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*[This is an unofficial consolidation of the Lobbyists Transparency Act, prepared March 4, 2020 for convenience only. This consolidation includes all amendments in force as of May 4, 2020, the date on which B.C. Reg. 235/2019 brings into force amendments to the Act, and reflects how the Act will read on that date.]*

## **LOBBYISTS TRANSPARENCY ACT**

### **CHAPTER 42**

*[Updated to May 4, 2020]*

*Assented to August 27, 2001*

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**PART 1 – INTERPRETATION AND APPLICATION****Interpretation****1** (1) In this Act:

“**affiliate**” has the same meaning as in the *Business Corporations Act*;

“**client**” means a person or organization on whose behalf a consultant lobbyist undertakes to lobby;

“**consultant lobbyist**” means an individual who, for payment, undertakes to lobby on behalf of a client;

“**designated filer**” means

- (a) a consultant lobbyist, or
- (b) in the case of an organization that has an in-house lobbyist,
  - (i) the most senior officer of the organization who receives payment for performing the officer’s functions, or
  - (ii) if there is no senior officer who receives payment, the most senior in-house lobbyist;

“**former public office holder**” means

- (a) a former member of the Executive Council and any individual, other than administrative support staff, formerly employed in the former member’s former office,
- (a.1) any individual, other than administrative support staff, formerly employed in a current or former office of a current member of the Executive Council,
- (b) a former parliamentary secretary, or
- (c) any individual who formerly occupied
  - (i) a senior executive position in a ministry, whether by the title of deputy minister, chief executive officer or another title,

- (ii) the position of associate deputy minister, assistant deputy minister or a position of comparable rank in a ministry, or
- (iii) a prescribed position in a Provincial entity;

**“in-house lobbyist”** means, subject to subsection (4), a person who

- (a) is an employee, officer or director of an organization,
- (b) receives a payment for the performance of the person’s functions, and
- (c) lobbies on behalf of the organization or an affiliate;

**“lobby”**, subject to section 2 (2), means

- (a) to communicate with a public office holder in an attempt to influence
  - (i) the development of any legislative proposal by the government of British Columbia, a Provincial entity or a member of the Legislative Assembly,
  - (ii) the introduction, amendment, passage or defeat of any Bill or resolution in or before the Legislative Assembly,
  - (iii) the development or enactment of any regulation, including the enactment of a regulation for the purposes of amending or repealing a regulation,
  - (iv) the development, establishment, amendment or termination of any program, policy, directive or guideline of the government of British Columbia or a Provincial entity,
  - (v) the awarding, amendment or termination of any contract, grant or financial benefit by or on behalf of the government of British Columbia or a Provincial entity,
  - (vi) a decision by the Executive Council or a member of the Executive Council to transfer from the Crown for consideration all or part of, or any interest in or asset of, any business, enterprise or institution that provides goods or services to the Crown, a Provincial entity or the public, or
  - (vii) a decision by the Executive Council or a member of the Executive Council to have the private sector instead of the Crown provide goods or services to the government of British Columbia or a Provincial entity,
- (b) to arrange a meeting between a public office holder and any other individual for the purpose of attempting to influence any of the matters referred to in paragraph (a) of this definition;
- (c) [Repealed 2018-52-2.]

**“lobbying activity”** means any of the activities described in paragraphs (a) and (b) of the definition of “lobby”;

**“lobbyist”** means a consultant lobbyist or an in-house lobbyist;

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**“organization”** includes any of the following, whether incorporated, unincorporated, a sole proprietorship or a partnership:

- (a) a person other than a person on whose behalf a consultant lobbyist undertakes to lobby;
- (b) a business, trade, industry, professional or voluntary organization;
- (c) a trade union or labour organization;
- (d) a chamber of commerce or board of trade;
- (e) a charitable or non-profit organization, association, society, coalition or interest group;
- (f) a government, other than the government of British Columbia;

**“payment”**, subject to section 2.1, means money or anything of value and includes a contract, a promise or an agreement to pay money or anything of value, but does not include a reimbursement of expenses;

**“Provincial entity”** means a prescribed Provincial entity;

**“public office holder”** means

- (a) a member of the Legislative Assembly and any person on the member’s staff,
- (b) an officer or employee of the government of British Columbia,
- (c) a person who is appointed to any office or body by or with the approval of the Lieutenant Governor in Council, other than a person appointed on the recommendation of the Legislative Assembly,
- (d) a person who is appointed to any office or body by or with the approval of a minister of the government of British Columbia, and
- (e) an officer, director or employee of any government corporation as defined in the *Financial Administration Act*,

but does not include a judge or a justice of the peace;

**“registrar”** means the person designated as registrar under section 7 (1);

**“registry”** means the registry established under section 7 (2);

**“relevant code of conduct”** means a code of conduct that

- (a) governs the conduct of a lobbyist in relation to engaging in lobbying activities in British Columbia, whether or not it also governs other activities,
- (b) is publicly available, and
- (c) meets prescribed criteria;

**“undertaking”** means an undertaking by a consultant lobbyist to lobby on behalf of a client, but does not include an undertaking by an employee to do anything

- (a) on the sole behalf of the employer, or

- (b) if the employer is a corporation, at the direction of the employer on behalf of a subsidiary of the employer or any corporation of which the employer is a subsidiary.
- (2) [Repealed 2009-31-3.]
- (3) For the purposes of this Act, the following are not considered to be in-house lobbyists when acting in their official capacity:
- (a) members of the Legislative Assembly or Executive Council, or persons on their staff;
  - (b) officers and employees of the Legislative Assembly appointed under section 39 of the *Constitution Act*;
  - (c) persons appointed under the *Public Service Act*;
  - (d) persons employed by, or officers or directors of, Provincial entities;
  - (e) officers of the Legislature within the meaning of the *Freedom of Information and Protection of Privacy Act*, or persons on their staff.
- (4) An individual is not an in-house lobbyist if the following apply:
- (a) the individual is an employee, director or officer of an organization that has fewer than 6 employees;
  - (b) the lobbying by the individual, either alone or together with other individuals in the organization, on behalf of the organization or an affiliate of the organization,
    - (i) totals fewer than 50 hours in the preceding 12-month period, or
    - (ii) meets the prescribed criteria,unless the primary purpose of the organization is
    - (iii) to represent the interests of its members, or
    - (iv) to promote or oppose issues,and the lobbying by the individual is for that purpose.

