

## **The Lobbying Act**

### **do you need to register with the Electoral Commission?**

The Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014 (the "Act"), which is better known as the Lobbying Act, received royal assent on 30 January 2014. The Act alters the rules on non-party campaigning which will affect a large number of charities when they come into effect on 19 September 2014.

#### **Which elections do the rules apply to?**

The new rules will apply to the next UK Parliamentary general election, European Parliament elections (excepting those in 2014), Scottish Parliament elections, Welsh Assembly elections and Northern Ireland Assembly elections. The rules will not apply for local elections unless occurring at the same time as one of the above elections.

#### **Who has to register with the Electoral Commission?**

A charity will have to register with the Electoral Commission if they intend to spend more than £20,000 in England or £10,000 in Scotland, Wales or Northern Ireland within a regulated period on regulated activities.

- Regulated period

For the 2015 UK Parliamentary general election, the regulated period will run from 19 September 2014 to 7 May 2015 (the expected date of the next UK Parliamentary general election). Thereafter, the regulated period prior to a UK general election will be 12 months and for European Parliament elections, Scottish Parliament elections, Welsh Assembly elections and Northern Ireland Assembly elections the period will be 4 months.

#### **Regulated activities**

An activity is regulated if it can reasonably be regarded as intended to promote or reduce the chance of electoral success for one or more political parties or candidates. The rules will generally not apply unless an organisation is regarded to be intending to influence the public.

In determining whether an activity is regulated, it is immaterial that the activity may be regarded as intended to achieve any other purpose as well as the above. Additionally, an activity can still be regulated even where a party or candidate is not expressly mentioned.

The Electoral Commission has indicated that an organisation providing materials to their members and committed supporters will not be a regulated activity. The Electoral Commission is reviewing its guidance on members and committed supporters and it is not currently clear who amounts to a "committed supporter".

The following are examples of activities which will be regulated in certain circumstances:

- the production of election material such as leaflets and posters
- press conferences and other media events
- canvassing and market research
- public rallies and events

If an activity is regulated, expenditure associated with it will come within the Act, unless that expenditure is excluded. Note that staff costs are not excluded.

Specific exclusions include:

- the translation of material from English to Welsh or from Welsh to English
- reasonable costs associated with travel, accommodation or personal needs
- reasonable costs incurred in relation to an individual's disability
- the organisation's annual conference
- expenses relating to services provided voluntarily by individuals
- expenses in respect of publications, other than adverts, in a newspaper, periodical and certain broadcasts
- provision of security at a public rally or event

### **What do organisations have to do once registered?**

- Spending limits

Registered campaigners will be subject to the below spending limits for the regulated period prior to the 2015 general election.

England	£319,800
Scotland	£55,400
Wales	£44,000
Northern Ireland	£30,800

There is also a limit of £9,750 for spending which is focused on a particular constituency. There are rules relating to spending an organisation makes in promoting one political party, though these should not be relevant to charities.

- Donations

Registered organisations can only accept donations from permissible donors – where a donation is not from a permissible source, it must be returned within 30 days. Individuals and organisations registered in the UK will generally be permissible donors.

- Record keeping and reporting requirements

A registered organisation will have to keep a record of all spending made on the regulated campaign. It will then have to report on this spending to the Electoral Commission and must retain any receipts or invoices for more than £200.

All donations of over £500 donated towards the registered organisation's spending on a regulated activity must be recorded, regardless of whether the donation is from a permissible source. Details of all impermissible donations and the total value of donations between £500 and £7,500 must be reported to the Electoral Commission. Whether via a single donation or

multiple donations, if a donor gives an organisation over £7,500, the details of the donation or donations must be reported to the Electoral Commission.

For a UK Parliamentary general election, there will be additional reporting requirements. For example, campaign spending over £7,800 aimed at an individual constituency must be reported.

Reports must be made quarterly before Parliament is dissolved and weekly in the period between dissolution of Parliament and the election.

The Electoral Commission will publish the reports organisations submit to it detailing the donations they have received, their spending on a campaign and a statement of accounts. Note, however, that charities will likely not have to supply the Electoral Commission with a statement of accounts, as they are already under an equivalent legal requirement to submit accounts.

### **What happens if an organisation does not comply with the rules?**

The Electoral Commission has powers to impose civil penalties and enforcement notices. In extreme cases, breaches can result in criminal prosecution.

### **Some tips to avoid falling foul of the rules**

Aim to get backing from all political parties. This maximises support and means it will be hard to argue that your activity is intended to promote or reduce any parties' electoral chances.

Campaign well in advance of an election. This can put pressure on political parties to address your concerns in their manifestos and will also bring your spending down within the regulated period.

### **Where to get further guidance**

Guidance currently available from the Electoral Commission can be found [here](#). You should check that any guidance you refer to is up to date and will apply to the election you are concerned with. We expect more comprehensive guidance to be available in July.

In the meantime, we recommend signing up for the Electoral Commission's updates [here](#).

The Electoral Commission will be publishing tailored guidance in partnership with the charity regulators at some point in the future. It is always worth remembering Charity Commission guidance on campaigning and political activities generally, which can be found [here](#).

You may wish to contact the Electoral Commission directly with any questions using the details below:

England	020 7271 0616	<a href="mailto:pef@electoralcommission.org.uk">pef@electoralcommission.org.uk</a>
Scotland	0131 225 0200	<a href="mailto:infoscotland@electoralcommission.org.uk">infoscotland@electoralcommission.org.uk</a>
Wales	029 2034 6800	<a href="mailto:infowales@electoralcommission.org.uk">infowales@electoralcommission.org.uk</a>
Northern Ireland	028 9089 4020	<a href="mailto:infonorthernireland@electoralcommission.org.uk">infonorthernireland@electoralcommission.org.uk</a>

For further information please contact:

**Andrew Studd**

Partner

+44 (0)20 8394 6480

[Andrew.Studd@russell-cooke.co.uk](mailto:Andrew.Studd@russell-cooke.co.uk)

**Gareth Roy**

Trainee

+44 (0)20 8394 6505

[Gareth.Roy@russell-cooke.co.uk](mailto:Gareth.Roy@russell-cooke.co.uk)

This material does not give a full statement of the law. It is intended for guidance only and is not a substitute for professional advice. No responsibility for loss occasioned as a result of any person acting or refraining from acting can be accepted by Russell-Cooke LLP. © Russell-Cooke LLP. June 2014

**[www.russell-cooke.co.uk](http://www.russell-cooke.co.uk)**