



Lobbying (Scotland) Act 2016

2016 asp 16

PART 3

OVERSIGHT AND ENFORCEMENT

Investigation of complaints

24 Procedure for assessing admissibility of complaint

- (1) This section applies where the Commissioner receives a complaint that a person has or might have failed to comply with a requirement mentioned in section 22(1)(a) to (d).
- (2) The Commissioner must—
 - (a) notify the person who is the subject of the complaint that the complaint has been received,
 - (b) inform that person of the nature of the complaint, and
 - (c) except where the Commissioner considers that it would not be appropriate to do so, inform that person of the name of the individual who made the complaint.
- (3) If the Commissioner considers that the complaint is inadmissible due to being irrelevant, the Commissioner must dismiss the complaint.
- (4) Subsections (5) to (7) apply where the Commissioner considers that the complaint is relevant but fails to meet one or more of the conditions mentioned in section 23(3).
- (5) The Commissioner must—
 - (a) if the complaint is of a kind specified in a direction by the Parliament, make a report to the Parliament,
 - (b) if the complaint is not of such kind and the Commissioner considers that the complaint warrants further investigation, make a report to the Parliament,
 - (c) in any other case, dismiss the complaint.
- (6) A report under subsection (5)(a) or (b) must include—
 - (a) the reasons why the Commissioner considers that the complaint fails to meet one or more of the conditions mentioned in section 23(3),
 - (b) the reasons for that failure (if known),

Status: This is the original version (as it was originally enacted).

- (c) if the report is made under subsection (5)(b), a statement that the complaint warrants further investigation,
 - (d) the recommendation of the Commissioner as to whether, having regard to all the circumstances of the case, the complaint should be dismissed as inadmissible for failing to meet one or more of the conditions mentioned in section 23(3) or should be treated as if it had met all of those conditions, and
 - (e) any other matters which the Commissioner considers appropriate.
- (7) After receiving a report under subsection (5)(a) or (b), the Parliament must give the Commissioner a direction—
 - (a) to dismiss the complaint as inadmissible for failing to meet one or more of the conditions mentioned in section 23(3), or
 - (b) to treat the complaint as if it had met all of those conditions.
- (8) If the Commissioner considers that the complaint is admissible, the Commissioner must inform—
 - (a) the Parliament, by making a report to the Parliament,
 - (b) the individual who made the complaint, and
 - (c) the person who is the subject of the complaint.
- (9) If the Commissioner considers that the complaint is inadmissible and has not already dismissed the complaint under subsection (3) or (5)(c) or in pursuance of subsection (7)(a), the Commissioner must dismiss the complaint.
- (10) In dismissing a complaint, the Commissioner must inform the individual who made the complaint and the person who is the subject of the complaint of the dismissal together with the reasons why the complaint is inadmissible.
- (11) Subsections (2), (8) and (10) apply only to the extent that they are capable of applying where—
 - (a) the person to whom the complaint relates has not been named in the complaint, or
 - (b) the individual who made the complaint is anonymous.
- (12) If the Commissioner has not assessed whether a complaint is admissible before the end of the period of 2 months beginning on the date the complaint is received, the Commissioner must, as soon as possible thereafter, make a report to the Parliament on the progress of the assessment of admissibility.