

The Lobbying (Scotland) Act 2016: Lobbying Register ‘go-live’



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Any business or organisation that engages with the Scottish Government and/or MSPs needs to ensure it understands the requirements of the Lobbying (Scotland) Act 2016 (the Act), as there are significant legal and reputational risks in noncompliance.

Last week, the Scottish Parliament announced that the ‘go-live’ date for the Lobbying Register set up by the Act is 12 March 2018. From that date, all regulated lobbying in Scotland will have to be registered on the Lobbying Register.

Businesses and other organisations should take proactive steps now to work out how their interactions with MSPs and the Scottish Government will be affected and what compliance processes to put in place.

Background

In April 2016 the Act received Royal Assent and became law, putting in place a new regulatory regime for lobbying in Scotland

Key provisions

As we outlined in our previous briefings on the development of the Act, the key provisions in the Bill are as follows:

- **What kind of communication are regulated lobbying?**
The Act only regulates face-to-face communications made in person or by videoconferencing, not email, telephone, and other forms of non-verbal communication. Communications are only lobbying for the purposes of the Act if they are made in relation to governmental or parliamentary functions.
- **What politicians/civil servants are covered?**
Communications of the kind outlined above only constitute lobbying if they were made to an MSP, a Scottish Government Minister, a special adviser, or the Permanent Secretary to the Scottish Government.

- **Carve outs** The Act includes a number of carve-outs. Of particular note are carve outs for small organisations lobbying on their own behalf, communications in respect of employment matters/disputes, constituency/regional MSP contact, and communications made in response to a request for factual information or views on a particular topic (e.g. responding to an email from an MSP, consultations, etc.).
- **Requirement to register** Parties who undertake regulated communications are required to register details about themselves and the topics that they lobbied on, on a regular basis.
- **Criminal offence** Failure to register as required by the Act is a criminal offence, potentially both for the organisation who should have registered and its directors, partners or managers. Similarly giving incomplete or inaccurate information is an offence.

What does this mean for my organisation?

As noted above, if your organisation is undertaking regulated lobbying it will need to be registered on the Scottish Parliament’s Lobbying Register. On 13 October



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2017, the Lobbying Registrar announced that the 'go-live' date for the Lobbying Register will be 12 March 2018.

From this date, any registrable contact with MSPs, the Scottish Government's Ministers, Special Advisers or Permanent Secretary will need to be recorded on the Lobbying Register

What are the requirements and timescales for registration after 'go-live'?

If your business or organisation engages in regulated lobbying after the Lobbying Register 'go-live', and is not at that point registered, it must register within 30 days of when the first instance of regulated lobbying occurred. As noted above, a failure to register is a criminal offence.

Upon registration as a lobbyist, an organisation (or, indeed, individual) will need to submit various pieces of information. Details about each instance of regulated lobbying undertaken must also be submitted for registration.

A registered party, who actively undertakes regulated lobbying, is required to make information returns every six months.

The Lobbying Registrar has power to request information from both registrants and those who she has reasonable grounds to believe are, or have been, engaged in regulated lobbying.

Will our information be public?

Generally, unless the Lobbying Registrar considers that it would be inappropriate to do so, any submitted information will be made public.

Is guidance available?

The Parliament is obliged to publish guidance on the operation of the Act. In September this year, after wide consultation, a draft guidance document was published. It will be finalised before the 'go-live' of the Lobbying Register on 12 March 2018.

A Code of Conduct for those lobbying MSPs is also to be prepared, and is due to be completed in November 2017. The Lobbying Registrar has also announced that the [new Lobbying Register website](#) will be fully available to view and explore from 23 October 2017. It is intended that this will allow parties who may need to register to familiarise themselves with the online version of the Lobbying Register and the system which underlies it ahead of the 'go-live' date in March 2018.

Next steps

Businesses and other organisations should take proactive steps now to work out how their interactions with MSPs and the Scottish Government will be affected and what compliance processes to put in place.

Please feel free to contact Natasha Durkin or Liam Maclean in our Regulation and Markets team, or your usual Shepherd and Wedderburn contact, to discuss any issues that you need assistance with.



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