



O.R.L.
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registrar
of lobbyists
BRITISH COLUMBIA

INFLUENCING BC

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REGISTRAR'S MESSAGE

As the new year begins, change is in the air. Last November, the government passed an amendment to the Lobbyists Registration Act (LRA). This was one of five recommendations for change to the LRA that our office made in 2013. The amendment mandates a two-year “cooling off period” for former public office holders who wish to become lobbyists after leaving public service.

As most readers know, many Canadian provinces have similar prohibitions. The federal government, for example, prohibits designated public office holders from lobbying activities for a period of five years. See page six for more information about the amendment.

Government has indicated to us that additional amendments to the LRA will be coming in the fall 2018 session of the legislature. I welcome the opportunity for further discussions, particularly about the requirement for lobbyists to register “actual” as opposed to “prospective” lobbying. As I understand it, lobbyists and other stakeholders will also have an opportunity to present their views to government through public consultations early this year.

I also wanted to let you know that the improvements to the registry system that were already underway will be combined with modifications that need to be made as a result of the recent amendment. The bottom line is that lobbyists can look forward to a faster, easier-to-use registry by late spring.

I am pleased to note that compliance with the LRA has continued to improve throughout 2017 and that lobbyists are doing a good job of meeting their statutory obligations under the LRA.

I would like to thank my staff for their diligence in the past year, particularly Jay Fedorak, Deputy Commissioner, and Morag Ross, Registry Manager.



Drew McArthur
Acting Registrar of Lobbyists
for British Columbia



ASK THE REGISTRAR

I need to make changes to my registration. When does the 30-day period to update my registration begin?

The Lobbyists Registration Act requires you to update your registration within 30 days of any changes to the information or within 30 days of the date you became aware of any changes to the information.

Organizations have 30 days to update a registration if an in-house lobbyist ceases to be the in-house lobbyist, or if a new in-house lobbyist is appointed by the organization.

Consultant lobbyists have 30 days to update a registration at the completion, termination, or extension of an undertaking.

All filers are required to report any changes on their registration within 30 days of the change occurring or within 30 days of the date the filer becomes aware of the change. Such changes include:

- additional public office holders not already reported in the registration;
- additional lobbying efforts not previously reported; and
- updates to information on any other fields in the registration.

I'm a consultant lobbyist. What do I need to do with my registrations when I move to a new lobbying firm?

This depends on whether or not you are taking your clients with you to the new firm. If so, you would need to update the name of your lobbying firm and your business contact information in the Lobbyists Registry. If you are not taking your clients with you when you move to a new firm, you will need to terminate your existing registrations for your clients with your current lobbying firm. You should change the undertaking end date to the last day of employment at your current job, unless the undertaking ends prior to that date.

The Lobbyists Registry asks me if I am a former public officer holder. Is there a time limit for this declaration?

There is no time limit, but you must declare any public office holder positions you have held in BC. You do not need to declare any public officer holder positions that you held outside of BC. Please see page 6 to understand who is considered a former public officer holder under the LRA.

Do you have a question for the Registrar?
Email us at info@bcorl.ca

FORWARD MOTION

Public Affairs Association of Canada (PAAC-BC) welcomes meaningful changes to the LRA

by Norma Miller

“Resistance is futile.”

Star Trek fans will recognize the phrase, but it applies far more broadly than science fiction. With the dizzying pace of change in pretty much every aspect of life, why would anyone expect legislation to remain constant?

In fact, members of the British Columbia Chapter of the Public Affairs Association of Canada (PAAC-BC) encourage legislative change—including the evolution of the Lobbyists Registration Act (LRA). Public affairs professionals always strive for meaningful change that avoids unintended negative consequences.

With a full review of the LRA expected in 2018, PAAC-BC sees opportunities for improvement. In preparation for that exercise, we’re using the 2013 recommendations from the Office of the Registrar of Lobbyists (ORL) as a starting point. PAAC-BC is consulting with members

to develop positions on the ORL recommendations and identify other potential enhancements.