#### **Restrictions on application of Act**

- 2 (1) This Act does not apply to any of the following persons when acting in their official capacity:
- (a) members of the Senate or House of Commons of Canada or persons on their staff;
  - (b) members of the Legislative Assembly of another province or of a territory, or persons on the staff of any of those members;
  - (c) employees of the government of Canada or of the government of another province or territory;
  - (d) members of a municipal council, regional district board, improvement district board, school district board or other local government authority, persons on the staff of those members, or employees of a municipality,

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- regional district, improvement district, school district or other local government authority;
- (d.1) employees of bodies representing municipal councils, regional district boards, improvement district boards, school district boards or other local government authorities;
  - (e) members of an aboriginal governing body, however organized and established by aboriginal people within their traditional territory in British Columbia, persons on the staff of those members, or employees of that governing body;
  - (f) diplomatic agents, consular officers or official representatives in Canada of a foreign government;
  - (g) officials of a specialized agency of the United Nations in Canada or officials of any other international organization to whom privileges and immunities are granted under an Act of the Parliament of Canada.
- (1.1) This Act does not apply to persons in a prescribed class of persons who engage in a prescribed activity in prescribed circumstances.
- (2) This Act does not apply in respect of an oral or written submission made as follows:
- (a) made in proceedings that are a matter of public record to a committee of the Legislative Assembly or to any body or person having jurisdiction or powers conferred under an Act;
  - (b) made to a public office holder by an individual on behalf of a person or organization concerning
    - (i) the enforcement, interpretation or application of any Act or regulation by the public office holder with respect to the person or organization, or
    - (ii) the implementation or administration of any program, policy, directive or guideline by the public office holder with respect to the person or organization;
  - (c) made to a public office holder by an individual on behalf of a person or organization in direct response to a written request from a public office holder for advice or comment on any matter referred to in paragraph (a) of the definition of “lobby” in section 1 (1);
  - (d) made to a member of the Legislative Assembly by or on behalf of a constituent of the member with respect to any personal matter of the constituent.
- (3) For the purposes of subsection (2) (d), a submission made to a member of the Legislative Assembly concerning the introduction in the Legislative Assembly or the passage or amendment of a private bill for the special benefit of a constituent of the member is not considered to be a personal matter of the constituent.

- (4) This Act does not require the disclosure of any identifying information about an individual if the registrar is satisfied that disclosure of that information could reasonably be expected to threaten the individual's safety.

## **PART 1.1 – PROHIBITIONS AND EXEMPTIONS**

### **Contracting prohibition**

- 2.1** (1) In this section, “**contract for providing paid advice**” means an agreement or other arrangement under which a person directly or indirectly receives or is to receive payment for providing advice to the government of British Columbia or a Provincial entity, but does not include reasonable remuneration for serving on a board, commission, council or other body that is established under an enactment and on which there are at least 2 other members who represent other organizations or interests.
- (2) Subject to section 2.3, a person must not do either of the following:
- (a) lobby on a matter in relation to which the person, or a person associated with that person, holds a contract for providing paid advice;
  - (b) enter into a contract for providing paid advice on a matter in relation to which the person, or a person associated with that person, is lobbying.
- (3) Subsection (2) applies regardless of the number of hours the person's lobbying or duty to lobby on behalf of an organization or an affiliate, either alone or together with other individuals in the organization, amounts to annually.
- (4) For the purposes of subsection (2), a person is associated with another person if the other person is
- (a) a corporation of which the first person is a director or senior officer,
  - (b) a corporation carrying on business or activities for profit or gain if the first person owns or is the beneficial owner of shares of the corporation,
  - (c) the employer of the first person,
  - (d) a partnership
    - (i) of which the first person is a partner, or
    - (ii) of which one of the partners is a corporation associated with the first person by reason of paragraph (a) or (b) of this subsection, or
  - (e) a person or group of persons acting as the agent of the first person and having actual authority in that capacity from the first person.

### **Lobbying prohibition**

- 2.2** Subject to section 2.3, a person who is a former public office holder must not lobby, in relation to any matter, for a period of 2 years after the date the person ceased
- (a) to be a member of the Executive Council,

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- (a.1) to be an individual employed in a current or former office of a current member or former office of a former member of the Executive Council,
- (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”.

**Exemption from prohibitions**

- 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.

**Gift-giving prohibition**

- 2.4** (1) A lobbyist must not give or promise to give, directly or indirectly, any gift or other benefit to the public office holder the lobbyist is lobbying.
- (2) Subsection (1) does not apply to a gift or other benefit if the following apply:
- (a) the gift or benefit is given or promised to be given under the protocol or social obligations that normally accompany the duties or responsibilities of office of the public office holder;
  - (b) the total value of gifts or benefits described in paragraph (a) given or promised to be given, directly or indirectly, by the lobbyist to the public office holder in a 12-month period is less than a prescribed amount.

**PART 2 – FILING RETURNS****Requirement to file registration return**

- 3** (1) Within 10 days after beginning to lobby on behalf of a client, a consultant lobbyist must file with the registrar a registration return in the prescribed form and manner and containing the information required by section 4.
- (2) Only one registration return need be filed under subsection (1) for each undertaking even though a consultant lobbyist named in the registration return may, in connection with the undertaking, carry on more than one lobbying activity.
- (3) The designated filer of an organization must file with the registrar, within 10 days of the date the organization first has an in-house lobbyist, a registration return in the prescribed form and manner and containing the information required by section 4.

