



Lobbying (Scotland) Act 2016

2016 asp 16

PART 5

FINAL PROVISIONS

46 Offences by bodies corporate etc.

(1) Where—

- (a) an offence under this Act has been committed by a body corporate or a Scottish partnership or other unincorporated association, and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—
 - (i) a relevant individual, or
 - (ii) an individual purporting to act in the capacity of a relevant individual, the individual (as well as the body corporate, partnership or, as the case may be, other unincorporated association) commits the offence and is liable to be proceeded against and punished accordingly.

(2) In subsection (1), “relevant individual” means—

- (a) in relation to a body corporate—
 - (i) a director, manager, secretary or other similar officer of the body,
 - (ii) where the affairs of the body are managed by its members, the members,
- (b) in relation to a Scottish partnership, a partner,
- (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Commencement Information

II [S. 46](#) in force at 12.3.2018 by [S.S.I. 2018/73](#), [reg. 2](#)

47 Interpretation

In this Act—

Changes to legislation: There are currently no known outstanding effects for the Lobbying (Scotland) Act 2016, PART 5. (See end of Document for details)

- “active registrant” has the meaning given in section 3(6),
- “the Clerk” means the Clerk of the Parliament,
- “the Commissioner” means the Commissioner for Ethical Standards in Public Life in Scotland,
- “inactive registrant” has the meaning given in section 3(6),
- “the Parliament”—
- (a) means the Scottish Parliament, and
 - (b) includes any committee of the Parliament (except in relation to the power to censure a person under section 40 or a power to make a resolution),
- “the permanent secretary” means the individual who serves the Scottish Government in the position of permanent secretary in the civil service of the State,
- “proceedings of the Parliament” include proceedings of any committee or sub-committee of the Parliament,
- “register” has the meaning given in section 3,
- “shadow director” has the meaning given in section 251 of the Companies Act 2006,
- “special adviser” means an individual who—
- (a) holds a position in the civil service of the State,
 - (b) is appointed to assist one or more of the ministers mentioned in section 44(1)(a) or (b) of the Scotland Act 1998 after being selected for the appointment by the First Minister personally,
 - (c) has terms and conditions of appointment (apart from those by virtue of section 8(11) of the Constitutional Reform and Governance Act 2010) which are approved by the Minister for the Civil Service, and
 - (d) those terms and conditions provide for the appointment to end—
 - (i) not later than when the First Minister who selected the individual ceases to hold that office, or
 - (ii) where the individual is selected personally for the appointment by a person designated under section 45(4) of the Scotland Act 1998, not later than when the designated person ceases to be able to exercise the functions of the First Minister by virtue of the designation,
- “voluntary registrant” has the meaning given in section 3(6).

48 Parliamentary resolutions

- (1) Before making a resolution under this Act, the Parliament must consult the Scottish Ministers.
- (2) A power of the Parliament to make such a resolution includes power to make—
 - (a) different provision for different purposes,
 - (b) incidental, supplementary, consequential, transitional, transitory or saving provision.
- (3) Immediately after any such resolution is passed, the Clerk must send a copy of it to the Queen's Printer for Scotland (“the Queen's Printer”).
- (4) Part 1 of the Interpretation and Legislative Reform (Scotland) Act 2010 applies to the resolution as if it were a Scottish instrument.

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- (5) Section 41(2) to (5) of that Act and the Scottish Statutory Instruments Regulations 2011 (S.S.I. 2011/195) apply to the resolution—
 - (a) as if it were a Scottish statutory instrument,
 - (b) as if the copy of it sent to the Queen's Printer under subsection (3) were a certified copy received in accordance with section 41(1) of the Interpretation and Legislative Reform (Scotland) Act 2010, and
 - (c) with the modifications set out in subsections (6) and (7).
- (6) References to “responsible authority” are to be read as references to the Clerk.
- (7) Regulation 7(2) and (3) of the Scottish Statutory Instruments Regulations 2011 does not apply.

49 Application of Act to trusts

- (1) This section applies in the application of this Act to a trust.
- (2) For the purposes of this Act, the trustees of the trust engage in regulated lobbying if a trustee makes a communication falling within section 1(1)(a).
- (3) References in Parts 2 and 3 to “person” are to be read as references to the trustees of the trust.
- (4) An obligation imposed under those Parts on the trustees of the trust may be fulfilled by any one or more of the trustees.

Commencement Information

- I2** S. 49(1)(3) in force at 6.9.2017 by S.S.I. 2017/201, **reg. 2(h)**
I3 S. 49(2)(4) in force at 12.3.2018 by S.S.I. 2018/73, **reg. 2**

50 Report on operation of Act

- (1) The Scottish Parliament must make arrangements for one of its committees or sub-committees to report in accordance with this section to the Scottish Parliament on the operation of this Act during the review period.
- (2) In this section, the “review period” means the period—
 - (a) beginning on the day on which section 8 comes into force, and
 - (b) ending 2 years after that day.
- (3) The committee or sub-committee must—
 - (a) for the purposes of preparing its report under subsection (1), take evidence from such persons as it considers appropriate,
 - (b) publish its draft report under subsection (1),
 - (c) consult with such persons as it considers appropriate on—
 - (i) the draft report, and
 - (ii) any recommendations that it proposes to include in its final report, and
 - (d) before making its report under subsection (1), have regard to any representations made to it on the draft report and on any proposed recommendations.

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- (4) A report under subsection (1) may—
- (a) be made in such form and manner as the committee or sub-committee considers appropriate,
 - (b) include a recommendation as to whether this Act should be amended to modify the circumstances in which a person engages in regulated lobbying, whether by adding to or modifying—
 - (i) section 1(1)(a)(i), in relation to the type of persons to whom a communication is made,
 - (ii) section 1(1)(a)(i) or (ii), in relation to the type of communication which is made,
 - (c) include a recommendation as to whether this Act should be amended in relation to the circumstances in which a person engaging in regulated lobbying is to provide information, to be included in the register, about expenditure incurred by the person in engaging in regulated lobbying.
- (5) A report under subsection (1) must be made no later than 2 years after the end of the review period.
- (6) The Scottish Parliament must publish a report made under subsection (1).

Commencement Information

I4 [S. 50](#) in force at 12.3.2018 by [S.S.I. 2018/73](#), [reg. 2](#)

51 Ancillary provision

- (1) The Scottish Ministers may by regulations make such incidental, supplementary, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of, or in connection with, any provision made by or under this Act.
- (2) Regulations under subsection (1) may—
- (a) make different provision for different purposes,
 - (b) modify any enactment (including this Act).
- (3) Subject to subsection (4), regulations under subsection (1) are subject to the negative procedure.
- (4) Regulations under subsection (1) which contain provisions that add to, replace or omit any part of the text of an Act are subject to the affirmative procedure.

52 Commencement

- (1) This section and sections 47, 48, 51 and 53 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Different days may be appointed for different purposes.

Changes to legislation: There are currently no known outstanding effects for the Lobbying (Scotland) Act 2016, PART 5. (See end of Document for details)

- (4) Regulations under subsection (2) may contain transitional, transitory or saving provision.

53 Short title

The short title of this Act is the Lobbying (Scotland) Act 2016.

Changes to legislation:

There are currently no known outstanding effects for the Lobbying (Scotland) Act 2016, PART 5.