One area not addressed in the 2013 ORL report is the definition of the word “lobby.” This is fundamental to the statute, and to the work of our members.

PAAC-BC believes any examination of the Act needs to include a discussion about what it means to lobby.

PAAC-BC was created in 2014 to serve a growing and diverse group of professionals. Our members are consultants and in-house lobbyists, working in large and small for-profit and non-profit organizations.

As we prepare for the LRA review, PAAC-BC is interested in hearing a variety of perspectives, so we can fully represent BC’s public affairs

professionals.

PAAC-BC is part of a Toronto-based organization that has been a key professional development

organization and voice in the industry across the country.

We encourage members to watch for invitations to

participate in the consultation. To join PAAC-BC, visit www.publicaffairs.ca.

Norma Miller is Vice President of the Public Affairs Association of Canada's BC Chapter and the Acting Director of Communications and Public Affairs for the British Columbia Real Estate Association.

PAAC-BC encourages legislative change, including the evolution of the Lobbyists Registration Act.

AMENDING THE LRA

Your frequently asked questions and our answers about changes to the Act.

Whether you're a lobbyist who has worked as a public office holder, a public office holder who is considering a career as a lobbyist, or a current consultant lobbyist or an in-house lobbyist, you likely have questions about the new Lobbyists Registration Amendment Act.

Government first introduced the amendment on October 2, 2017; it received Royal Assent on November 30, 2017 but has not yet come into effect. The new legislation will ban former office holders and their senior staff from lobbying government for two years after leaving their government positions. It will also give the Registrar of Lobbyists the discretion to give an exemption from the two-year prohibition, if it is "in the public interest."

In addition, there is a new requirement for lobbyists to disclose the names of any staff person working in a minister or MLA's office with whom you have met with or spoken to as part of your lobbying work. This is in addition to the existing requirement that you disclose names of ministers or MLAs.



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

Not all public officer holders who have left their positions are considered "former public office holders" under the LRA. Individuals who held any of the following positions, however, 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
- Chair or Vice Chair of the governing body of a Provincial Entity.

2. Who is not considered a former BC public office holder?

Individuals who have only held the following positions are not considered former public office holders:

- MLAs
- MLAs' staff
- Public servants who work in a ministry

3. What is the "cooling off" period?

The "cooling off period" refers to a two-year ban on lobbying activities for former public office holders, a period of time when they could potentially exercise some influence that they gained in their previous employment. For instance, if your employment as a public office holder ended on June 30, 2017, you would be prohibited from acting as a lobbyist until June 30, 2019, unless an exemption has been granted.

4. Why do I need to provide the names of Ministers' and MLAs' staff that I lobby?

Government has asked for lobbyists to specifically identify staff of Ministers and MLAs that you lobby as well as the Ministers and MLAs to increase transparency to the public.

5. I'm registered as a lobbyist and am a former public office holder. I left public office less than two years ago. What will I need to do?

You will be required to cease lobbying and terminate your registrations in the Lobbyists Registry, unless you have been granted an exemption from the Registrar. We will be communicating with any former public office holders who are currently registered and impacted by the two-year prohibition.

6. I'm a former public office holder. How do I apply for an exemption?

You may apply to the Registrar for an exemption if your case is "in the public interest." The Registrar will make a determination on a case-by-case basis. Details about how to request an exemption will be available on our website at lobbyistsregistrar.bc.ca prior to the legislation going into effect.

7. When will the new legislation go into effect?

We do not yet know the date that this new legislation will go into force. However, we are doing all we can to prepare in advance, from modifications to the registry to consultation with lobbyists by phone and email. We will notify the lobbyists community on our website and via email as soon as the date the new legislation comes into force has been set.

More questions? Please contact us at info@bcorl.ca if you require any clarification.

