

O.R.L.

office of the
registrar
of lobbyists

BRITISH COLUMBIA

INFLUENCING BC

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SPECIAL AMENDMENT ISSUE

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REGISTRAR'S MESSAGE

If you are reading this special issue of *Influencing BC*, you're likely already aware that the *Lobbyists Registration Act* was amended late last year. Inside these pages, we hope to answer your questions about what the amendment means for you as a lobbyist when it comes into force on May 1, 2018.

The amendment addresses one of five recommendations made by my office in 2013 to improve the legislation. Specifically, it mandates a two-year "cooling off period" for former public office holders who wish to become lobbyists after leaving public service.

Government has indicated that additional amendments to the *Lobbyists Registration Act* are forthcoming in the fall 2018 session. Lobbyists and other stakeholders are presenting their views now during public consultations, which are taking place until April 20, 2018.

In this issue, we also detail the changes to the Lobbyists Registry, which will be implemented on May 1. We hope that they result in a smoother, easier registration process for lobbyists.

As always, please contact my staff should you require any clarification about the amendment, the registry, or any other concerns you might have about lobbying in BC.

Sincerely,

Michael McEvoy
Registrar of Lobbyists for British Columbia



Michael McEvoy

Registrar of Lobbyists
for British Columbia

REGISTRY NEWS

After May 1, the Registry will be faster and more efficient to use. Here's what you need to know about the new and improved registration process.



We will send copies of all system emails to the **secondary e-mail addresses** in your registration.

For **organizations**, the secondary email address can be entered in the "Organization Information" section of the registration.

For **consultant lobbyists**, the secondary email address can be entered in the "Firm Business Contact Information" section.



You will **no longer need to list subsidiaries** if your organization is a parent corporation.

Previously entered subsidiaries will not be displayed.



If you are **lobbying MLAs' staff and/or Ministers' staff**, you must provide the first name and last name of those staff members.

Information entered in these fields prior to May 1, 2018 will be removed.



Concerned about the changes? Check out our **updated quick tips and guidance documents**, which will be posted at lobbyistsregistrar.bc.ca on April 30.

These materials will assist you, whether you're **registering, re-registering, de-registering, or making an update.**



Contact us with any questions by email at info@bcorl.ca or call (250) 387-2686.

AMENDING THE LRA

Your questions and our answers about changes to the Act

1. Who is considered a former BC public office holder?

Not all persons who have held public office and have left their positions are considered "public office holders" under the LRA. Individuals who held any of the following positions are considered former public office holders under the LRA:

- Ministers
- Ministers' staff, including chiefs of staff, ministerial assistants, executive assistants, and administrative coordinators;
- Parliamentary Secretaries;
- Deputy Ministers
- Chief Executive Officers
- Associate/Assistant Deputy Ministers
- Most senior or next most senior ranking executive positions in a "Provincial Entity," such as a Crown corporation, agency, or association.

2. When will the amendment come into effect?

The changes will come into effect on May 1, 2018.

3. How long is the cooling off period?

The new amendment mandates a two-year prohibition from lobbying for former public office holders.

4. I was a former public office holder but left my position more than two years ago. What do I need to know?

If you are submitting a registration, you still must declare all of your former BC public office holder roles in the Registry in order to remain compliant.

5. I was a former public office holder within the last two years and am currently registered as a lobbyist. What can I expect?

We will send you a letter in late April outlining the actions you need to take prior to May 1, 2018 and what you need to know about how to apply for an exemption.

6. I am a consultant lobbyist and was a former public office holder within the last two years. I currently have an undertaking to lobby on behalf of a client. What should I do?

You must cease lobbying and terminate your registration in the Registry prior to May 1, 2018. Apply for an exemption if you believe your situation is in the public interest.

7. I was a former public office holder within the last two years and might become a consultant lobbyist. What should I do?

If you are affected by the two-year prohibition and still wish to become a lobbyist, you must apply for an exemption before entering into an undertaking or registering with the Lobbyists Registry.

8. I'm a consultant lobbyist. What happens if I receive an exemption?

You will be exempt according to the terms specified by the Registrar. Exemptions may be specific and limited in scope, so you might be prompted to apply for one each time you submit a registration for a new client.

9. I'm the designated filer for an organization. What are my responsibilities?

You are responsible for ensuring that your registration is accurate and in compliance with the *Lobbyists Registration Act*. Prior to May 1, 2018, the in-house lobbyist who was a former public office holder within the last two years must cease lobbying, and you must change their status on your organization's registration to inactive.