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- (4) Only one registration return need be filed under subsection (3) for each organization, even though an organization may have more than one in-house lobbyist or an in-house lobbyist named in the registration return may carry on more than one lobbying activity.

**Form and content of registration return**

- 4** (1) Each registration return filed under section 3 must include the following information, as applicable:
- (a) the name and business address of the designated filer, and whether the designated filer is a consultant lobbyist or the designated filer for an in-house lobbyist;
  - (b) if the registration return is filed by a consultant lobbyist,
    - (i) the name and business address of the firm, if any, where the consultant lobbyist is engaged in business,
    - (ii) the date that the consultant lobbyist begins to lobby under an undertaking on behalf of the client named in the registration return and, if known, the date that the undertaking is scheduled to terminate,
    - (iii) the name of each individual engaged by the consultant lobbyist to lobby on behalf of the client,
    - (iv) whether the payment to the consultant lobbyist by the client is, in whole or in part, contingent on
      - (A) the outcome of any matter set out in paragraph (a) of the definition of “lobby”, or
      - (B) the consultant lobbyist’s success in arranging a meeting referred to in paragraph (b) of the definition of “lobby”, and
    - (v) if the consultant lobbyist has been engaged to lobby on behalf of a client of a person or organization, the name and business address of the client;
  - (c) if the registration return is filed in respect of an in-house lobbyist, the name of each in-house lobbyist for the organization;
  - (c.1) if the registration return is filed by the designated filer for an in-house lobbyist, the date that the organization first has an in-house lobbyist and, if known, the date that the organization will no longer have an in-house lobbyist;
  - (d) the name and business address of the client or organization;
  - (e) a summary of the business or activities of the client or organization;
  - (f) if the client or organization is a corporation, the name and business address of each affiliate of the corporation that, to the designated filer’s knowledge after making reasonable inquiries, has a direct interest in the outcome of the activities of each lobbyist named in the registration return who lobbies on behalf of the client or organization;

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- (g) without limiting paragraph (f), if the client or organization is a corporation that is a subsidiary of another corporation, the name and business address of the other corporation;
- (g.1) if the client or organization is a corporation, the name and business address of any person who or organization that
  - (i) is not included under paragraph (f) or (g) in a registration return, and
  - (ii) to the designated filer's knowledge after making reasonable inquiries, controls or directs the activities of the client or organization and has a direct interest in the outcome of the lobbying activities of each lobbyist named in the registration return who lobbies on behalf of the client or organization;
- (g.2) if the client or organization is not a corporation, the name and business address of any person who or organization that, to the designated filer's knowledge after making reasonable enquiries, controls or directs the activities of the client or organization and has a direct interest in the outcome of the lobbying activities of each lobbyist named in the registration return who lobbies on behalf of the client or organization;
- (g.3) the name and business address of any person who or organization, other than a government, government agency or Provincial entity, that, to the designated filer's knowledge after making reasonable enquiries,
  - (i) contributed, within the preceding 12 months, toward the lobbying activity on behalf of the client or organization of each lobbyist named in the registration return an amount equal to or greater than a prescribed amount, and
  - (ii) has a direct interest in the outcome of the lobbying activity;
- (h) if the client or organization is a member of a coalition, the name and business address of each member of the coalition;
- (i) the name of any government, government agency or Provincial entity that has funded, in whole or in part, the client or organization within the preceding 12 months, and the amount of that funding;
- (i.1) the name of any government, government agency or Provincial entity from which the client or organization has requested funding within the preceding 12 months, and the amount of that requested funding;
- (j) particulars to identify the subject matter concerning which a lobbyist named in the registration return has lobbied or expects to lobby, and any other prescribed information concerning the subject matter;
- (k) if a lobbyist named in the registration return has lobbied or expects to lobby a public office holder employed by or serving in a ministry of the government of British Columbia or a Provincial entity, the name of the ministry or Provincial entity and any prescribed information respecting the ministry or Provincial entity;
- (l) to (n) [Repealed 2018-52-8.]

- (o) if any lobbyist named in the registration return is a former public office holder, the nature of the position formerly held by the lobbyist and the term of office;
  - (p) prescribed information.
- (1.1) [Repealed 2017-19-7.]
- (1.2) Each registration return filed under section 3 must include the following declarations, as applicable:
- (a) a declaration that no lobbyist named in the registration return is in violation of section 2.1 (2) or 2.2;
  - (b) a declaration, for each lobbyist named in the registration return,
    - (i) of whether there is in place an undertaking to comply with a relevant code of conduct, and
    - (ii) if an undertaking described in subparagraph (i) is in place, of the name of the code of conduct, where a copy of the code of conduct is publicly available and prescribed information.
- (2) to (6) [Repealed 2018-52-10.]

#### Requirement to file monthly return

- 4.1** A designated filer who has filed a registration return under section 3 must file with the registrar a monthly return, in the prescribed form and manner and containing the information required under section 4.2, no later than 15 days after the end of every month, beginning with the month in which the registration return under section 3 is filed.

#### Form and content of monthly returns

- 4.2** (1) In this section:
- “**election advertising**” has the same meaning as in the *Election Act*;
- “**senior public office holder**” means an individual who
- (a) is a member of the Executive Council,
  - (b) is employed, other than as administrative support staff, in the office of a member of the Executive Council,
  - (c) is a member of the Legislative Assembly,
  - (d) is employed, other than as administrative support staff, in the office of a member of the Legislative Assembly,
  - (e) is a parliamentary secretary,
  - (f) occupies a senior executive position in a ministry, whether by the title of deputy minister, chief executive officer or another title,
  - (g) occupies the position of associate deputy minister, assistant deputy minister or a position of comparable rank in a ministry, or
  - (h) occupies a prescribed position in a Provincial entity;

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“**third party sponsor**” has the same meaning as in the *Election Act*.

