

LOBBYING (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Guidance, code of conduct and public awareness

Parliamentary guidance

180. **Section 43** contains provision relating to the publication of parliamentary guidance.
181. Subsection (1) provides that the Parliament must publish guidance on the operation of this Act.
182. Subsection (2) lays out particular examples of what the guidance must contain, including the circumstances in which a person is or is not engaged in regulated lobbying for the purposes of the Act and the circumstances in which a communication is of a kind which falls within the schedule or the Clerk’s functions under the Act.
183. Subsection (3) provides that before publishing the guidance, any revision to it or replacement of it, the Parliament must consult the Scottish Ministers.
184. When exercising functions under Part 2 both the Clerk and the Commissioner are required to have regard to the parliamentary guidance (see sections 3(5), 16(2) and 22(3)). This ensures that the Clerk and the Commissioner will take account of the guidance when exercising such functions.

Code of conduct for persons lobbying MSPs

185. **Section 44** contains provision relating to the publication of a code of conduct for persons lobbying MSPs.
186. Subsection (1) provides that the Parliament must publish a code of conduct for persons lobbying members of the Parliament.
187. Subsection (2) provides that the Parliament must, from time to time, review the code of conduct and may, if it considers it appropriate, publish a revised code of conduct.
188. Subsection (3) lays out that, in this section, “lobbying” means making a communication of any kind to a member of the Parliament in relation to the member’s functions. This includes, but is wider than, ‘regulated lobbying’ with which the rest of the Act is concerned. While therefore the code of conduct may contain provision relevant to persons engaging in regulated lobbying within the meaning of section 1 of the Act, it may also contain provision relevant to any other “lobbying” of MSPs.

Public awareness and understanding of the Act

189. **Section 45** provides that Parliament may take such steps as it considers appropriate to promote public awareness and understanding of the operation of the Act.