is deleted.

This section gives effect to the Recommendation 15 of the Standards in Public Office Commission submissions of May 2019.

Section 9 - Short title and commencement - This section notes the short title of the Bill.

This section provides that the Principal Act and this Act shall be construed together as one Act.

This section provides that the Act shall come into operation on such day or days as the Minister may by order; and such day or days shall not be later than 90 days from the date on which the Act is signed into law.

*Pearse Doherty, TD,
Mairéad Farrell, TD,
Samhain, 2020.*