- (2) Each monthly return filed under section 4.1 must include the following information in relation to each lobbying activity carried on, as applicable:
- (a) the name and position title of the senior public office holder who was the object of the lobbying activity;
  - (b) the date of the lobbying activity;
  - (c) the names of the lobbyists who participated in the lobbying activity;
  - (d) particulars, including any prescribed particulars, to identify the subject matter of the lobbying activity;
  - (e) the following information about a registration return filed under section 4:
    - (i) particulars of any change to the information in the registration return;
    - (ii) any information required under section 4 (1) that the designated filer acquired only after the return was filed;
    - (iii) any information requested by the registrar to clarify information supplied by the designated filer under section 4;
  - (f) if a lobbyist named in the monthly return or, in the case of a consultant lobbyist, a client of the consultant lobbyist has made, on or after the date the writ was issued for the last provincial election,
    - (i) a political contribution as defined in section 180 of the *Election Act* and that must be reported under section 206 or 210 of that Act,
    - (ii) a sponsorship contribution as defined in section 235.02 of the *Election Act* and that must be reported under section 243.01 or 244 of that Act, or
    - (iii) a recall contribution as defined in section 1 of the *Recall and Initiative Act* and that must be reported under section 124 of that Actto
    - (iv) a member of the Legislative Assembly named under paragraph (a) of this subsection, or to that member’s political party or constituency association, or
    - (v) in the case of a sponsorship contribution, to a third party sponsor that sponsors election advertising that promotes, directly, the election of a member of the Legislative Assembly named in paragraph (a) of this subsection, or that member’s political party,the fact that this contribution has been made;
  - (g) if a lobbyist named in the monthly return gave or promised to give a gift or other benefit to a public office holder, the name of the public office holder, a description of the gift or benefit, the value of the gift or benefit and the circumstances under which the gift or benefit was given and accepted or promised to be given;
  - (h) any other prescribed information.

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- (3) In addition to the information required under subsection (2), the first monthly return filed under section 4.1 must also include information specified in subsection (2) for each lobbying activity that occurred between the date that the requirement to file a registration return under section 3 arose and the end of the month immediately before the filing of the monthly return.
  - (4) Only one monthly return need be filed under section 4.1 in respect of
    - (a) a consultant lobbyist for each undertaking, and
    - (b) an organization that has an in-house lobbyist,even though a lobbyist named in the monthly return may, in connection with the undertaking or organization, carry on more than one lobbying activity.
  - (5) A designated filer need not file a monthly return under section 4.1 if no lobbying activity occurred in the applicable month and if no information specified in subsection (2) (e) is required to be filed.
  - (6) Despite subsection (5), if no monthly returns have been filed for 5 consecutive months after the last monthly return was filed, a designated filer must file a monthly return under section 4.1 stating that the lobbyist named in the monthly return has not carried on lobbying activities in that time period.
  - (7) If a designated filer has not filed a monthly return, if and as required under subsection (6), the registration of the lobbyist referred to in subsection (6) is terminated 30 days after the monthly return under subsection (6) was due.
  - (8) Within 30 days after the termination of an undertaking for which a monthly return was filed, the consultant lobbyist who filed the monthly return must inform the registrar of the termination of the undertaking and indicate the date on which the termination occurred.
  - (9) Within 30 days after an individual named in a monthly return as an in-house lobbyist has ceased to be an in-house lobbyist for the organization named in the monthly return, the designated filer must inform the registrar of that cessation and indicate the date that it occurred.
  - (10) Any information required under subsections (2) (e), (9) and (10) must be supplied to the registrar in the prescribed form and manner.
  - (11) The obligation to file a monthly return under section 4.1 ends on the fifteenth day of the month following,
    - (a) for a consultant lobbyist, the month in which the registrar is informed under subsection (8) of the termination of the undertaking and of the date on which the termination occurred, and
    - (b) for an in-house lobbyist, the month in which the registrar is informed under subsection (9) that the in-house lobbyist has ceased to be an in-house lobbyist for the organization and of the date on which that cessation occurred.

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**Certification of documents and date of receipt**

- 5** (1) An individual who submits a document, including a return, to the registrar under this Act must certify,
- (a) on the document, or
  - (b) in the manner specified by the registrar, if the document is submitted in electronic or other form under section 6,
- that, to the best of the individual's knowledge and belief, the information contained in the document is true.
- (2) Subject to sections 6 (2) and 7 (6), for the purposes of this Act,
- (a) the date on which a return is received by the registrar is the date on which the return is considered to have been filed, and
  - (b) the date on which information or a document other than a return is received by the registrar is the date on which the information is considered to have been supplied or the document is considered to have been submitted to the registrar.

**Submission of documents in electronic or other form**

- 6** (1) Subject to the regulations, any return or other document that is required to be submitted to the registrar under this Act may be submitted in electronic or other form by the means and in the manner specified by the registrar.
- (2) For the purposes of this Act, any return or other document that is submitted in accordance with subsection (1) is deemed to be received by the registrar at the time provided for in the regulations.

