

# LOBBYING FOR CHANGE:

## An introduction to lobbying registration requirements

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# Overview

- I. Background – CRA rules re. PPDDAs
- II. Jurisdictions with Lobbying Laws
- III. Definition of Lobbying and Types of Lobbyists
- IV. Federal Lobbying Rules
- V. Provincial and Municipal Rules
- VI. Practical Considerations

# Background

- Audits of charities related to old rules regarding political activities led to increasing concerns about involvement in advocacy – a bad word
- Election – mandate to modernize the definition of political activities
- May 4, 2017, the Report of the Consultation Panel on the Political Activities of Charities was published
- In 2018, the old regime for restricting political activities was declared unconstitutional in *Canada Without Poverty*
- New rules retroactive to 2008:
  - charities can engage in unlimited public policy dialogue and development activities (PPDDAs) which further its stated charitable purpose
  - no longer use term “political activity”
  - prohibition of partisan political activities maintained

# Background

- PPDDAs can include:
  - seeking to influence the laws, policies or decisions of a government whether in Canada or a foreign country" by "providing information, research, opinions, advocacy, mobilizing others, representation, providing forums and convening discussions"
- See CG-027, *Public policy dialogue and development activities by charities* available at <https://www.canada.ca/en/revenue-agency/services/charities-giving/charities/policies-guidance/public-policy-dialogue-development-activities.html>
- When engaging in these activities focus is now on complying with other regulatory requirements, particularly lobbying registration and election rules

# Jurisdictions with Lobbying Laws

- Federal Government
- Provincial
  - Ontario
  - British Columbia
  - Alberta
  - Quebec
  - Manitoba
  - Saskatchewan
  - Nova Scotia
  - New Brunswick
  - Newfoundland and Labrador
  - Prince Edward Island
  - Yukon
- Municipalities
  - City of Toronto
  - City of Ottawa
  - City of Winnipeg
  - City of Edmonton
  - Region of Peel
  - City of Vaughan

# Definition of Lobbying

- Federal - Lobbying is communicating with public office holders for payment with regard to:
  - the making, developing or amending of federal legislative proposals, Bills or resolutions, regulations, policies or programs
  - the awarding of federal grants, contributions or other financial benefits; and
  - in the case of consultant lobbyists, the awarding of a federal government contract and arranging a meeting between a client and a public office holder.
- Typical definitions include:
  - Communication for an employer or a paying client, with a public office holder, in an attempt to influence
    - Bills and regulations
    - Policies and programs
    - Grants and financial benefits
    - In some jurisdictions, contracts
- May include appeals to members of the public through the mass media or by direct communication that seek to persuade members of the public to communicate directly with a public office holder ...”

# What is NOT Lobbying?

- Any oral or written submission made to a committee in the House or Senate
  - Communications with public office holder where the nature of the communication is strictly a request for information / inquiry.
  - Communicating about interpretation or enforcement of law
  - Communicating about implementation or administration of policy or program
  - Communications by volunteers, eg. directors
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- Differences between jurisdictions regarding exceptions, eg. attempt to influence, response to a written request
  - Alberta, Manitoba, Quebec and Saskatchewan exempt non-profit entities

# Types of Lobbyists

- There are generally **two types** of lobbyists:

**Consultant lobbyists** are employed by firms that have a specialty in government relations. Consultant lobbyists are required to register all of their lobbying activities. Some consultant lobbyists are self-employed but most are active in the fields of government relations, law, accounting or strategic advice.

**In-house lobbyists** communicate with public office holders on behalf of the corporation or the organization which employs them. **Registration is required when one or more of the employees communicate with public office holders regarding certain subjects and that those duties constitute a significant part of the duties of one employee.**



# Federal Lobbying Rules

- **Registration Requirements:** Corporate registration (for In-House lobbyists) is required where the accumulated activity of all employees involved in lobbying activities would constitute a significant part (interpreted as 20% or more) of the duties of one FTE.
- **Registration Deadline and Fee:** The officer responsible for filing returns shall file a return not later than two months after the day on which the requirement to file a return first arises. The deadline to file communications reports is the 15<sup>th</sup> day of the following month (i.e. a communication that took place on June 14 will need to be reported by July 15. There is no fee for registration.

