

LOBBYING (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – Oversight and Enforcement

(b) the Commissioner – investigation of complaints and report to Parliament

Investigation of admissible complaint and report to Parliament

124. **Section 25**(1) provides that section 25 applies to the investigation of a complaint assessed as admissible under section 22(2)(a).
125. Subsection (2) provides that the investigation must be conducted with a view to making findings of fact in relation to compliance with a requirement mentioned in section 22(1) (a) to (d) by the person who is the subject of the complaint.
126. Subsection (3) provides that the Commissioner may make a finding of fact if satisfied on the balance of probabilities that the fact is established.
127. Subsection (4) provides that if the Commissioner has not completed the investigation before the end of the period of 6 months beginning on the date the complaint is found admissible, the Commissioner must, as soon as possible thereafter, make a report to the Parliament on the progress of the investigation.
128. **Section 26** makes provision in respect of a Commissioner's report on the outcome of any investigation of an admissible complaint.
129. Subsection (2) sets out the information that the report must contain, including details of the complaint, the Commissioner's findings in fact and details of any representations made under subsection (4)(b) by the person who is the subject of the complaint.
130. Subsection (3) provides that the report must not make reference to action which may be taken by the Parliament under section 40 (censure by the Parliament or no further action).
131. Subsection (4) makes clear that before the report is provided to the Parliament, the Commissioner must (a) provide a copy of a draft report to the person who is the subject of the report and (b) provide that person with an opportunity to make representations on the draft report.
132. **Section 27**(1) provides that the Parliament is not bound by the facts found by the Commissioner in a report made under section 22(2)(b)(ii) (Commissioner's report on the outcome of an admissible complaint).
133. Subsection (2) provides that the Parliament may direct the Commissioner to carry out such further investigations as may be specified in the direction and report on the outcome of those investigations to it.
134. Subsection (3) provides that subject to a direction under subsection (2), the provisions of the Act and of any other direction made under the Act apply (subject to necessary

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

modifications) in relation to any further investigation and report as they apply in relation to an investigation and report into a complaint.