**PART 3 – THE REGISTRAR****Designation and functions of registrar**

- 7** (1) The person holding the office of, or acting as, Information and Privacy Commissioner under the *Freedom of Information and Protection of Privacy Act* is designated as registrar for the purposes of this Act.
- (2) The registrar must establish and maintain a registry in which a record of all returns and other documents submitted to the registrar under this Act are to be kept.
- (3) The registry must be organized in the manner and kept in the form that the registrar may determine.
- (4) The registrar may do one or more of the following:
- (a) verify the information contained in any return or other document submitted under this Act;

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- (b) subject to subsection (5), refuse to accept a return or other document that does not comply with the requirements of this Act or the regulations or that contains information not required to be supplied or disclosed under this Act;
  - (c) remove a return from the registry if the individual who filed the return does not comply with section 4 (2) (c);
  - (d) delegate, in writing, to any person appointed or retained under section 41 (1) or (2) of the *Freedom of Information and Protection of Privacy Act* any of the powers and duties of the registrar under this Act, subject to any restrictions or limitations that the registrar may specify;
  - (e) authorize a person to whom powers and duties are delegated under paragraph (d) of this subsection to subdelegate those powers and duties to another person appointed or retained under section 41 (1) or (2) of the *Freedom of Information and Protection of Privacy Act*.
- (5) On refusing to accept a return or other document under subsection (4) (b), the registrar must
- (a) inform the individual who submitted it of the refusal and the reason, and
  - (b) allow a reasonable extension of the time set under this Act for filing the return or submitting the document if that individual cannot reasonably be expected to file another return or submit another document within the set time.
- (6) A return that is filed or a document that is submitted within the time allowed under subsection (5) (b) and is accepted by the registrar in place of one refused under subsection (4) (b) is deemed to have been filed or submitted, as the case may be, on the date the registrar received the one that was refused.
- (7) If a return is removed from the registry under subsection (4) (c),
- (a) the registrar must inform the individual who filed the return of its removal and the reason, and
  - (b) that individual is deemed not to have filed the return.

### **Power to investigate**

- 7.1** (1) If the registrar considers it necessary to establish whether there is or has been compliance by any person with this Act or the regulations, the registrar may conduct an investigation.
- (2) The registrar may refuse to investigate or may cease an investigation with respect to any matter if the registrar believes that
- (a) the matter could more appropriately be dealt with under another enactment,
  - (b) the matter is minor or trivial,
  - (c) dealing with the matter would serve no useful purpose because of the length of time that has elapsed since the matter arose, or
  - (d) there is any other valid reason for not dealing with the matter.

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- (3) If the registrar discovers that
- (a) the subject matter of an investigation under this section is also the subject matter of an investigation to determine whether an offence under an enactment of British Columbia or Canada has been committed, or
  - (b) a charge has been laid with respect to that subject matter,
- the registrar must immediately suspend his or her investigation and may not continue until the other investigation has been completed, the charge has been withdrawn or a final verdict has been rendered in respect of the charge.

**Hearing and administrative penalty**

- 7.2** (1) If after an investigation under section 7.1 the registrar believes that a person under investigation has not complied with a provision of this Act or the regulations, the registrar must
- (a) give notice to the person
    - (i) of the alleged contravention,
    - (ii) of the reasons why the registrar believes there has been a contravention, and
    - (iii) respecting how the person may exercise an opportunity to be heard under paragraph (b) of this subsection, and
  - (b) give the person a reasonable opportunity to be heard respecting the alleged contravention.
- (2) If after giving a person under investigation a reasonable opportunity to be heard respecting an alleged contravention the registrar determines that the person has not complied with a prescribed provision of this Act or the regulations, the registrar
- (a) must inform the person of the registrar's determination that there has been a contravention,
  - (b) may impose a monetary administrative penalty of not more than \$25 000,
- (b.1) if the registrar considers it to be in the public interest, taking into account the gravity of the contravention and the number of previous contraventions or administrative penalties imposed, if any, may impose a prohibition on lobbying and on filing or on having a registration return filed in respect of the person, for a period of not more than 2 years,
- (c) must give to the person notice
    - (i) if the registrar determines that the person has contravened a prescribed provision of this Act or the regulations, and the reason for the determination,
    - (ii) if a monetary administrative penalty is imposed, of the amount, the reason for the amount and the date by which the penalty must be paid,

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- (iii) if an administrative penalty of prohibition is imposed, of the reason for the prohibition and the start date and end date of the prohibition, and
  - (iv) respecting how the person may request reconsideration, under section 7.3, of the determination of contravention and, as applicable, the imposition or amount of the monetary administrative penalty or the imposition or duration of the administrative penalty of prohibition.
- (3) Despite subsection (2), the registrar must not impose an administrative penalty if more than 2 years have passed since the date of the contravention.
- (4) If the registrar imposes a prohibition under subsection (2) or confirms or varies a prohibition under section 7.3, or the court confirms or varies a prohibition under section 7.41, the registrar must ensure that information relating to the prohibition is made publicly available as soon as possible after the latest of the following, as applicable, has occurred:
- (a) the time for requesting a reconsideration under section 7.3 (1) has expired;
  - (b) the registrar has given notice of the registrar's decision under section 7.3 (3);
  - (c) the time for applying for court relief under section 7.41 has expired;
  - (d) the court has rendered its decision under section 7.41 (7).

### Reconsideration

- 7.3** (1) Within 30 days after being informed of a contravention in accordance with section 7.2, a person may request the registrar to reconsider a decision under any or all of section 7.2 (2) (a), (b) or (b.1), as applicable.
- (2) A request under subsection (1) for a reconsideration of a decision under any or all of section 7.2 (2) (a), (b) or (b.1), as applicable,
- (a) must
    - (i) be in writing, and
    - (ii) identify the grounds on which a reconsideration is requested, and
  - (b) in the case of a request for a reconsideration of a decision under section 7.2 (2) (b.1), may include a request for a stay of the prohibition order in respect of which the reconsideration is requested.
- (3) On receiving a request under subsection (1), the registrar must do all of the following:
- (a) consider the grounds on which the reconsideration is requested;
  - (b) confirm or rescind the decision referred to in any or all of section 7.2 (2) (a), (b) or (b.1), as applicable, or confirm or vary the monetary amount or the prohibition duration;

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- (c) if the monetary amount is confirmed or varied, confirm or extend the date by which the amount must be paid;
  - (d) if the prohibition duration is confirmed or varied, specify the dates that the prohibition starts and ends;
  - (e) notify the person in writing of the matters under paragraphs (b) to (d) of this subsection, as applicable, and of the reasons for the decision to rescind, confirm or vary under this section.
- (4) If a request for reconsideration under this section includes a request for a stay of the prohibition in respect of which the reconsideration is requested, the registrar may
- (a) grant or refuse a stay of that prohibition, and
  - (b) impose conditions on a stay granted under this section.

