

LOBBYING (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Core Concepts

Section 1: Regulated lobbying and the schedule: communications which are not lobbying

Communications by small organisations

17. Paragraph 7 provides that a communication is not lobbying if made—
 - (a) by an individual as an employee or in another capacity mentioned in section 1(1)(b) (see paragraph 6 above) in the course of a business or other activity carried on by another person,
 - (b) on the other person’s behalf and not on behalf of a third party, and
 - (c) on a date when the other person has fewer than 10 full-time equivalent employees.
18. Paragraph 7 of the schedule can apply only where a communication made by an individual as (e.g.) an employee in the course of a business or other activity carried on by another person (e.g. a company) is made on behalf of that other person. It cannot apply where a communication made by an individual as (e.g.) an employee in the course of a business or other activity carried on by another person (e.g. a company) is made not on behalf of that other person but on behalf of a third party (e.g. a different company). See paragraph 7(b) of the schedule.
19. Paragraphs 9 and 10 of the schedule make provision about how the number of “full-time equivalent employees” is to be calculated for the purposes of paragraph 7 of the schedule. Paragraph 9 provides that for the purposes of paragraph 7, the number of full-time equivalent employees a person has is calculated as follows—
 - (a) find the total number of hours worked by all the employees of the person in the 28 days ending with the date on which the communication was made,
 - (b) divide that number by 140.
20. Paragraph 10 provides that for the purposes of the calculation in paragraph 9, any employee who worked more than 140 hours during the period of 28 days is to be treated as having worked 140 hours (i.e. the number of worked hours for any one employee which fall to be counted for the purposes of the calculation is capped at 140 hours, even if the particular employee in question in fact worked more than 140 hours in the 28 day period)).
21. The calculation in paragraph 9 is based on a notional 35 hour working week for a full-time member of staff (i.e. a notional 140 hours over a 4 week (i.e. 28 day) period).
22. Paragraph 8 provides that paragraph 7 does not apply where the communication is made in the course of a business or other activity carried on by a person if one of the person’s

*These notes relate to the Lobbying (Scotland) Act 2016
(asp 16) which received Royal Assent on 14 April 2016*

principal purposes is to represent the interests of other persons (e.g. a person which is a body having as a core purpose representing the views of its members).