



Lobbying (Scotland) Act 2016

2016 asp 16

PART 3

OVERSIGHT AND ENFORCEMENT

Investigations: witnesses and documents

32 Power to call for witnesses and documents etc.

- (1) The Commissioner may for the purposes of an investigation under section 22(2)(b)(i) require any person, whether in or outwith Scotland—
 - (a) to attend the Commissioner's proceedings for the purpose of giving evidence,
 - (b) to produce documents in the person's custody or under the person's control.
- (2) For the purposes of subsection (1), a person is to be taken to comply with a requirement to produce a document if that person produces a copy of, or an extract of the relevant part of, the document.
- (3) The Commissioner may not impose such a requirement on any person who the Parliament could not require, under section 23 of the Scotland Act 1998, to attend its proceedings for the purpose of giving evidence or to produce documents.
- (4) A statement made by a person in answer to a question which that person was obliged under this section to answer is not admissible in any criminal proceedings against that person, except where the proceedings are in respect of perjury relating to that statement.

Annotations:

Commencement Information

- II** [S. 32](#)
in force at 12.3.2018 by
[S.S.I. 2018/73](#)
,
[reg. 2](#)

Changes to legislation: There are currently no known outstanding effects for the Lobbying (Scotland) Act 2016, Cross Heading: Investigations: witnesses and documents. (See end of Document for details)

33 Notice

A requirement under section 32(1) must be imposed by giving notice to the person specifying—

- (a) where the person is required to give evidence—
 - (i) the time and place at which the person is to attend, and
 - (ii) the particular matters about which the person is required to give evidence,
- (b) where the person is required to produce a document—
 - (i) the document, or types of document, which the person is to produce,
 - (ii) the date by which the document must be produced, and
 - (iii) the particular matters in connection with which the document is required.

Annotations:

Commencement Information

I2 [S. 33](#)
in force at 12.3.2018 by
[S.S.I. 2018/73](#)
,
[reg. 2](#)

34 Exceptions to requirement to answer question or produce document

- (1) A person is not obliged under section 32 to answer a question or to produce a document which that person would be entitled to refuse to answer or produce in proceedings in a court in Scotland.
- (2) The Lord Advocate, the Solicitor General for Scotland or a procurator fiscal is not obliged under section 32 to answer any question or produce any document which that person would be entitled to decline to answer or to produce in accordance with section 27(3) or, as the case may be, 23(10) of the Scotland Act 1998.

Annotations:

Commencement Information

I3 [S. 34](#)
in force at 12.3.2018 by
[S.S.I. 2018/73](#)
,
[reg. 2](#)

35 Evidence under oath

- (1) The Commissioner may—
 - (a) administer an oath to any person giving evidence to the Commissioner, and
 - (b) require that person to take an oath.

Changes to legislation: There are currently no known outstanding effects for the Lobbying (Scotland) Act 2016, Cross Heading: Investigations: witnesses and documents. (See end of Document for details)

- (2) A person who refuses to take an oath when required to do so under subsection (1) commits an offence.
- (3) A person who commits an offence under subsection (2) is liable on summary conviction to imprisonment for a period not exceeding 3 months or a fine not exceeding level 5 on the standard scale (but not both).

Annotations:

Commencement Information

- I4** [S. 35](#)
in force at 12.3.2018 by
[S.S.I. 2018/73](#)
,
[reg. 2](#)

36 Offences relating to Commissioner's investigation

- (1) A person to whom a notice under section 33 has been given commits an offence if the person—
 - (a) refuses or fails to attend before the Commissioner as required by the notice,
 - (b) refuses or fails, when attending before the Commissioner, to answer any question concerning the matters specified in the notice,
 - (c) deliberately alters, suppresses, conceals or destroys any document which that person is required to produce by the notice, or
 - (d) refuses or fails to produce any such document.
- (2) It is a defence for a person charged with an offence under subsection (1)(a), (b) or (d) to show that there was a reasonable excuse for the refusal or failure.
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to imprisonment for a period not exceeding 3 months or a fine not exceeding level 5 on the standard scale (but not both).

Annotations:

Commencement Information

- I5** [S. 36](#)
in force at 12.3.2018 by
[S.S.I. 2018/73](#)
,
[reg. 2](#)

37 Restriction on disclosure of information

- (1) A person mentioned in subsection (2) must not disclose information which is—
 - (a) contained in a complaint,
 - (b) provided to or obtained by the person in the course of, or for the purposes of, an assessment under section 22(2)(a), or

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- (c) provided to or obtained by the person in the course of, or for the purposes of, an investigation under section 22(2)(b)(i).
- (2) The persons are—
- (a) the Commissioner,
 - (b) a member of the Commissioner's staff, or
 - (c) any other person appointed by the Commissioner.
- (3) Subsection (1) does not prevent disclosure of information for the purpose of—
- (a) enabling or assisting the Commissioner to discharge the Commissioner's functions—
 - (i) conferred by or under this Act (including by a resolution of the Parliament under section 41),
 - (ii) conferred by or under any other enactment, or
 - (iii) in the standing orders of the Scottish Parliament, or
 - (b) the investigation or prosecution of any offence or suspected offence.

Annotations:

Commencement Information

I6 [S. 37](#)
in force at 12.3.2018 by
[S.S.I. 2018/73](#)
,
[reg. 2](#)

Changes to legislation:

There are currently no known outstanding effects for the Lobbying (Scotland) Act 2016, Cross
Heading: Investigations: witnesses and documents.