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POLISH ACT ON LEGISLATIVE AND REGULATORY LOBBYING

Expert Meeting on Conflict of Interest in the Public Service

**26-27 January 2006
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This document provides an unofficial translation of the text of the Polish Act on Legislative and Regulatory Lobbying.

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ACT of 7 July 2005 on Legislative and Regulatory Lobbying¹
(Unofficial translation)

Chapter 1

General Provisions

Article 1

This Act lays down the rules of openness governing legislative and regulatory lobbying and the rules governing professional lobbying, determines the forms in which control can be exercised over professional lobbying, and sets out the rules for the keeping of the Register of Professional Lobbyists and Lobbying Firms.

Article 2

1. For the purposes of the Act, lobbying means any legal action designed to influence the legislative or regulatory actions of a Public Authority.
2. For the purposes of the Act, professional lobbying means any paid activity carried out for or on behalf of a third party with a view to ensuring that their interests are fully reflected in legislation or regulation proposed or pending.
3. Professional lobbying can be carried out by a firm (hereinafter referred to as the Professional Lobbying Firm) or by an individual not register as such (hereinafter referred to as the Professional Lobbyist) pursuant to a civil contract.

Chapter 2

Rules of Openness Governing Legislative Lobbying

Article 3

1. At least once every six months the Council of Ministers shall develop their Legislative Work Programme related to their drafting legislation.
2. A notice on the Programme referred to in paragraph 1, shall contain the following, in particular:

¹ This Act amends the following: the Act of 9 May 1996 on carrying out the mandate of a Deputy to the Sejm or of a Senator (JL of 2003, No 221, item 2199, as amended), Act of 8 August 1996 on the Council of Ministers (JL of 2003, No 24, item 199; and No 80, item 717; and of 2004, No 238, item 2390; and No 273, item 2703), and Act of 4 September 1997 on Government ministries and departments (JL of 2003, No 159, item 1548, as amended).

- (1) Short information on the reasons and the need for the arrangements proposed;
 - (2) The merits of the arrangements proposed;
 - (3) The Authority responsible for drafting the legislation involved;
 - (4) The name and the position or function of the individual responsible for drafting the legislation involved;
 - (5) The address for the Official Government Information Website: the Public Information Bulletin (hereinafter referred to as the “Bulletin”) that is to be used to publish documents referred to in Article 5 or 6.
3. In addition, the notice referred to in paragraph 2 shall contain information on the work on the legislative proposal(s) that has been discontinued, stating the reasons therefor.
4. The Programme referred to in paragraph 1 shall be published in the Bulletin.
5. The Council of Ministers shall forthwith submit the Programme referred to in paragraph 1 to the Sejm [Lower House of the National Assembly].

Article 4

The Council of Ministers, the President of the Council of Ministers, and the individual ministers shall develop their Regulatory Work Programmes related to their drafting their regulations. Article 3(2) to (4) shall apply *mutatis mutandis*.

Article 5

Any legislative or regulatory proposal shall be published in the Bulletin upon their being forwarded to the members of the Council of Ministers for consultation.

Article 6

Upon the Legislative Work Programme referred to in Article 3, legislative proposal not included therein, Regulatory Work Programme referred to in Article 4, or regulatory proposal not included therein, being published in the Bulletin, the Authority concerned shall also publish in the same all the documents related to the proposal(s) involved.

Article 7

1. Upon the Legislative Work Programme referred to in Article 3, legislative proposal not included therein, Regulatory Work Programme referred to in Article 4, or regulatory proposal not included therein, being published in the Bulletin, anyone can notify their interest in the legislation or regulation involved.
2. The notification referred to in paragraph 1 shall be on the official form, submitted to the Authority responsible for drafting the legislation or regulation involved.

