



Number 15 of 2023

**Regulation of Lobbying and Oireachtas (Allowances to Members) (Amendment)
Act 2023**



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**REGULATION OF LOBBYING AND OIREACHTAS (ALLOWANCES TO MEMBERS)
(AMENDMENT) ACT 2023**

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Electoral Act 1992 (No. 23)

Oireachtas (Allowances To Members) and Ministerial and Parliamentary Offices (Amendment)
Act 1992 (No. 3)

Planning and Development Acts 2000 to 2014

Planning and Development Acts 2000 to 2021

Regulation of Lobbying Act 2015 (No. 5)



Number 15 of 2023

**REGULATION OF LOBBYING AND OIREACTHAS (ALLOWANCES TO MEMBERS)
(AMENDMENT) ACT 2023**

An Act to amend and extend the Regulation of Lobbying Act 2015; to extend the relevant period for review of that Act; to extend the application of that Act to certain persons who carry on lobbying activities; to extend the range of excepted communications; to provide for the enhanced operation of the Register of Lobbying; to provide for further relevant contraventions; to make further provision relating to restrictions on involvement in lobbying by certain former designated public officials; to provide for a system of non-criminal enforcement of certain provisions of the Regulation of Lobbying Act 2015, including by the imposition of sanctions; to make further provision in respect of the allowances payable to members of either House of the Oireachtas and for that purpose to amend the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1992; and to provide for related matters. [22nd June, 2023]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act, “Principal Act” means the Regulation of Lobbying Act 2015.

Amendment of section 2 of Principal Act

2. Section 2 of the Principal Act is amended, in subsection (2), by the substitution of the following paragraph for paragraph (c):

“(c) each subsequent successive period of 5 years beginning on the commencement of *section 2 of the Regulation of Lobbying and Oireachtas (Allowances to Members) (Amendment) Act 2023*.”.

Amendment of section 4 of Principal Act

3. Section 4 of the Principal Act is amended, in subsection (3), by the insertion after “the Minister” of “or the Commission, as the case may be,”.

Amendment of section 5 of Principal Act

4. Section 5 of the Principal Act is amended—

- (a) in subsection (1), by the substitution of the following paragraph for paragraph (c):

“(c) makes, or manages or directs the making of, any relevant communications about the development or zoning of land under the Planning and Development Acts 2000 to 2021.”,

- (b) in subsection (2), by—

(i) in paragraph (b), the substitution of “the members,” for “the members, or”,

(ii) in paragraph (c), the substitution of “those issues,” for “those issues.”, and

- (iii) the insertion of the following paragraphs after paragraph (c):

“(d) the person has no full-time employees and is a body which exists primarily to represent the interests of its members where one or more of the members of the body would fall within the scope of one of paragraphs (a) to (c) if such member or members were to carry on lobbying activities outside of the body and the relevant communications are made on behalf of any of the members, or

(e) the person has no full-time employees and is a body which exists primarily to take up particular issues where one or more of the members of the body would fall within the scope of one of paragraphs (a) to (c) if such member or members were to carry on lobbying activities outside of the body and the relevant communications are made in the furtherance of any of those issues.”,

- (c) in subsection (3), by the substitution of the following paragraph for paragraph (b):

“(b) where it is made by a person who holds, in the body, any office the functions of which relate to the affairs of the body as a whole,”,

- (d) in subsection (5), by—

(i) in paragraph (a), the substitution of “Planning and Development Acts 2000 to 2021” for “Planning and Development Acts 2000 to 2014”,

(ii) in paragraph (o), the substitution of “subsection (8);” for “subsection (8).”, and

- (iii) the insertion of the following paragraph after paragraph (o):

“(p) communications by a political party to its members who are designated public officials and which are made exclusively in their capacity as members of the political party concerned.”,

and

- (e) in subsection (9), by the insertion of the following definition:

“ ‘political party’ means a political party registered in the Register of Political Parties in accordance with section 25 of the Electoral Act 1992;”.

Amendment of section 7 of Principal Act

5. Section 7 of the Principal Act is amended by the insertion of the following definition:

“ ‘company’ means a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act;”.

