

Charities and the Federal *Lobbyists Registration Act*

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If your organization is a charity or non-profit, and you communicate with public officials in the federal government, you need to be aware of the Federal *Lobbyists Registration Act* (the Act). You may need to register on the Public Registry of Lobbyists. Amendments to the Act that came into force in June 2005 substantially broaden its scope.

What are the purposes of the Act?

The Act attempts to respect and balance four principles:

- Free and open access to government is an important matter of public interest.
- Lobbying public office holders is a legitimate activity.
- It is desirable that public office holders and the public be able to know who is engaged in lobbying activities.
- The system for the registration of paid lobbyists should not impede free and open access to government.

Who does the Act apply to?

The Act applies to

- consultant lobbyists
- in-house corporate lobbyists
- in-house organizational lobbyists.

The third category can include people employed by charities and non-profit organizations.

What is lobbying?

The Act now defines lobbying very broadly, as paid communication, oral or written, with federal public office holders in relation to:

- the making, developing or amending of legislative proposals, bills or resolutions, regulations, policies, programs; or
- the awarding of grants, contributions, tax credits or other financial benefits.

It does not matter whether it was your organization or the government that initiated the communication: if the topic is included in the two points above, it is lobbying.

Lobbying does **not** include:

- Oral or written submissions to parliamentary committees where there is a public record;
- Oral or written submissions made to any person or body which has jurisdiction or powers under a federal statute, in proceedings that are a matter of public record;
- Oral or written communications made to a public office holder with respect to the enforcement, interpretation or application of any existing federal statute or regulation by that official (for example, routine dealings with government inspectors and other regulatory authorities; other law enforcement officers; licensing authorities; taxation, legal, and customs officials); or

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- Oral or written communication made to a public office holder if the communication is restricted to a simple request for information.

Example:

Lobbying: A charity contracts with a researcher to prepare, submit and follow-up on a proposal for a research grant from a federal department.

Not lobbying: A charity prepares a submission advocating a change in government policy which is delivered at a public hearing (i.e. on the public record).

Who are federal “public office holders”?

A public office holder is defined as “*any officer or employee of Her Majesty in right of Canada.*” This includes:

- Members of the Senate or of the House of Commons (Senators, Members of Parliament, Ministers) and their staff;
- Persons appointed to an office by a Minister of the Crown or the Governor in Council;
- An officer director or employee of any federal board, commission or other tribunal;
- Members of the Canadian Armed Forces;
- Members of the Royal Canadian Mounted Police; and
- Employees of federal departments.
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At what point do I have to register under the Act?

The Act creates a threshold for in-house lobbyists. Here is how the Office of the Registrar of Lobbyists describes it:

When the accumulated lobbying duties by all paid employees would constitute 20% or more of the duties of one equivalent employee over a six-month period, or if this threshold is reached during any month in that period, the officer responsible for filing returns must file a registration in which those employees would be listed.

If the amount of lobbying activity falls below this threshold, registration is not required.

Note that lobbying by unpaid volunteers is not included in this calculation. The Act only addresses paid lobbying.

Example: If your organization’s work week is 40 hours, then over six months one full-time staff person would work a total of approximately 960 hours. Twenty percent of 960 is 192 hours. This is the threshold for registration for your organization. Let’s say that three of your organization’s full-time staff are involved in a competition for a federal research grant. One person spends a total of 100 hours on this work over six months, another spends 60 hours and the third spends 45 hours. The total number of hours spent lobbying is 205. You are over the threshold by 13 hours, and therefore should register the staff.

How do I register?

Once your organization has exceeded the threshold, you have two months to complete and file a registration with the Office of the Registrar of Lobbyists.

The registration includes the following information:

- Name and position title of the senior officer;
- Name and business address of the organization;
- Names of employees who lobby including, as applicable, the senior officer;
- General description of the organization's business or activities;
- General description of the organization's membership;
- If any employee named in the return is a former public office holder, a description of the offices held with the federal government;
- Subject matters including the specific legislative proposals, bills or resolutions, regulations, policies, programs, grants or contributions or other financial benefits sought;
- Name of each department or other governmental institution lobbied;
- Source and amount of any government funding received by the organization; and
- Communication techniques used, including grass-roots lobbying.

You can complete the registration process online, on the Strategis (Industry Canada) website. Here's how:

1. Go to www.strategis.gc.ca.
2. Choose your language.
3. On the main page, look in the Industry Canada Services column on the right and click on Lobbyists Registration System.
4. In the menu on the left, click on Registration Process.

Online registration is free. You can also submit a paper registration for a fee of \$75.00.

How often do I have to register?

Registration is not a mere one-time or annual requirement. The Act requires a new registration to be filed **every six months**.

In addition, if registered employees modify (increase or decrease) their lobbying activities, or if they leave your organization, you must amend their registration within 30 days of the change. It is vitally important to stay on top of these filing requirements.

What is done with the information we file when we register?

All the information you submit when registering is made public in the Public Registry of Lobbyists. This is available online at:
http://strategis.ic.gc.ca/epic/internet/inlobbyist-lobbyiste.nsf/en/h_nx00012e.html

This information can also be accessed by telephone or written request or in person at the Office of the Registrar of Lobbyists.

Full public access to this information is a key principle of this initiative.

What if we don't comply with the Act?

There are penalties if your organization fails to register, or if you make false or misleading statements in your registration forms (maximum fine of \$25,000 or up to two years in prison).

While maximum penalties are unlikely, the offence and penalty provisions of the Act indicate that Parliament wanted the Act to be taken seriously.

If your organization has been lobbying, but you were not aware of the registration requirements until now, it would be wise to comply as soon as possible. Penalties seem unlikely for those who proceed in good faith.

Is this related to the limits on political activities by charities?

No. The Canada Revenue Agency (the CRA) imposes limits on “political activities” by charities that are different and completely separate from the obligation on some charities to register under the Act. The definitions and tests are different, as are the reporting requirements and the government offices involved. Registered charities need to become familiar with both sets of requirements. Guidance on the CRA’s requirements can be found at <http://www.cra-arc.gc.ca/tax/charities/policy/cps/cps-022-e.html>

Non-profit organizations that are not registered charities need not be concerned about the CRA’s requirements.

Where can I get more information?

The Office of the Registrar of Lobbyists, which is part of Industry Canada, administers the Act, and can be contacted at
255 Albert Street, 10th Floor
Ottawa, Ontario K1P 5G8
Tel.: 613-957-2760
Fax: 613-957-3078
Email: lobbyists.reg@ic.gc.ca

The website is: <http://strategis.ic.gc.ca/epic/internet/inlobbyist-lobbyiste.nsf/en/Home>
It includes links to the Act and Regulations, the Public Registry of Lobbyists, and other helpful material, including *A Guide to Registration - Lobbyists Registration Act*, parts of which are reproduced above.