3. The notification referred to in paragraph 1 shall be published, excluding the address of the individual concerned, in the Bulletin as a document related to the legislation or regulation involved.
4. The notification referred to in paragraph 1 shall contain the following:
 - (1) The names and addresses of the individuals authorised to represent the entity concerned during the work on the legislation or regulation involved;
 - (2) The name and registered office of the entity concerned if that entity is a corporate one;
 - (3) The name and (official) address of the entity concerned if that entity is not a corporate one;
 - (4) The interests that vis-à-vis the legislation or regulation involved are intended to be safeguarded or the legal arrangements the inclusion of which is to be sought.
5. The notification referred to in paragraph 1 shall be accompanied by the following:
 - (1) A proof of entry in the Register, referred to in Article 11(8), if it is being effected by the Professional Lobbyist or the Professional Lobbying Firm;
 - (2) An extract from the National Court Register related to the corporate entity concerned, if it is being effected for or on behalf of the corporate entity entered therein.
6. The entity that has notified their interest in the legislation or regulation involved shall notify the Authority responsible for drafting it of all the changes to the details previously supplied within seven days of their occurrence.
7. The Council of Ministers shall lay down the procedure for notifying interest in the legislation or regulation proposed or pending, including the specimen of the form therefor. It shall do so via their Ordinance, having regard to the need to facilitate notifying such interest.

Article 8

1. In cases where the legislative proposal has been tabled before the Sejm, a public hearing may be conducted thereon, subject to its Rules of Procedure.
2. The entity that has notified their interest in the legislation involved may participate in any public hearing related thereto, subject to the Rules of Procedure of the Sejm.

Article 9

1. The Authority responsible for drafting the regulation involved may hold a public hearing thereon.
2. The date and time for the public hearing referred to in paragraph 1 shall be published in the Bulletin at least seven days before.

3. The right to participate in the public hearing referred to in paragraph 1 can be exercised by anyone that has notified their interest in the regulation involved at least three days before.
4. In cases were due to the space and/or technical constraints, and in particular the excessive number of those wanting to attend, it is impossible to hold a public hearing on the regulation involved, the Authority concerned may:
 - (1) Change the date and time and/or the venue therefor, publishing in the Bulletin the new details and the reasons therefor;
 - (2) Cancel it, publishing in the Bulletin the reasons therefore.
5. The Authority responsible for organising the public hearing shall in particular:
 - (1) Name the individual that shall chair it;
 - (2) Ensure that it proceeds smoothly;
 - (3) Give to those that desire it leave to speak.
6. The Council of Ministers shall lay down the procedure for holding public hearings on regulatory proposals and the method by which their course is to be documented. It shall do so via their Ordinance, having regard to the need to identify those that participate in such hearings, to guarantee their right to be heard, and to ensure that such hearings proceed smoothly.

Chapter 3

Register of Professional Lobbyists and Lobbying Firms and Rules Governing Professional Lobbying

Article 10

1. The Register of Professional Lobbyists and Lobbying Firms (referred to hereinafter as the “Register”) is hereby established.
2. The Minister having jurisdiction over matters related to public administration shall keep the Register. It shall have the form of a database containing information stored with the use of the data mediums within the meaning of the Act of 17 February 2005 on the introduction and use of information technology within the organisations carrying out public tasks and functions².
3. The entry in the Register shall contain the following:
 - (1) The name and address of the Professional Lobbyist or the name, registered office, and any other address of the Professional Lobbying Firm concerned; and

² See JL of 2005, No 64, item 565.

- (2) In cases of a Professional Lobbying Firm their number in the National Court Register or their firm registration number.
4. The Register shall be accessible to the public.
5. The information contained in the Register shall be published, with the exception of the addresses of the Professional Lobbyists, in the Bulletin.

Article 11

1. The entry into the Register shall be effected based on the relevant application.
2. The application referred to paragraph 1 shall be on the official form. It shall contain the following in particular:
 - (1) The name and address of the Professional Lobbyist or the name, registered office address, and any other address of the Professional Lobbying Firm concerned; and
 - (2) In cases of a Professional Lobbying Firm their number in the National Court Register or their firm registration number.
3. The application referred to in paragraph 1 shall be accompanied by any documentary evidence needed to confirm the details.
4. In cases where the application referred to in paragraph 1 is found to suffer from formal defects, the Authority responsible for keeping the Register invites the Applicant concerned to resolve them.
5. In cases where the application submitted is found to be manifestly unfounded or where the formal defects are not resolved within seven days though the Applicant has been invited to do so, the Authority responsible for keeping the Register shall refuse to enter him (her) therein. The refusal shall have the form of an administrative decision.
6. The entry into the Register shall be against a fee. The fee shall be paid upon the submission of the application concerned. The fee shall not exceed PLN 100.
7. The entity entered in the Register shall notify the Authority responsible for keeping it of any changes to the details previously supplied within seven days of their occurrence.
8. The Authority responsible for keeping the Register shall, on request from the entity entered therein, issue a proof of entry. The proof shall be valid for three months from the date of issue.
9. The Authority responsible for keeping the Register shall, on request of the entity entered, remove the latter therefrom.
10. The Minister having jurisdiction over matters related to public administration shall determine:

- (1) The procedures for applying to be entered in the Register, for effecting the entry applied for, and for applying for amendment of the details previously entered, including the specimens of the forms therefore;
- (2) The types of the documentary evidence referred to in Article 11(3);
- (3) The specimen of the proof of entry in the Register;
- (4) A fee for entry into the Register.

The Minister shall do so via their Ordinance, having regard to the need to facilitate applying for entry in the Register.

Article 12

Professional lobbying may be carried out subject to being entered in the Register.

Article 13

In cases where the valid decision is issued pursuant to Article 41 of the Penal Code, or to Article 9(1)(5) of the Act of 28 October 2002 on liability of collective bodies for acts that are prohibited under a penalty³, by which the Professional Lobbyist/Lobbying Firm is disqualified from carrying on their lobbying activity, the Authority responsible for keeping the Register shall remove it therefrom. The removal shall be effected pursuant to an administrative decision.

Article 14

1. The Professional Lobbyist or Professional Lobbying Firm concerned can carrying out their lobbying activity also in the Office of the Public Authority involved.
2. The Manager of the Office referred to in paragraph 1 shall provide the Professional Lobbyist or Professional Lobbying Firm entered in the Register access to the Office he manages so as to allow it to properly represent the interests of the entity for or on behalf of which their lobbying is being carried out.
3. Professional lobbying within the Sejm or Senate shall be carried out pursuant to their respective Rules of Procedure.

Article 15

The Professional Lobbyist or Professional Lobbying Firm shall furnish the Public Authority or an employee of its Office before which he or it appears a proof of entry in the Register, together with a written statement naming the entity for or on behalf of which the lobbying activity involved is being carried out.

³ See JL of 2002, No 197, item 1661 and of 2004, No 93, item 889; No 191, item 1956; and No 243, item 2442.

Chapter 4

Exercise of Control over Professional Lobbying

Article 16

1. The Public Authority concerned shall forthwith publish in the Bulletin information on measures taken or being taken in relation to them by the Professional Lobbyist or Professional Lobbying Firm involved. Such information shall include the decision sought.
2. The Manager of the Office of the Public Authority concerned shall, acting within their terms of reference, lay down detailed procedures to be followed by employees of their Office in their contacts with professional lobbyists/lobbying firms or entities carrying out professional lobbying operations without their being entered in the Register, including the procedure for documenting such contacts.

Article 17

In cases where it has been found that the professional lobbying operations are carried out by the entity that has not been entered in the Register, the Public Authority concerned shall forthwith inform in writing the Minister having jurisdiction over matters related to public administration thereof.

Article 18

1. Once a year by the end of February, the Manager of the Office of the Public Authority concerned shall draw up a report on measures taken in relation to their organisation during the previous year by professional lobbyists/lobbying firms.
2. The report referred to in paragraph 1 shall contain the following:
 - (1) A list and description of cases in which lobbying was being undertaken;
 - (2) A list of professional lobbyists/lobbying firms involved;
 - (3) A list and description of the forms in which lobbying was being conducted, indicating whether it was undertaken in support or against the project(s) concerned;
 - (4) A description of the influence exerted by the successful professional lobbyist/lobbying firm on the legislative or regulatory decision-making process(s) involved.
3. The report referred to in paragraph 1 shall be forthwith published in the Bulletin.

Chapter 5

Sanctions for the Violation of the Act

Article 19

1. Whoever carries out professional lobbying operations without their being entered in the Register shall be liable to a penalty of a fine from PLN 3000 to 50,000.
2. The fine referred to in paragraph 1 shall be applied pursuant to an administrative decision of the Minister having jurisdiction over matters related to public administration.
3. In determining the amount of a fine to be applied, regard shall be had to the degree of the influence exerted by the entity referred to in paragraph 1 on the legislative or regulatory decision-making process concerned and to the extent and character of the professional lobbying operations involved.
4. The fine may be applied repeatedly if the professional lobbying operations are continued without the guilty party being entered in the Register.