Amendment of section 8 of Principal Act

6. Section 8 of the Principal Act is amended—

(a) by the insertion of the following subsection after subsection (1):

“(1A) Subject to subsection (2), a registered person whose entry on the Register has been marked under section 11(4) with a statement indicating that the person has ceased to carry on lobbying activities shall not carry on such activities.”,

and

(b) by the substitution of the following subsection for subsection (2):

“(2) A person does not contravene subsection (1) or (1A), as the case may be—

(a) in the first relevant period in which the person carries on lobbying activities if the person becomes a registered person before the relevant date, or

(b) in the case of a person referred to in subsection (1A), in the first relevant period in which the person recommences lobbying activities if the person complies with the requirements of section 11(5) before the relevant date.”.

Amendment of section 11 of Principal Act

7. Section 11 of the Principal Act is amended—

(a) in subsection (1), by—

(i) the insertion of the following paragraph after paragraph (a):

“(aa) the name of every person who is a member of a body referred to in section 5(2)(d) or (e), as the case may be,”,

and

(ii) the substitution of the following paragraph for paragraph (b):

“(b) the address (or principal address) at which the person carries on business or carries on the person’s main activities or (if there is no such address) the address at which the person ordinarily resides,”

(b) in subsection (4), by the deletion of “permanently” in both places where it occurs, and

(c) by the insertion of the following subsection after subsection (4):

“(5) A registered person referred to in subsection (4) whose entry on the Register has been marked under that subsection with a statement indicating that the person has ceased to carry on lobbying activities, and who subsequently wishes to recommence such activities, shall notify the Commission accordingly, in such form and manner as the Commission may require, and, on receipt of such notification, the Commission shall remove such statement from the person’s entry on the Register.”.

Amendment of section 12 of Principal Act

8. Section 12 of the Principal Act is amended by—

(a) in subsection (2), the deletion of “permanently”,

(b) in subsection (4)(f), the deletion of “and” where it lastly occurs, and

(c) the insertion of the following paragraph after paragraph (f):

“(fa) the name of every person who is a member of a body referred to in section 5(2)(d) or (e), as the case may be, and”.

Amendment of section 18 of Principal Act

9. Section 18 of the Principal Act is amended by—

(a) the substitution of the following paragraph for paragraph (a):

“(a) contravening subsection (1) or (1A) of section 8;”,

(b) in paragraph (e), the substitution of “section 19;” for “section 19.”, and

(c) the insertion of the following paragraphs after paragraph (e):

“(f) the taking of any action by a person that has as its intended purpose the avoidance or circumvention of the person’s obligations under section 8(1) or 12(1);

(g) contravening section 22(1).”.

Amendment of section 20 of Principal Act

10. Section 20 of the Principal Act is amended, in subsection (2), by the substitution of “under paragraph (a), (b) (save as provided for by subsection (1)), (c), (d), (e) or (f) of

section 18” for “in any other way”.

Amendment of section 21 of Principal Act

11. Section 21 of the Principal Act is amended by the substitution of the following subsection for subsection (3):

“(3) The fixed payment notice may be served on the person:

- (a) where the Commission has been provided with the person’s email address, by sending it to the person by electronic means to that email address, provided that a record that the email has been sent to the person is made for the sender by the email system used;
- (b) by delivering it to the person;
- (c) by sending it by registered post or by any other form of recorded delivery service to—
 - (i) in the case of an individual, the address at which the individual ordinarily resides or any other address provided by the individual for the purposes of this section,
 - (ii) in the case of a company, its registered office, or
 - (iii) in the case of any other body corporate or unincorporated body, its principal office or place of business.”.

