



Six Things You Need to Know About the *Lobbyists Registration Act**

NOTE: If you are volunteer led and run, this does **not** apply to you.
Lobbyists are **paid** staff.

1. **The Lobbyists Registration Act: What is it and why we recommend you read this brief.**

The Lobbyists Registration Act, 1998 came into force in early 1999. The original Act included nonprofits and charities as organizations required to register. As originally drafted, the threshold for registration was 20 percent of a staff person's time over a 3-month period spent on lobbying activity, sufficiently high that the vast majority of nonprofit organizations and charities did not qualify. Only those engaging a third-party consultant or undertaking an extensive campaign registered. The Act requires lobbyists to report their activity to the Integrity Commissioner.

In December 2014, the Ontario Government passed Bill 8, *An Act to promote public sector and MPP Accountability and Transparency by enacting the Broader Public Sector Executive Compensation Act, 2014 and amending various Acts*. Embedded in that Act was a change to the Lobbyists Registration Act that **reduced the threshold to 50 hours a YEAR, gave the Integrity Commissioner investigative powers and created penalties for noncompliance.**

Given the significant changes and new enforcement powers, many charities and nonprofits will have to review their practices and recordkeeping. With a threshold of 50 hours a year (less than an hour a week), many more nonprofit organizations may have to register.

You may think your organization does not engage in “lobbying” but the definition under the Act is very broad – read on if you work with the Ontario Government on a regular basis in any capacity!

*This brief is intended as a service to Ontario charities and nonprofits. It is not intended as a complete statement of the law, nor should it be treated as legal advice. Persons seeking further information on these topics should consult their legal advisors.

2. The key features of the Lobbyist Registration Act (LRA)

- The Act requires all persons who intend to communicate with and influence a public office holder (which is broadly defined and includes most provincial public servants, provincial politicians and their staff, as well as officials at agencies, boards and commissions) to file a return with the Registrar (<http://tinyurl.com/hfla3vz>). It sets out three types of lobbyists:
 - o consultant lobbyist,
 - o in-house lobbyist for persons and partnerships, and
 - o in-house lobbyist for organizations (includes nonprofit organizations).

- The definition of “lobbying” in the LRA is very broad. Lobbying is defined as including “activities intended to influence a public office holder with respect to changes to legislation, regulations, programs, privatization, and awarding of grants, contributions or financial benefits.”

At the same time, the following is **not** “lobbying” under the LRA: “Submissions made with respect to the enforcement, interpretation, or application of any act, policy, program, directive, or guideline.”

And, registration is not required for submissions to legislative committees that are a matter of public record, submissions regarding the implementation or administration of any act, policy, program, directive or guideline, or if responding to the government’s request for advice or comment.

For details of the changes, visit the Office of the Integrity Commissioner’s website: <https://www.oico.on.ca/home/lobbyists-registration/overview/amendments-to-the-act>.

For details on the Act in general - A Guide to the Lobbyists Registration Act: <http://tinyurl.com/jcte6gj>.

How do the organizations working with government differentiate between day-to-day contract and program design, budget negotiation and “lobbying”?

ONN has asked for more clarification and plans to circulate an issues paper on this shortly. Nonprofits and charities give voice to the needs and concerns of communities as they partner with government to deliver needed services and supports. When does this activity of working with government become “lobbying” under the Act? The line can often be grey.

3. If you need to register

- The senior officer (of the organization) will file the registration listing all employees involved (a lobbyist is a paid employee - board members and other volunteers are exempt), if the combined time for all of its lobbyists meets the threshold of 50 hours per year.
- If an organization is unsure of its lobby hours it will need to keep track of hours until the 50-hour threshold is reached. Once registered, however, there is no requirement to track hours, though you will have to track activity (issues, objectives, ministries contacted, etc.) to ensure it is included in your plan filed at registration.
- Registering as a lobbyist is done online when an organization's "lobbying" activity hits the threshold. This means that although the changes to the Act are proclaimed effective July 1, 2016, you have 50 hours of "lobbying" *after* this date before you have to register. This will provide some time for determining your internal systems to define and monitor "lobbying." Under the amended Act, you will re-register every six months if there are no changes, or within 30 days if there are changes, in your "lobbying" activities.
- Registration includes reporting on the following:
 - Name and position of all staff who will be doing any "lobby" work.
 - Board members' names are listed (their *activities*, however, are not covered under the Act).
 - Source and amount of any government funding, including municipal and federal for the year.
 - Name of any nongovernment entity or organization providing \$750 or more to support your "lobbying" activity.
 - List communication techniques (e.g., phone, email, meetings), but not by each issue or lobbying activity, only in general.
 - Report on "lobbying" activity by type of activity (i.e., whether to influence a bill, change a policy, get funding, as defined in the LRA):
 - List all ministries or agencies, boards, and commissions that will be lobbied. (Individual staff names not required.)
 - Specific ministers or MPPs to be lobbied, and staff in the offices of ministers or MPPs. (Names required.)
 - "Grass-roots lobbying" – you must include activities you undertake that have the purpose of encouraging individuals or organizations to communicate with public office holders, even if you do not communicate directly with office holders yourself (only the time spent on materials/communications is "lobbying").

