

LOBBYING (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 – Oversight and Enforcement

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

Directions to the Commissioner

147. The general power in **section 31** of the Act for the Parliament to issue directions to the Commissioner provides for operational flexibility in the overall arrangements for oversight of the registration regime by the Commissioner and the Parliament as provided for in Part 3 of the Act (in particular sections 22 to 30).
148. Subsection (1) provides that the Commissioner must, in carrying out the Commissioner's functions conferred by or under the Act, comply with any direction given by the Parliament.
149. Subsection (2) provides a non-exhaustive list of examples of the types of thing a direction given by the Parliament may deal with. A direction may:
- (a) make provision as to the procedure to be followed by the Commissioner when conducting an assessment (assessment of admissibility of complaint) or investigation (investigation of admissible complaint) mentioned in section 22,
 - (b) set out circumstances where, despite receiving a complaint mentioned in section 22(1), the Commissioner:
 - (i) may decide not to conduct an assessment under section 22(2)(a) (assessment of admissibility of complaint) or an investigation under section 22(2)(b)(i) (investigation of admissible complaint) or, if started, may suspend or stop such an assessment or investigation before it is concluded,
 - (ii) must not conduct such assessment or investigation or, if started, must suspend or stop such assessment or investigation before it is concluded,
 - (iii) is not required to report to the Parliament under sections 22(2)(b)(ii), 24(5)(a) or (b), (8)(a) or (12), 25(4) or 28(7), or
 - (c) require the Commissioner to report to the Parliament upon such matter relating to the exercise of the functions of the Commissioner under the Act as may be specified in the direction.
150. Subsection (3) makes clear that a direction under subsection (1) may not direct the Commissioner as to how any particular investigation is to be carried out.