Amendment of section 22 of Principal Act

12. Section 22 of the Principal Act is amended by—

- (a) in subsection (1), the substitution of “the prior consent of the Commission and, where that consent is subject to conditions under subsection (5)(a)(i)(II), in accordance with its terms” for “the consent of the Commission”,
- (b) the insertion of the following subsection after subsection (4):

“(4A) A person referred to in subsection (1) shall apply to the Commission for consent in such form and manner as the Commission may require.”,
- (c) the substitution of the following subsection for subsection (5):

“(5) (a) Where a person referred to in subsection (1) makes an application to the Commission for consent, the Commission shall, after any appropriate consultation (including with the person concerned, the person’s current, former or intended employer or such other person as the Commission considers appropriate) decide to—

 - (i) give consent—
 - (I) unconditionally, or

(II) subject to conditions,

or

(ii) refuse to give consent for the whole or any part of the relevant period.

(b) The Commission shall notify the person in writing of the decision under paragraph (a), and, in the case of a decision under subparagraph (i)(II) or (ii) of paragraph (a), the reasons for the decision.

(c) A decision under paragraph (a) shall be made as soon as may be and, insofar as practicable, not later than 21 days after the receipt by the Commission of the application concerned.

(d) Where a decision is not or is not likely to be provided to the person concerned within the period specified in paragraph (c), the Commission shall notify the person concerned as soon as practicable of the extension of that period by a further period not exceeding 7 days.”,

and

(d) the insertion of the following subsections after subsection (5):

“(6) Each public service body shall inform, in writing, every person who is a relevant designated public official employed by, or holding any office or other position in, that public service body of his or her obligations under this section, when taking up such employment, office or position, and when leaving such employment, office or position, in that public service body.

(7) For the purposes of the performance by the Commission of its functions under this section, as soon as practicable after a public service body becomes aware that a relevant designated public official will be leaving his or her employment, office or position held in the public service body, that public service body shall notify the Commission of—

(a) the name of the official and his or her address for correspondence, including his or her email address,

(b) the grade or rank of the official,

(c) the date on which the official took up such employment, office or position, and

(d) the date on which the official will leave or left such employment, office or position.”.

Sanctions for contravention under section 18(f) or of section 22(1)

13. The Principal Act is amended by the insertion of the following section after section 22:

- “22A. (1) This section applies to a contravention under section 18(f) or of section 22(1), as the case may be.
- (2) On receipt of a report following an investigation carried out under section 19 as to whether there has been a contravention to which this section applies, the Commission shall consider the report.
- (3) Where the Commission has considered the report referred to in subsection (2), the Commission shall decide, subject to subsection (4)—
- (a) if there has been a relevant contravention to which this section applies, and
- (b) if so, as it thinks fit in the circumstances of the case, whether to impose on the person under investigation—
- (i) a minor sanction, or
- (ii) subject to section 22B, a major sanction.
- (4) For the purposes of making a decision under subsection (3), the Commission may, if requested to do so by the person under investigation, or if it considers it proper to do so for the purposes of assisting it to make such decision, or for the purposes of observing fair procedures—
- (a) conduct an oral hearing, or
- (b) give to the person a notice stating that the person may, not later than 30 days beginning on the date of the notice, or such further period not exceeding 30 days as the Commission allows, make a submission in writing to the Commission on the report prepared in accordance with section 19.
- (5) Subject to section 22F, the Commission shall determine how an oral hearing under subsection (4)(a) is to be conducted.
- (6) The Commission shall notify the person to whom the report relates of a decision under subsection (3) as soon as practicable after it is made, which notification shall—
- (a) include the reasons for the decision,
- (b) inform the person that—
- (i) the person may, under section 22D, appeal the decision within 30 days beginning on the date of the notification,
- (ii) the appeal shall specify the grounds for the appeal, and
- ”