For details of the registration information required:

<http://www.oico.on.ca/home/lobbyists-registration/the-registration-process>.

4. If you don't need to register

- The new enforcement and complaint provisions of the Act mean you might be asked to prove you are under the 50-hours-a-year threshold. This means you will want to have internal documents guiding staff on what to classify as “lobby activity” and have a system for recording activity.

5. Interpretation bulletins and advisory opinions

- The Office of the Integrity Commissioner of Ontario (OICO) is responsible for oversight of lobbyist registration. OICO issues [Interpretation Bulletins](#), which are public and on its website. There are, as yet, no bulletins to guide nonprofits on interpreting the line between day-to-day communication and “lobbying” with respect to government transfer payment agreements.
- You can request an advisory opinion from OICO that would be specific to your organization's situation. These opinions would not be made public.

6. Expanded powers of the Office of the Integrity Commissioner

The bill provided a new range of powers for the Office of the Integrity Commissioner.

These include:

- The power to issue advisory and interpretation bulletins is expanded to include lobbyist's conduct, including the authority to issue a lobbyist code of conduct.
- The ability to conduct investigations into any alleged breach of the *Lobbyist Registration Act* and regulations.
- Expanded penalty provisions for breaches of the Act or regulations, such as prohibitions on lobbying for a maximum of two years and publication of the name of the lobbyist and his or her offence,
- Maximum fines for any conviction under the Act increase from \$25,000 to \$100,000.
- Investigation: OICO may compel any person to provide information or documentation that may be relevant to the investigation, issue summons and apply to the Superior Court of Justice for an order directing a person to provide information or documents. Also, once the investigation is complete, and the Integrity Commissioner believes a breach of the Act or regulations has occurred, he or she will give notice to the person being investigated. At that point the person alleged to have been in non-compliance with the Act will have the opportunity to respond to the Commissioner's allegations.

The Act also includes provisions for a reconsideration of the Commissioner's findings of non-compliance or the penalty being considered or both. Provision is also made for a judicial review of the findings within 60 days of having received the judgment.

In sum

Until better information and rulings emerge on the line between day-to-day partnership with government and “lobby activity,” each organization needs to determine what activity it undertakes that qualifies as “lobbying” and develop internal tracking of such activities. If you have any dealings with the Ontario Government (including agencies, boards and commissions) at all, it is advised that you track “lobbying” time if you expect to remain under 50 hours per year, and that you track the issue, activity and lobby targets if your organization is registered or expects to have to register within the next six months.

We encourage you to read the following:

➤ Bulletin on changes to the act

<https://www.oico.on.ca/home/lobbyists-registration/overview/amendments-to-the-act>

➤ The Guide to the Act

<http://www.oico.on.ca/docs/default-source/default-document-library/a-guide-to-the-lobbyists-registration-act.pdf>

➤ The registration process

<http://www.oico.on.ca/home/lobbyists-registration/the-registration-process>

ONN will keep you posted on its work to clarify and simplify lobbyist registration for a sector whose mandate includes [advocacy for the public good](#).

- June 16, 2016

About ONN

Organized in 2007 and incorporated as a nonprofit in 2014, the Ontario Nonprofit Network (ONN) is the convening network for the approximately 55,000 nonprofit and charitable organizations across Ontario. As a 7,000-strong provincial network, with a volunteer base of 300 sector leaders, ONN brings the diverse voices of the sector to government, funders and the business sector to create and influence systemic change. ONN activates its volunteer base and the network to develop and analyze policy, and work on strategic issues through its working groups, engagement of nonprofits and charities and government.

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