



The *Lobbying Act* and You

Information for Designated Public Office Holders

This fact sheet aims to help designated public office holders (DPOHs) understand the Lobbying Act and their new obligations. The information provided in this fact sheet supplements information provided by the Office of the Registrar of Lobbyists and by the Commissioner of Lobbying.

On July 2, 2008, the new federal *Lobbying Act* becomes law. It will increase the transparency of lobbying activities involving federal officials and strengthen the oversight and enforcement of lobbying rules. The Act creates a new registration process for lobbyists and establishes a new category of senior public officials called **designated public office holders (DPOH)**. Certain parts of the Act apply to DPOHs.

As well, the position of Registrar of Lobbyists will be replaced by the new position of Commissioner of Lobbying. The Commissioner has the authority to administer the Act. This includes giving advice, issuing interpretations and guiding DPOHs in fulfilling their obligations.

What is lobbying?







Lobbying is an important part of our democratic system and a legitimate activity. A key duty of government officials is to interact with citizens. The *Lobbying Act* ensures that Canadians and public office holders know who is communicating with the government and on what subject.

The *Lobbying Act* broadly defines lobbying as any communication (written or oral) by an individual who is paid to communicate with the federal government about federal laws, policies, programs and possibly obtaining government contracts. Even public policy advocacy and government consultations may be considered lobbying. The *Lobbying Act* is not intended to change or influence the normal practices of public officials in these areas.

It's up to individuals who are lobbying to comply with registration requirements under the *Lobbying Act*. Public office holders aren't required to find out if individuals have registered, nor should they advise them to. The Commissioner of Lobbying, meanwhile, is responsible for enforcing the Act.

Who are DPOHs?

DPOHs are key government decision-makers. They include:

-  ministers, ministers of state
-  all exempt staff
-  the senior executive position in departments and agencies (for example, deputy minister, deputy head, chief executive officer or other title)
-  associate deputy ministers or comparable rank
-  assistant deputy ministers or comparable rank
-  other positions designated by regulation: Chief of the Defence Staff, Vice Chief of the Defence Staff, Chief of Maritime Staff, Chief of Land Staff, Chief of Air Staff, Chief of

Military Personnel, Judge Advocate General, senior advisors to the Privy Council appointed by the Governor in Council, Deputy Minister Intergovernmental Affairs (Privy Council Office), Comptroller General of Canada, and other deputy ministers, deputy heads, and associate deputy ministers and deputy heads appointed under the *Public Service Employment Act*.

Public officials who aren't sure if their position is comparable in rank to an associate or assistant deputy minister should contact the Office of the Commissioner of Lobbying for a determination.

What are the responsibilities of DPOHs?

The *Lobbying Act* requires DPOHs:

1. to respond to enquiries by the Commissioner of Lobbying, and
2. to respect the five-year post-employment prohibition on lobbying the federal government.

1. Respond to enquiries by the Commissioner of Lobbying

Each month, lobbyists must file an electronic return detailing arranged verbal conversations they have had with DPOHs. These returns will list:

- 🍁 the name of the DPOH
- 🍁 the position title of the DPOH, and the organization and branch for which they work
- 🍁 the date of the conversation, and
- 🍁 the subject discussed (as per a list of topics from a drop-down menu).

Therefore, DPOHs who have been lobbied may be identified in the Registry of Lobbyists, available to the public.

The Commissioner of Lobbying may request any current or former DPOH to verify information that relates to them. Not every monthly return will necessarily be verified. The Commissioner will decide when to request verifications, how DPOHs will respond and what steps should be taken if a DPOH disagrees with the information in the return.

It is the responsibility of the lobbyist alone to determine if a conversation should be listed on a monthly return. All arranged verbal conversations with DPOHs must be reported, with the exception of verbal discussions arranged by public office holders about the development of policy, programs or legislation. Discussions about contracts and financial benefits that are arranged by public office holders must be reported.

DPOHs should be prepared to confirm their status under the *Lobbying Act* to external parties, so that these parties can decide if they need to register a communication.

DPOHs should make every effort to respond fully and accurately to enquiries from the Commissioner, using information that they have available.

When scheduling meetings, it is important that DPOHs keep an accurate calendar with the names of individuals present, the organizations they represent and a broad description of the subject discussed.

This practice should allow DPOHs to verify a monthly return when called upon by the Commissioner of Lobbying. The *Lobbying Act*, however, does not require DPOHs to maintain separate lists of meetings with lobbyists, and does not alter government record-keeping practices and policies.

If a DPOH fails to respond to the Commissioner or responds in an unsatisfactory way, his or her name and the details of the communication may be published by the Commissioner in a report to Parliament.

2. Five-year post-employment prohibition on lobbying

DPOHs are prohibited from lobbying the federal government for five years after leaving their jobs.

The post-employment prohibition begins July 2, 2008 for all individuals who occupy a DPOH position, except for assistant deputy ministers and comparable ranks. The prohibition for those positions takes effect January 2, 2009. An individual who works in a DPOH position as the result of an employment exchange program (such as the Interchange Canada Program) is not subject to the post-employment prohibition.

Individuals prohibited from lobbying can apply to the Commissioner of Lobbying for an exemption. Criteria in the Act will guide the Commissioner's decision. The Commissioner may place conditions on an exemption.

The five-year post-employment prohibition doesn't stop former DPOHs from working for non-profit organizations as long as their duties don't require them to lobby the federal government. Former DPOHs may also work for corporations, if lobbying the federal government isn't one of their main duties. For further information on the post-employment prohibition and the exemption process, please contact the Office of the Commissioner of Lobbying.

Further information

The Office of the Registrar of Lobbyists has prepared a series of Implementation Notices that provides an overview of the changes to the law and how the Office of the Registrar expects the Commissioner will apply the *Lobbying Act*. These Implementation Notices are available at www.LobbyCanada.gc.ca. For more information about the *Lobbying Act*, please contact:

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