**Payment of monetary administrative penalties**

- 7.4** (1) A person on whom a monetary administrative penalty is imposed must pay the monetary administrative penalty by the date stated in the notice under
- (a) section 7.2 (2), if no reconsideration is requested under section 7.3, or
  - (b) section 7.3 (3), if a reconsideration is requested under that section.
- (2) A monetary administrative penalty constitutes a debt due to the government by the person on whom the penalty is imposed.
- (3) If a person fails to pay a monetary administrative penalty as required under subsection (1), the registrar may file with the Supreme Court or Provincial Court a certified copy of the notice imposing the monetary administrative penalty and, on being filed, the notice has the same force and effect, and all proceedings may be taken on the notice, as if it were a judgment of that court.
- (4) All monetary administrative penalties received under this section must be paid into the consolidated revenue fund.

**Court order for relief from prohibition on lobbying**

- 7.41** (1) A person may apply to the Supreme Court in accordance with this section for relief from a prohibition on lobbying confirmed or varied under section 7.3.
- (2) An application under subsection (1) must be made by petition within 30 days of receiving notice of the registrar's reconsideration decision on a prohibition.
- (3) A petition must state the grounds for the application.
- (4) A petition may include a request for a stay of the prohibition in respect of which the court relief is sought.
- (5) A petition must be served on the registrar within 7 days after it is filed, and the registrar is a party to the application.

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- (6) If the application includes a request for a stay of the prohibition in respect of which the court relief is sought, the court may
    - (a) grant or refuse a stay of that prohibition, and
    - (b) impose conditions on a stay granted under this section.
  - (7) On the hearing of an application, the court may
    - (a) confirm or rescind the prohibition,
    - (b) vary the duration of the prohibition and specify the start date and end date of a varied prohibition duration, or
    - (c) add conditions to the prohibition.

#### **Powers to compel persons and records**

- 7.5** (1) For the purposes of sections 7.1 to 7.3, the registrar may make an order requiring a person to do either or both of the following:
- (a) attend, in person or by electronic means, before the registrar to answer questions on oath or affirmation, or in any other manner;
  - (b) produce for the registrar a record in the custody or under the control of the person, including a record containing personal information.
- (2) The registrar may apply to the Supreme Court for an order
- (a) directing a person to comply with an order made under subsection (1), or
  - (b) directing any directors and officers of a person to cause the person to comply with an order made under subsection (1).
- (3) A person must produce to the registrar within 10 days any record or a copy of any record required under subsection (1).
- (4) A person subject to an order under subsection (1) or (2) has the same privileges in relation to giving evidence to the registrar as the person would have with respect to a proceeding in a court.
- (5) Evidence given by a person in an investigation or during a hearing is inadmissible against the person in a court or in any other proceeding, except
- (a) in a prosecution for perjury in respect of sworn testimony,
  - (b) in a prosecution for an offence under this Act, or
  - (c) in an application for judicial review or an appeal from a decision with respect to that application.

#### **Contempt proceeding for uncooperative person**

- 7.6** (1) The failure or refusal of a person subject to an order under section 7.5 to do any of the following makes the person, on application to the Supreme Court by the registrar, liable to be committed for contempt as if in breach of an order or a judgment of the Supreme Court:
- (a) attend before the registrar;

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- (b) take an oath or make an affirmation;
  - (c) answer questions;
  - (d) produce records in the person's custody or under the person's control.
- (2) Subsection (1) does not limit the conduct for which a finding of contempt may be made by the Supreme Court.

**Discretion to receive information and records in confidence**

**7.7** The registrar may direct that all or part of the information or a record received under section 7.1, 7.2, 7.3 or 7.5 be received in confidence to the exclusion of any other person, on terms the registrar considers necessary, if the registrar believes that the nature of the information or record requires that direction to ensure the proper administration of this Act.

**Report if non-compliance**

- 7.8** (1) If after a hearing under section 7.2 the registrar determines that a person under investigation has not complied with a provision of this Act or the regulations, the registrar must make a report of
- (a) the registrar's findings and conclusions and reasons for those conclusions,
  - (b) the amount of any monetary administrative penalty imposed and whether, at the time of making the report, the amount has been paid, and
  - (c) the duration of any prohibition imposed on lobbying or filing and the dates that the prohibition starts and ends.
- (2) If the registrar considers it to be in the public interest, the registrar may include in a report details of any payment received, disbursement made or expense incurred by an individual named in a return filed under section 3 in respect of any lobbying activity.
- (3) If after a hearing under section 7.2 a monetary administrative penalty or a prohibition on lobbying is imposed, the registrar is not required to report under subsection (1) of this section until the latest of the following, as applicable, has occurred:
- (a) the time for requesting a reconsideration under section 7.3 (1) has expired;
  - (b) the registrar has given notice of the registrar's decision under section 7.3 (3);
  - (c) the time for applying for court relief under section 7.41 has expired;
  - (d) the court has rendered its decision under section 7.41 (7).
- (4) The registrar must deliver to the Speaker of the Legislative Assembly each report made under this section.
- (5) After receiving a report under subsection (4),
- (a) if the Legislative Assembly is sitting or will be sitting within 10 days, the Speaker must promptly lay the report before the Legislative Assembly, or

- (b) if the Legislative Assembly is not sitting or will not be sitting within 10 days, the Speaker must file the report with the Clerk of the Legislative Assembly.

