

# Government Relations and Ethics Bulletin

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## Complying with Ontario's *Lobbyists Registration Act*: Issues Facing Organizations, Partnerships and Corporations Who Communicate with the Government of Ontario

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Ontario's *Lobbyists Registration Act* (the "Act") requires "organizations" (including for example, industry or trade associations, charitable organizations and not-for-profit companies), partnerships and corporations who lobby Ontario public office holders to file an 'in-house' lobbyists return. This return is accessible to the public through a public, electronic registry.

### What is Lobbying Activity?

The Act defines lobbying very broadly. Lobbying is communication with a public office holder in an attempt to influence:

- a) the development of any legislative policy by the Government of Ontario or by a member of the Legislative Assembly,
- b) the introduction of any bill or resolution in the Legislative Assembly or the passage, defeat or amendment of any bill or resolution that is before the Legislative Assembly,
- c) the making or amendment of any regulation,

- d) the development or amendment of any policy or program of the Government of Ontario or the termination of any program of the Government of Ontario,
- e) a decision to transfer from the Government of Ontario any interest in or asset of, any business, enterprise or institution that provides goods or services to the Government of Ontario or to the public, and
- f) the awarding of any grant, contribution or other financial benefit by or on behalf of the Government of Ontario.

### Who is a Public Office Holder?

The definition of 'public office holder' is also quite broad and includes:

- a) any officer or employee of the Government of Ontario,
- b) a member of the Legislative Assembly and person on his or her staff,
- c) a person who is appointed to any office with the approval of the

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Lieutenant Governor in Council or a Minister (with limited exceptions),

- d) an officer, director or employee of any agency, board of commission of the Government of Ontario, and
- e) a member of the Ontario Provincial Police Force.

Effectively, virtually all public servants are included in the definition of ‘public office holder’. Included in this definition, for example, would be officers, directors and employees of Local Health Integration Networks.

### **Communication Not Included in ‘Lobbying’**

The Act exempts some communication from the definition of lobbying and does not apply to the following sorts of communication:

- a) any oral or written submission made in proceedings that are a matter of public record to a Legislative Committee,
- b) any oral or written submission made to a public office holder with respect to the enforcement, interpretation or application of any Act or regulation by that public office holder, or with respect to the implementation or administration of any policy, program, directive or guideline by a public office holder, and
- c) any oral or written submission made to a public office holder in direct response to a written request for a public office holder for advice or comment in respect of any matter.

### **Who is an In-House Lobbyist (Persons and Partnerships)?**

An in-house lobbyist (persons [including a corporation] and partnerships) is an individual who, on behalf of his or her employer, spends a ‘significant’ amount of time engaged in lobbying the Government of Ontario. An employee is engaging a ‘significant’ amount of lobbying if he or she spends 20% or more of his or her time lobbying (calculated over a three month period).

If the 20% threshold is met, the individual is obliged to register as an in-house lobbyist (persons and partnerships). Among other things, the lobbyist will be required to provide the name and business address of the lobbyist, the name and business address of the employer and the subject matter in respect of the individual is lobbying.

### **Who is an In-House Lobbyist (Organizations)?**

An in-house lobbyist (organizations) is an individual who, on behalf of and in the capacity of an employee of an entity including, for example, industry or trade associations, charitable organizations and not-for-profit companies, lobbies the Government of Ontario. Instead of requiring registration on an individual basis, one filing is made on behalf of the organization. The obligation to make this filing falls to the most senior compensated officer of an organization.

In this instance, the 20% threshold will be exceeded, when either an individual employee spends 20% or more of his or her time lobbying, or where the combined times of more than one employee would result in the 20% threshold being exceeded.

The content of an in-house lobbyist (organizations) registration is similar in most respects to that of an in-house lobbyist (persons and partnerships).

## Penalties for Non-Compliance

The Act provides for severe penalties for breaches of the Act, such as failing to file a return, failing to provide correct information, among others. Upon conviction, the individual having an obligation to register is liable to a fine of not more than \$25,000.

The purpose of this bulletin is to address the lobbyists registration regime in Ontario. Other jurisdictions have separate lobbyists registration regimes, including: the Government of Canada,

British Columbia, Alberta, Ontario, Quebec, Nova Scotia, Newfoundland and Labrador and the City of Toronto.

For more information on the subject of this bulletin, please contact the author.

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