LESSONS LEARNED

To maintain the integrity of the Registry, the ORL regularly investigates alleged lobbyist contraventions, such as neglecting to register, entering incorrect information, or not maintaining registrations with accurate timelines. Investigators review the circumstances of the case, examine the evidence, and if the contravention is substantiated, levy an appropriate penalty.

Penalties depend on the following factors: severity of the contravention, previous enforcement actions, whether the contravention was deliberate, if the contravention resulted in economic gain, if the registrant sought to report or correct the contravention, and whether a penalty is needed for general or specific deterrence.

The ORL publishes summaries of investigations reports to educate the lobbyists community. The full version of all reports can be found on the ORL website at lobbyistsregistrar.bc.ca.

Consultant lobbyist fails to register undertaking within 10 days

Mr. Feltmate submitted a registration as a consultant lobbyist for Hewlett Packard (Canada) Co. on October 21, 2016 with an undertaking start date of December 1, 2015. On October 25, 2016, the ORL asked Mr. Feltmate to explain the discrepancy between the deadline in the LRA for submitting a registration and the date on which he registered, over ten months later.

Counsel for the lobbyist stated that “Mr. Feltmate acknowledges that his registration was late and that this oversight was due to the fact that he was under the mistaken belief that he was not lobbying by arranging meetings with public officials who were not elected...”

Counsel for the lobbyist detailed 20 meetings that the lobbyist set up and participated in during the period of December 3, 2015 to October 21, 2016, prior to the lobbyist filing a return. These meetings on behalf of his client fall clearly within the LRA definition of lobbying. Therefore, the lobbyist had actually lobbied in advance of filing a return with the Lobbyists Registry.

The investigator found that the lobbyist did not comply with s. 3(1) of the LRA when he failed to file a return within 10 days after entering into an undertaking to lobby on behalf of his client and imposed an administrative penalty of \$800.

Individuals submit false information after erroneous advice

Note: This summary combines two individual investigation reports about the same matter.

On November 25, 2016, Mr. lasenza and Mr. Pollard each submitted individual registrations indicating they were consultant lobbyists lobbying on behalf of the Vancouver Airport Fuel Facilities Corporation (VAFFC). These returns were filed more than 10 days after the undertaking start date. The ORL commenced investigations to determine whether there had been a contravention of s. 3(1) of the LRA. On December 2, 2016, the ORL asked why the returns had not been filed within 10 days of entering into an undertaking.

The VAFFC is a non-profit company operated by FSM Management Group Inc. (FSM) through an administrative services agreement and project management agreement between itself and a consortium of airlines. The VAFFC is constructing a new fuel pipeline known as the Vancouver Airport Fuel Delivery Project. FSM is managing the fuel delivery project.

Neither Mr. lasenza nor Mr. Pollard set up meetings. The VAFFC's consultant lobbyist did set up meetings that Mr. lasenza and Mr. Pollard attended and the consultant lobbyist registered these meetings. The purpose of the meetings was to provide project updates to public office holders, not to influence any decisions. Mr. lasenza and Mr. Pollard were not involved in any activities that met the definition of lobbying under the LRA. Mr. lasenza and Mr. Pollard did not have written or verbal agreements to lobby on behalf of the VAFFC. The VAFFC's consultant lobbyist erroneously advised Mr. lasenza and Mr. Pollard to register.



Mr. lasenza and Mr. Pollard were not in-house lobbyists or consultant lobbyists. Neither one communicated with public office holders for any one of the purposes defined as lobbying. Mr. lasenza and Mr. Pollard were not required to file a return, yet they did.

Mr. lasenza and Mr. Pollard believed the LRA required them to file a return. However, it is the responsibility of the individual filer to understand the requirements and obligations under the LRA prior to filing a return.

The investigator found Mr. lasenza and Mr. Pollard contravened s. 4(1) when they entered information into a return that was not accurate. An administrative penalty of \$100 was imposed to each individual.