#### **Other reports of investigations**

- 7.9** (1) This section applies if
- (a) the registrar refuses to investigate, ceases an investigation or suspends an investigation under section 7.1, or
  - (b) after an investigation or a hearing, as applicable, the registrar believes or determines that a person under investigation has complied with this Act and the regulations.
- (2) The registrar may
- (a) make a report of the registrar's findings and conclusions and reasons for those conclusions in respect of a matter referred to in subsection (1), and
  - (b) if the register considers it to be in the public interest, make the report publicly available.

#### **Reports made publicly available**

- 7.91** In accordance with section 33.1 (1) (c) of the *Freedom of Information and Protection of Privacy Act*, the registrar may disclose inside or outside Canada a report that must be made under section 7.8 or that may be made under section 7.9 of this Act, and may include with the report
- (a) the name of the person who was under investigation or in respect of whom the registrar refused to investigate or ceased or suspended an investigation,
  - (b) a description of the conduct or circumstances that were the subject of the report, and
  - (c) any of the matters set out in section 7.8 (1) or (2) or 7.9 (2) (a).

#### **Restrictions on disclosure of information by the registrar and staff**

- 7.92** (1) Except as provided under this section, the registrar and anyone acting for or under the direction of the registrar must not disclose
- (a) whether an investigation or a hearing is being conducted under this Act, or
  - (b) any information or record obtained in conducting an investigation or a hearing under this Act.
- (2) The registrar may disclose, or may authorize anyone acting for or under the direction of the registrar to disclose, information that is necessary to
- (a) conduct an investigation or a hearing under this Act,
  - (b) enforce an administrative penalty under section 7.4, or
  - (c) make a report under this Act.

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- (3) If the registrar considers it to be in the public interest or in the interest of an individual, the registrar may comment publicly about a matter relating generally to the exercise of the registrar's duties or to a particular investigation or hearing being conducted under this Act.
- (4) The registrar and anyone acting for or under the direction of the registrar must not give or be compelled to give evidence in court or in any other proceedings in respect of any information or records obtained in conducting an investigation or a hearing under this Act.
- (5) Despite subsection (4), the registrar and anyone acting for or under the direction of the registrar may give or be compelled to give evidence
  - (a) in a prosecution for perjury in respect of sworn testimony,
  - (b) in a prosecution for an offence under this Act, or
  - (c) in an application for judicial review of, or a court application for relief from, a decision of the registrar made under this Part.
- (6) If the registrar considers there is evidence of an offence against an enactment of British Columbia or Canada, the registrar may disclose to a law enforcement agency information relating to the commission of the alleged offence.

**Return of records**

- 7.93** If the registrar considers that a record or copy of a record produced under section 7.5 is no longer required for the purposes of this Act, the registrar must return the record or copy as soon as practicable.

**Application of sections 5 and 6**

- 7.94** Sections 5 and 6 do not apply to a document submitted to the registrar under section 7.1, 7.2, 7.3 or 7.5.

## **PART 4 – GENERAL PROVISIONS**

**Access to registry**

- 8** (1) The registry, including the dates when a lobbyist registered under this Act and terminated an undertaking or otherwise ceased to be a lobbyist for the purposes of this Act, must be available for public inspection in the manner and at the times that the registrar may determine.
- (2) For greater certainty, nothing in this Act requires a public office holder to verify whether any person who is or may be lobbying the public office holder has acted in accordance with this Act.

**Storage of documents and use of documents as evidence**

- 9** (1) Subject to the regulations, any return or other document that is received by the registrar under this Act may be entered or recorded by any information storage

device, including any system of mechanical or electronic data processing, that is capable of reproducing the stored return or other document in intelligible form within a reasonable time.

- (2) In any prosecution for an offence under this Act, a copy of a return or other document that is reproduced as permitted by subsection (1) and certified under the registrar's signature as a true copy
  - (a) is admissible in evidence without proof of the official character of the person appearing to have signed the copy, and
  - (b) has, in the absence of evidence to the contrary, the same evidentiary value as the original would have if it were proved in the ordinary way.

#### **Annual report**

- 9.1** (1) The registrar must prepare and deliver to the Speaker of the Legislative Assembly an annual report respecting activities under this Act for the past year.
- (2) After receiving a report under subsection (1),
  - (a) if the Legislative Assembly is sitting or will be sitting within 15 days, the Speaker must promptly lay the report before the Legislative Assembly, or
  - (b) if the Legislative Assembly is not sitting or will not be sitting within 15 days, the Speaker must file the report with the Clerk of the Legislative Assembly.

#### **Personal liability protection**

- 9.2** (1) Subject to subsection (2), no legal proceeding for damages lies or may be commenced or maintained against the registrar or persons acting on behalf of the registrar because of anything done or omitted
  - (a) in the exercise or intended exercise of any power under this Act, or
  - (b) in the performance or intended performance of any duty under this Act.
- (2) Subsection (1) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.

#### **Time limit for judicial review**

- 9.3** (1) An application for judicial review of a final decision of the registrar must be commenced within 60 days of the date notice of the decision is given.
- (2) Despite subsection (1), either before or after expiration of the time, the court may extend the time for making the application on terms the court considers proper, if it is satisfied that there are serious grounds for relief, there is a reasonable explanation for the delay and no substantial prejudice or hardship will result to a person affected by the delay.

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**Power to educate public respecting this Act**

- 9.4** In addition to the registrar's powers and duties under this Act, the registrar may develop and conduct public education and information designed to promote awareness and understanding of this Act.