# Federal Lobbying Rules

- **Monthly Communications and Disclosure Requirements:** Monthly reports are required to be submitted for all reportable communications (both oral and arranged communications) with a designated public office holder (as defined below).
- **Definition of Designated Public Office Holder:** The *Act* created a statutory category of “designated public office holder” to include Ministers, Ministerial staff, Deputy Ministers and Chief Executives of departments and agencies, officials in departments and agencies at the rank of Associate Deputy Minister and Assistant Deputy Minister, as well as those occupying positions of comparable rank. MPs, Senators, and Staff of the Leader of the Opposition in both the House of Commons and Senate.

# Provincial Lobbying Rules - Ontario

- **Registration Requirements:** Organizations that employ in-house lobbyists that either individually or collectively spend 50 hours annually on lobbying activities must file a registration . Consultant Lobbyists have 10 days.
- **Registration Deadline and Fee:** Although in-house lobbyists have 2 months from the beginning of the undertaking to file a registration, it is recommended that a registration is submitted as soon as possible after lobbying activities start. There is no fee for registration.
- **Definition of Public Office Holder:** The term “public office holder” has a special meaning in the *Lobbyist Registration Act* (LRA). The following individuals are public office holders under the LRA:
  - An employee of a Ministry of the Government of Ontario;
  - a minister;
  - an employee in a minister’s office;

# Provincial Lobbying Rules - Ontario

- a Member of Provincial Parliament (“MPP”);
- an employee in an MPP’s office;
- a member of the Ontario Provincial Police Force;
- an officer, director or employee of Ontario Power Generation Inc. or its subsidiaries;
- an officer, director or employee of Independent Electricity System Operator;
- or
- an officer, director or employee of a public body listed in O.Reg. 146/10 under the *Public Service of Ontario Act, 2006*.

An officer, director or employee of other entities MAY be public office holders if the entity has a governing body with Government of Ontario appointees. Entities that have governing bodies with Government of Ontario appointees may be identified by reviewing the enabling statute of an entity (if applicable), reviewing the “agencies list” on the website of the Public Appointments Secretariat or requesting an Advisory Opinion from the Commissioner.

# Practical Considerations

- What rules are most relevant?
- Do we need to register as a lobbyist?
  - **Step 1:** Is what we are doing lobbying?
  - **Step 2:** Is the person we are communicating with a Public Office Holder?
  - **Step 3:** Is there a minimum threshold for organizations/individuals before they have to register, and do we meet or exceed it?
- Who registers? Most senior paid person of the organization
- What are the risks of not registering?
  - Failing to comply with lobbying rules generally considered an offence and will be subject to penalties – including fines, imprisonment, and/or a lobbying ban.
  - Loss of reputation, credibility – registration considered the ethical and transparent thing to do

# Practical Considerations

- Depending on timing, important not to forget federal and provincial election compliance
- Review of all advocacy activities:
  - Who, how much, when
  - Charitable - PPDDA? Lobbying? Election?
- Examples:
  - Charity X distributes a research report to:
    - Supporters or the public – charitable, not lobbying, regulated during an election
    - Election candidates – charitable, not lobbying unless candidates are also public officeholders (Ministers), not regulated during an election
    - Parliamentary committee – charitable, not lobbying as long as communication is confined to the hearing, not regulated during election
    - MPs – charitable, lobbying, not regulated during election
    - Online – charitable, not lobbying, maybe regulated during election

# Resources

- [Lobbying at the federal level — at a glance; | Office of the Commissioner of Lobbying of Canada \(lobbycanada.gc.ca\)](https://lobbycanada.gc.ca)
- [Registry of Lobbyists - - Lobbyists Registration System - Office of the Commissioner of Lobbying of Canada \(lobbycanada.gc.ca\)](https://lobbycanada.gc.ca)
- [The Lobbyists' Code of Conduct; | Office of the Commissioner of Lobbying of Canada \(lobbycanada.gc.ca\)](https://lobbycanada.gc.ca)
- [Overview \(oico.on.ca\)](https://oico.on.ca) – Lobbying registration in Ontario
- [guide-to-the-lobbyists-registration-act.pdf \(oico.on.ca\)](https://oico.on.ca)
- [Lobbyist Registrar – City of Toronto](https://www.toronto.ca)

# LOBBYING FOR CHANGE: Questions?

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