Designated filer fails to file return within 30 days

On November 16, 2015, Mr. Tony Santo, the designated filer for Gateway Casinos & Entertainment Limited (Gateway), was notified by ORL staff that Gateway's return had expired on November 7, 2015.

The notification reminded Gateway that if its in-house lobbyists continued to lobby, and if lobbying activities met the criteria of 100 hours in the previous 12-month period, it was required to file a return within 30 days.

Gateway did not file a return. On February 21, 2017, Gateway filed a return. On March 1, 2017, ORL staff asked Mr. Santo why he did not file a return within 30 days as required by s. 3(3)(b) of the LRA. A staff member at Gateway responded that Gateway's lapse in registration was due to oversight resulting from internal miscommunication.

Mr. Santo confirmed that Gateway did meet the threshold of 100 hours of lobbying in the past 12 months and that he failed to file its return within the legislated time frame. The investigator found that Mr. Santo did not comply with s. 3(3)(b) of the LRA by failing to file within 30 days of the expiration of the previous return. An administrative penalty of \$1,500 was imposed.

Consultant lobbyist fails to register undertaking within 10 days

Mr. Valensky, a consultant lobbyist for the British Columbia Dental Association, filed a return to register as a lobbyist on behalf of his client after the deadline required by the LRA.

On March 31, 2017, Mr. Valensky advised the ORL that he had forgotten to extend a registration for his client, within 30 days of the February 28, 2017 end date. On March 31, 2017, he submitted a new registration for his undertaking and certified an undertaking start date of March 1, 2017. The ORL received an automatic system alert that this registration appeared to contravene the required timeline set out under the LRA.

On April 7, 2017, ORL staff asked Mr. Valensky to explain the discrepancy between the deadline in the LRA for submitting a registration and the date on which he registered. The lobbyist noted that he has represented this client for many years. He had made an entry in his diary to remind himself that he had 30 days from the end date of his registration to make the changes. The lobbyist noted that he had inadvertently entered the renewal deadline as March 31, 2017, as opposed to the actual deadline of March 30, 2017.

As requested by the ORL, the lobbyist provided a copy of his written Agreement for Services ("Agreement") with his client, signed February 28, 2017. This Agreement stipulated the lobbyist would provide government relations services for his client. This is a new Agreement entered into by both parties, and not a renewal or an amendment to an existing contract.

The lobbyist also advised that he had not set up any meetings between March 1, 2017 and March 31, 2017. He did not attend any meetings with public office holders on behalf of his client during the period he was unregistered. The lobbyist acknowledged that he failed to file his return within the timelines set out in s. 3(1) of the LRA.

The investigator found that Mr. Valensky did not comply with s. 3(1) of the LRA by failing he failed to file a return within 10 days after entering into an undertaking to lobby on behalf of his client and imposed an administrative penalty of \$500.

Organization fails to update with new designated filer within 30 days

The former President of the Independent Contractors and Businesses Association of BC (ICBA) submitted a registration and listed himself as the designated filer. On February 7, 2017, a new President replaced the former President.

On May 3, 2017, ORL staff sent an email to the former President, asking him to change the designated filer in the registration to the new President. The former President did not respond and did not update the designated filer.

On May 8, 2017, ORL staff sent an email to the new President, asking him to update the designated filer.

The new President did not respond and did not update the designated filer.

On May 19, 2017, Mr. Gardner, the new President and designated filer for ICBA, advised that he does not have the BCeID password for the registration and could not update the registration.

ORL staff asked Mr. Gardner to explain why he did not update information about the designated filer within the legislated timeline set out in s. 4(2) of the LRA. Mr. Gardner advised that ICBA failed to update the registratrion within 30 days owing to the transition that occurred following his appointment as President of ICBA on February 7, 2017.

The investigator found that Mr. Gardner did not comply with s. 4(2) of the LRA when he failed to report changes to a return within 30 days. An administrative penalty of \$1,000 was imposed.

Questions about your registration? Please contact us at info@bcorl.ca if you require any clarification.

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