**Offences and penalty**

- 10** (1) A person who contravenes section 2.1 (2), 2.2, 2.4, 3 (1) or (3), 4, 4.1 or 4.2 commits an offence.
- (2) A person who supplies false or misleading information in a return or other document submitted to the registrar under this Act commits an offence.
- (3) A person does not commit an offence under subsection (2) if, at the time the information was supplied, the person did not know that it was false or misleading and, with the exercise of reasonable diligence, could not have known that it was false or misleading.
- (3.1) A person who wilfully interferes with or obstructs a person exercising a power or performing a duty under this Act commits an offence.
- (3.2) A person who contravenes a prohibition imposed under subsection (7) of this section or section 7.2 (2) (b.1) commits an offence.
- (4) A person who commits an offence under subsection (1), (2), (3.1) or (3.2) is liable on conviction
- (a) for a first offence, to a fine of not more than \$25 000, and
  - (b) for a second or subsequent offence, to a fine of not more than \$100 000.
- (5) Section 5 of the *Offence Act* does not apply in respect of this Act or the regulations.
- (6) A prosecution for an offence under this section must not be commenced more than 2 years after the date on which the alleged offence occurred.
- (7) If a person is convicted of an offence under this Act, the registrar may, if the registrar considers it to be in the public interest, taking into account the gravity of the offence and the number of previous convictions or administrative penalties imposed, if any, prohibit the person who committed the offence from lobbying and from filing, or having a return filed in respect of the person, for a period of not more than 2 years.
- (8) If the registrar imposes a prohibition under subsection (7), the registrar must ensure that information relating to the prohibition is made publicly available.
- (9) The registrar may make public the nature of an offence, the name of the person who committed it, the punishment imposed and, if applicable, any prohibition under subsection (7).

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**Person not to be charged with both administrative penalty and offence**

- 10.1** (1) A person subject to an monetary administrative penalty or administrative penalty of prohibition under this Act must not be prosecuted under this Act for an offence in respect of the same incident that gave rise to the monetary administrative penalty or administrative penalty of prohibition.
- (2) A person charged under this Act with an offence must not be subject to an monetary administrative penalty or administrative penalty of prohibition under this Act in respect of the same incident that gave rise to the charge.

**Power to make regulations**

- 11** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) [Repealed 2009-31-17.]
  - (a.1) [Repealed 2018-52-23.]
  - (a.2) respecting the determination of what constitutes communication with a public office holder for the purposes of the definition of “lobby” in section 1 (1);
  - (a.3) prescribing Provincial entities, including prescribing different Provincial entities for the purposes of different provisions of this Act;
  - (a.4) prescribing positions for the purposes of paragraph (c) (iii) of the definition of “former public office holder” in section 1 (1);
  - (a.5) prescribing criteria for determining whether a code of conduct is relevant for the purposes of section 1 (1);
  - (a.6) prescribing criteria for the determination of time spent lobbying for the purposes of section 1 (4);
  - (a.7) prescribing criteria for the determination of the primary purpose of an organization for the purposes of section 1 (4);
  - (b) requiring a fee to be paid on the filing of a return or a class of return under section 3 or 4.1 or for any service performed or the use of any facility provided by the registrar;
  - (c) prescribing any fee required to be paid under paragraph (b) or the manner of determining the fee, and providing for different fees or for the waiver of a fee based on one or more of the following:
    - (i) the manner in which a return is submitted to the registrar;
    - (ii) the time at or within which a return is submitted to the registrar;
    - (iii) the class of lobbyist by or in relation to whom a return is submitted to the registrar;

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- (d) prescribing information for the purposes of sections 4 (1) (p) and 4.2 (2) (h);
- (d.1) [Repealed 2017-19-9.]
- (e) respecting the submission of returns and other documents to the registrar under this Act, including the time at which returns and other documents submitted in electronic or other form under section 6 are deemed to be received by the registrar;
- (e.1) prescribing provisions of this Act or the regulations for the purposes of section 7.2 (2);
- (f) respecting the entering or recording of any return or other document under section 9;
- (f.1) respecting the service of notice under Part 3, including deeming a person to have received notice after a time or if served in a manner set out in the regulations;
- (g) defining any word or expression used but not defined in this Act;
- (g.1) prescribing classes of persons, activities and circumstances for the purposes of section 2 (1.1);
- (g.2) prescribing amounts, which may be different for different classes of public office holders, for the purposes of section 2.4;
- (g.3) prescribing the form and manner for filing registration returns under section 3 (1) and (3);
- (g.4) prescribing an amount of financial contribution for the purposes of section 4 (1) (g.3);
- (g.5) prescribing types of information for the purposes of section 4 (1) (j);
- (g.6) prescribing information for the purposes of section 4 (1.2);
- (g.7) prescribing the form and manner for filing monthly returns for the purposes of section 4.1;
- (g.8) prescribing the manner of reporting lobbying activity, and prescribing information, for the purposes of section 4.2 (2) (b);
- (g.9) prescribing particulars to identify subject matters for the purposes of section 4.2 (2) (d);
- (g.10) prescribing the form and manner for the supply of information to the registrar under section 4.2 (11);
- (g.11) making provisions for the purpose of addressing any transition required respecting the registration and monthly filing requirements under sections 3 to 4.2;
- (g.12) respecting any matter for which regulations are contemplated by this Act.

**Review of Act**

- 11.1** (1) At least once every 5 years, a committee of the Legislative Assembly must begin a review of this Act and must submit a report respecting this Act to the Legislative Assembly within one year after beginning the review.
- (2) A report submitted under subsection (1) may include any recommended amendments to this Act or any other Act.
- (3) For the purposes of subsection (1), the first 5-year period begins on the date that this section comes into force.

*12 to 15 [Consequential amendments. Spent. 2001-42-12 to 15.]*

**Commencement**

- 16** This Act comes into force by regulation of the Lieutenant Governor in Council.

*[This is an unofficial consolidation of the Lobbyists Transparency Act, prepared March 4, 2020 for convenience only. This consolidation includes all amendments in force as of May 4, 2020, the date on which B.C. Reg. 235/2019 brings into force amendments to the Act, and reflects how the Act will read on that date.]*