- (iii) the decision shall be suspended until, as the case may be—
 - (I) the decision becomes final under subsection (7), or
 - (II) subject to subsection (8), the disposal of the appeal under section 22D.
- (7) If, on the expiration of the period of 30 days beginning on the date of the notification under subsection (6), no appeal under section 22D has been made, the decision under subsection (3) shall be final.
- (8) If, following an appeal of a decision under subsection (3), the Circuit Court directs the Commission under section 22D(5)(b)(ii) to reconsider the decision, that decision shall be suspended until it has been reconsidered by the Commission.
- (9) A decision of the Commission under subsection (3)(b)(ii) to impose a major sanction shall not take effect unless the decision is confirmed by the Circuit Court under section 22D or 22E, as the case may be.
- (10) A person shall not be the subject of both an administrative sanction and a criminal penalty under this Act for a contravention under section 18(f).
- (11) The Commission in conducting an oral hearing under this section may take evidence on oath, and the administration of such an oath by any member of the Commission is hereby authorised.
- (12) An oral hearing under this section shall be conducted otherwise than in public unless the Commission, upon the application by or on behalf of the person under investigation, or of its own motion, determines that the proceedings (or part thereof) should be conducted in public.
- (13) In this section—
 - ‘major sanction’ means—
 - (a) a financial sanction of an amount not exceeding €25,000,
 - (b) a prohibition on the person from registering on the Register for a period of no more than 2 years,
 - (c) a prohibition on the person from making or having a return made under section 12 in respect of that person for a period of no more than 2 years, or
 - (d) any combination of any of the sanctions specified in paragraphs (a) to (c);
 - ‘minor sanction’ means—
 - (a) advice,
 - (b) a reprimand,

- (c) a caution, or
- (d) any combination of any of the sanctions specified in paragraphs (a) to (c).”.

Matters to be considered in determining amount of financial sanction to be imposed

14. The Principal Act is amended by the insertion of the following section after section 22A (inserted by *section 13*):

“22B. The Commission, in considering the amount of the financial sanction to be imposed under section 22A, shall take into account the circumstances of the contravention under section 18(f) or of section 22(1) and, without prejudice to the generality of the foregoing, may have regard to:

- (a) the need to ensure that any sanction imposed—
 - (i) is appropriate and proportionate to the contravention concerned, and
 - (ii) if applicable, will act as a sufficient incentive to ensure that any like contravention will not occur in the future;
- (b) the gravity and duration of the contravention concerned;
- (c) the extent of any failure by the person to cooperate with the investigation concerning that person;
- (d) any excuse or explanation given by the person for the contravention concerned or failure to cooperate with the investigation concerned;
- (e) the repeated occurrence of the contravention concerned by the person;
- (f) if applicable, the continuation of the contravention concerned after the person was notified of the investigation concerned;
- (g) if applicable, the extent and timeliness of any steps taken to end the improper conduct and any steps taken to remedy the consequences of the contravention concerned;
- (h) any precedents set by a court or the Commission in respect of a previous like contravention.”.

Financial sanctions

15. The Principal Act is amended by the insertion of the following section after section 22B (inserted by *section 14*):

“22C. (1) A person on whom a financial sanction is imposed under section 22A shall pay the amount concerned by the date stated in the notification under subsection (6), and subject to subsections (8) and (9), of that section.

- (2) The Commission may recover as a simple contract debt, in any court of competent jurisdiction, any amount due and owing to the Commission in respect of a financial sanction imposed under section 22A.
- (3) All amounts received by the Commission under this section shall be paid into or disposed of for the benefit of the Exchequer as the Minister directs.”.

Appeal to Circuit Court

16. The Principal Act is amended by the insertion of the following section after section 22C (inserted by *section 15*):

- “22D.** (1) A person the subject of a decision under section 22A(3)(b)(i) or (ii) may, not later than 30 days beginning on the date of the notification of the decision under section 22A(6), appeal to the Court against the decision by notice in writing specifying the grounds of appeal.
- (2) The Court shall dismiss an appeal if it is of the opinion that the appeal is vexatious, frivolous, an abuse of process or without substance or foundation.
 - (3) The Court may, on the hearing of an appeal under subsection (1), consider whether—
 - (a) the Commission in making its decision committed a serious or significant error of law or fact, or a series of minor errors of law or fact which when taken together amount to a serious or significant error,
 - (b) the Commission complied with fair procedures in making its decision, and
 - (c) the sanction imposed by the Commission was appropriate and proportionate.
 - (4) In considering an appeal, the Court—
 - (a) shall have regard to the record of the decision the subject of the appeal, and
 - (b) may, where it considers it necessary or expedient for the fair and proper determination of the appeal, have regard to any submissions, documents, or evidence adduced by a party to an appeal whether or not already adduced or contained in the record of the decision as the Court considers appropriate.
 - (5) The Court may, on the hearing of an appeal under subsection (1)—
 - (a) confirm the decision the subject of the appeal, or