Article 20

1. The money collected from the fines referred to in Article 19 shall constitute revenue of the State.
2. The fine applied shall be paid within 14 days from the date on which the relevant decision by the Minister having jurisdiction over matters related to public administration become final, via the transfer of the appropriate amount to a bank account kept for their Office.
3. The cost involved in the payment of the fine shall be borne by the Payer.

Chapter 6

Amendments to some existing provisions and transitional and final provisions

Article 21

The Act of 9 May 1996 on carrying out the mandate of a Deputy to the Sejm or of a Senator⁴ is hereby amended as follows:

- (1) In Article 18, the following paragraphs 3a and 3b shall be added:

⁴ Amendments to the Act have been published in JL of 2004, No 116, item 1202 and No 210, item 2135; and of 2005, No 48, item 446.

“3a. The President of the Caucus or of the Group concerned shall forward to the Marshal of the Sejm or of the Senate, as appropriate, the following information on employees of the Office of their Club or Group and any volunteer(s) involved:

- (1) The first name(s) and last name of the individual concerned;
- (2) Their date of birth;
- (3) Their place of employment throughout the three years preceding the date of commencement of their paid or voluntary service for the Caucus or the Group concerned;
- (4) Their source(s) of income throughout the three years preceding the date of commencement of their paid or voluntary service for the Caucus or the Group concerned;
- (5) The economic activity/activities pursued during the three years preceding the date of commencement of their paid or voluntary service for the Caucus or the Group concerned.

3b. The information referred to in paragraph 3a shall be public and be made so by the Marshal of the Sejm or of the Senate, as appropriate, in an electronic form.”;

- (2) In Article 23, the following paragraphs 4a and 4b shall be added:

“4a. The Deputy to the Sejm or the Senator concerned shall forward to the Marshal of the Sejm or of the Senate, as appropriate, the following information on the employees of their Office and any volunteer(s) involved:

- (1) The first name(s) and last name of the individual concerned;
- (2) Their date of birth;
- (3) Their place(s) of employment throughout the three years preceding the date of commencement of their paid or voluntary service for the Office concerned;
- (4) Their source(s) of income throughout the three years preceding the date of commencement of their paid or voluntary service for the Office concerned;
- (5) The economic activity/activities pursued during the three years preceding the date of commencement of their paid or voluntary service for the Office concerned.

4b. The information referred to in paragraph 4a shall be public and be made so by the Marshal of the Sejm or of the Senate, as appropriate, in an electronic form.”.

Article 22

The following Article 39a shall be inserted in the Act of 8 August 1996 on the Council of Ministers:

“Article 39a

1. As for those employed within the Political Cabinet of the Minister, the latter shall forward to the President of the Council of Ministers the information containing the following:

- (1) The first name(s) and last name of the individual concerned;
- (2) Their date of birth;
- (3) Their place(s) of employment throughout the three years proceeding the date of their commencing their service for the Political Cabinet concerned;
- (4) Their source(s) of income throughout the three years proceeding the date of their commencing their service for the Political Cabinet concerned;
- (5) The economic activity/activities pursued during the three years proceeding the date of their commencing their service for the Political Cabinet concerned.

2. The information referred to in paragraph 1 shall be published in the Bulletin.”

Article 23

In Article 6 of the Act of 4 September 1997 on Government ministries and departments⁵, in paragraph 6, the full stop shall be replaced by a semicolon, and the following paragraph 7 shall be added:

“(7) Keeping the Register of Professional Lobbyist and Professional Lobbying Firms.”

Article 24

The Act shall enter into force six months after its publication.

⁵ Amendments to the Act have been published in JL of 2003, No 162, item 1568; No 190, item 1864; of 2004, No 19, item 177; No 69, item 624; No 91, item 873; No 96, item 959; No 116, item 1206; No 141, item 1492; No 238, item 2390; and No 273, item 2702; and of 2005, No 17, item 141; and No 33, item 288.