10. Who applies for the exemption – the in-house lobbyist or the designated filer?

The in-house lobbyist who has been a former public officer holder within the past two years must apply for the exemption if he/she believes their situation is in the public interest.

11. I'm an in-house lobbyist and former public office holder. If I am granted an exemption, will my status be transferable if I move to a different organization?

No. If you move to a different organization within your two-year prohibition, you will need to apply for another exemption. As stated above, exemptions will be limited and specific.

12. How do I request an exemption from the two-year prohibition?

You must fill out an online "Request for Exemption" form, available soon at lobbyistsregistrar.bc.ca.

13. What happens if my request for an exemption is denied?

You will not be able to lobby until two years have passed since the date you left your position as a public office holder.

EXEMPTION REVIEW PROCESS

What you need to know if you plan to apply for an exemption.

If you are a former public office holder who is subject to the two-year lobbying prohibition, you can apply for an exemption by filling out the online "Request for Exemption" form. This form will be available soon on our website.

You must state the reason(s) you should be exempt from the prohibition. Each individual will also be responsible for supplying any information to the ORL that will assist the Registrar in determining whether granting an exemption would be "in the public interest."

During the exemption review process, staff at the Office of the Registrar of Lobbyists will gather and analyze information to determine if there are sufficient grounds to grant you an exemption from the two-year lobbying prohibition.

Here are the relevant steps:

1. Once you have submitted the form, you will receive an acknowledgment of receipt.
2. An ORL investigator will analyze the information and prepare an Exemption Review Report for the Registrar for his decision.
3. The Registrar will inform each applicant in writing of the decision and the reason(s) supporting the decision.
4. If the Registrar grants an exemption, he will enter the terms or condition of the exemption and the reasons for the exemption into the Lobbyists Registry.
5. We will also post this information on our website at lobbyistsregistrar.bc.ca.



EXEMPTION GUIDANCE DOCUMENT

BACKGROUND

This guidance document outlines what the Registrar will consider when adjudicating applications for exemptions from the lobbying prohibition for former public office holders under section 2.3 of the *Lobbyists Registration Act* (LRA).

On May 1, 2018, a statutory amendment will come into force to prohibit former public office holders from lobbying for a period of two years after they ceased:

- (a) to be a member of the Executive Council or an individual employed in the member's office,
- (b) to be a parliamentary secretary, or
- (c) to occupy a position referred to in paragraph (c) of the definition of "former public office holder."

A government news release describes the prohibition as follows:

"Our legislation will increase transparency and eliminate the potential for undue influence or use of insider information by lobbyists. Previously, individuals could go straight from a senior decision-making role in government to lobbying. This sweeping prohibition will ensure that knowledge is not used or sold for private gain after employment with the Province ends. This significant legislation will also require lobbyists to register the names of staff of ministers or MLAs they lobbied."

This prohibition is subject to a "public interest" exception:

2.3 (1) If the Registrar is satisfied that it is in the public interest, the Registrar may, on request and on any terms or conditions the registrar considers advisable, exempt a person from a prohibition set out in section 2.1 (2) or 2.2.

(2) If the Registrar grants an exemption under subsection (1), the registrar must enter the following into the registry:

- (a) the terms or conditions of the exemption;
- (b) the Registrar's reasons for granting the exemption.

GUIDELINES

1. You do not have a “right” to an exemption. The onus is on the applicant seeking the exemption to satisfy the Registrar that an exemption from the statutory prohibition, with or without conditions, would be in the public interest.
2. The public interest is not synonymous with the private interest of the lobbyist or the lobbyist’s client.
3. In support of an exemption, an applicant must provide the Registrar with a submission along with supporting evidence, demonstrating how the requested exemption, if granted, would serve the public interest.
4. Without limiting an applicant’s submissions, an applicant may wish to address the following:
 - (a) the applicant’s previous position (both in nature and in duration) under a particular category of s. 2.2 of the LRA.
 - (b) the length of time since that position concluded.
 - (c) the nature of the proposed undertaking to lobby, including the client and the target(s) of lobbying.
 - (d) how the public can be assured that no information or relationships acquired in the previous position will be used in the proposed lobbying.
 - (e) why the particular lobbyist, as distinct from some other lobbyist, is proposing to carry out the lobbying.
 - (f) how the public will benefit from lobbying activity by the applicant.
 - (g) any terms and conditions that might be proposed that would satisfy the Registrar that an exemption would be in the public interest.
5. Before deciding whether to grant an exemption under section 2.3, the Registrar may require additional evidence, including testimony from the applicant or others that the Registrar considers appropriate.



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