- (b) where it is satisfied by reference to the grounds of appeal that a serious or significant error of law or fact, or a series of minor errors of law or fact which when taken together amount to a serious or significant error, was made in making the decision the subject of the appeal, or that the decision was made without complying with fair procedures—
 - (i) annul the decision and substitute such other decision as the Court considers appropriate, or
 - (ii) remit the matter to the Commission for reconsideration and the making of a new decision, with or without direction as the Court considers appropriate.
- (6) A person shall, when making an appeal under this section, comply with the requirements of this section and any applicable rules of court made thereunder, and where a person does not so comply, the appeal shall be invalid and shall not be considered.
- (7) A decision of the Court under this section shall be final save that, by leave of that Court, an appeal shall lie from the decision to the High Court on a point of law and such appeal shall be brought no later than 21 days after the Court’s decision.
- (8) In this section, ‘Court’ means the Circuit Court.”.

Application to Circuit Court to confirm decision to impose major sanction

17. The Principal Act is amended by the insertion of the following section after section 22D (inserted by *section 16*):

- “22E. (1) Where a person does not appeal against a decision by the Commission to impose a major sanction under section 22A(3)(b)(ii) to the Court within the period specified in section 22A(6), the Commission shall, as soon as practicable after the expiration of that period, by motion on notice to the person concerned, make an application in a summary manner to the Court for confirmation of a decision to impose a major sanction.
- (2) The Court may, on the hearing of an application under subsection (1)—
- (a) confirm the decision the subject of the application, or
 - (b) where it is satisfied on the basis of the evidence before it that there is a manifest and fundamental error of law that undermines the basis for the decision—
 - (i) annul the decision and substitute such other decision as the Court considers appropriate, or

- (ii) remit the matter to the Commission for reconsideration and the making of a new decision, with or without directions as the Court considers appropriate.
- (3) The Commission shall, prior to making an application under subsection (1), by notice to the person concerned, seek the consent in writing of that person to the imposition of the major sanction referred to in subsection (1).
- (4) Where the person concerned consents to the imposition of the major sanction concerned in accordance with a notice under subsection (3), an application by the Commission under subsection (1) may be made *ex parte*.
- (5) Where the person concerned consents to the imposition of the major sanction concerned in accordance with subsection (3), the sanction shall take effect when the decision of the Commission has been confirmed by the Court in accordance with this section.
- (6) If the Court confirms the decision under subsection (2)(a) or substitutes the decision under subsection (2)(b)(i), the decision of the Court shall be substituted for the decision the subject of the application.
- (7) The Commission shall, as soon as practicable, give notice to the person concerned of the decision of the Court, the date on which it was made and the date from which that decision shall take effect.
- (8) In this section, ‘Court’ means the Circuit Court.”.

Conduct of investigations and proceedings

- 18.** The Principal Act is amended by the insertion of the following section after section 22E (inserted by *section 17*):

- “22F.** (1) Subject to subsection (3), the Commission shall publish and from time to time revise, in such form and manner as the Commission considers appropriate, a code—
- (a) for authorised officers and the Commission for the conduct of investigations under section 19, and
 - (b) for the Commission for the conduct of proceedings before the Commission under sections 22A to 22E.
- (2) An authorised officer or a member of the Commission, as the case may be, shall have regard to a code published under subsection (1)(a) or (b), as the case may be, in the performance of his or her functions as they relate to investigations or proceedings, as appropriate.
- (3) The Commission may, where it considers it appropriate, make regulations providing for the conduct of investigations under section

19 and proceedings before the Commission under sections 22A to 22E, having regard to the need for fairness in the conduct of such investigations and proceedings, in particular the need to address conflicts of interest which may arise in investigations or proceedings.”.

Giving of notices, etc.

19. The Principal Act is amended by the insertion of the following section after section 22F (inserted by *section 18*):

- “**22G.** (1) A notice that is required to be given to a person by the Commission under any of sections 22 to 22E shall be in writing and addressed to the person by name and, where the Commission has been provided with the person’s email address, may be given to the person by electronic means to that email address, provided that a record that the email has been sent to the person is made for the sender by the email system used.
- (2) Where for any reason it is not possible to effect the giving of a notice by electronic means or the Commission considers it otherwise appropriate to do so, the notice may be given by sending it by registered post to—
- (a) in the case of an individual—
- (i) the address at which the individual ordinarily resides, or
- (ii) any other address provided by the individual for the purposes of this section,
- (b) in the case of a company, its registered office, or
- (c) in the case of any other body corporate or unincorporated body, its principal office or place of business.
- (3) In this section, ‘notice’ includes notification or any document.”.

Amendment of section 23 of Principal Act

20. Section 23 of the Principal Act is amended, in subsection (1), by the substitution of “22(5)” for “22”.

Amendment of section 25 of Principal Act

21. Section 25 of the Principal Act is amended—

- (a) in subsection (2)—
- (i) in paragraph (d), by the substitution of “in that year,” for “in that year, and”,
- (ii) in paragraph (e), by the substitution of “in that year,” for “in that year.”, and

(iii) by the insertion of the following paragraphs after paragraph (e):

“(f) any decisions made, or sanctions imposed, by the Commission under section 22A in that year,

(g) any appeals taken under section 22D in that year, and

(h) any applications for confirmation of a decision to impose a major sanction made under section 22E in that year.”,

and

(b) by the insertion of the following subsection after subsection (2):

“(3) Any information referred to in paragraph (f), (g) or (h) of subsection (2) shall not be included in the report referred to in subsection (1)—

(a) in a case where a decision has been made to impose a major sanction—

(i) where an appeal has been brought, until the decision the subject of the appeal is confirmed by the Court under section 22D, or

(ii) where no appeal has been brought, until the decision is confirmed by the Court under section 22E,

and

(b) in a case where a decision has been made to impose a minor sanction—

(i) where an appeal has been brought, until the decision the subject of the appeal is confirmed by the Court under section 22D, or

(ii) where the period for bringing an appeal has expired and no appeal has been brought, until the expiry of that period.”.

Amendment of section 26 of Principal Act

22. Section 26 of the Principal Act is amended by—

(a) the designation of that section as subsection (1),

(b) in subsection (1), the insertion of “, other than functions under this section and sections 22A (other than subsection (6)) and 22B,” after “specified by the Commission”, and

(c) the insertion of the following subsection:

“(2) For the purposes of the performance of some or all of its functions under this Act, the functions of the Commission may, unless otherwise stated, be performed by a division of the Commission consisting of such uneven number of Commissioners, not being less than 3, as the Commission may determine.”.

Amendment of Schedule to Principal Act

23. The Schedule to the Principal Act is amended by—

- (a) the deletion of paragraph 11, and
- (b) the insertion of the following paragraphs after paragraph 21:

- “22. Dublin Port Company.
- 23. Port of Cork Company.
- 24. Shannon Foynes Port Company.
- 25. Port of Waterford Company.
- 26. Drogheda Port Company.
- 27. Galway Harbour Company.”.

Amendment of section 3 of Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1992

24. Section 3 of the Oireachtas (Allowances to Members) and Ministerial and Parliamentary Offices (Amendment) Act 1992 is amended—

- (a) in subsection (1), by the substitution of—

- (i) “a sum” for “an annual sum”, and
 - (ii) “final settlement” for “full settlement”,
- and

- (b) by the substitution of the following subsection for subsection (2):

“(2) An allowance shall be payable—

- (a) monthly in respect of periods for which the person concerned is paid an annual sum by way of salary under section 2 of the Act of 1938 (as amended by section 2 of this Act), or
- (b) in the case of expenses referred to in subsection (1) that are incurred on a once-off basis, in a lump sum.”.

Short title and commencement

25. (1) This Act may be cited as the Regulation of Lobbying and Oireachtas (Allowances to Members) (Amendment) Act 2023.

- (2) This Act (other than *section 24*) shall come into operation on such day or days as the Minister for Finance may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.