



# Lobbying (Scotland) Act 2016

## 2016 asp 16

### PART 2

#### THE LOBBYING REGISTER

##### *The register*

### **3 Lobbying register**

- (1) The Clerk must establish and maintain a lobbying register (the “register”), containing information about active registrants, inactive registrants and voluntary registrants.
- (2) The Clerk must publish, by such means as the Clerk considers appropriate, the information about active registrants which is contained in the register.
- (3) But the Clerk may withhold from publication information relating to an individual if the Clerk considers that it would be inappropriate to make that information publicly available.
- (4) The Clerk may publish, by such means as the Clerk considers appropriate, such information as the Clerk considers appropriate about—
  - (a) inactive registrants, and
  - (b) voluntary registrants.
- (5) In exercising functions under this Part, the Clerk must have regard to the parliamentary guidance (see section 43).
- (6) In this Part—
  - “active registrant” means a person entered in the register under section 10,
  - “inactive registrant” means a person entered in the register as an inactive registrant under section 12 or 13,
  - “voluntary registrant” means a person entered in the register as a voluntary registrant under section 14.

#### **4 Content of register**

- (1) The register must contain an entry for each registrant setting out the information about the registrant's identity mentioned in section 5.
- (2) In relation to an active or inactive registrant, the register must also contain—
  - (a) the information about the registrant's regulated lobbying activity mentioned in section 6, and
  - (b) additional information provided by the registrant mentioned in section 7.

#### **5 Information about identity**

The information about the registrant's identity is—

- (a) in the case of an individual—
  - (i) the individual's name, and
  - (ii) the address of the individual's main place of business (or, if there is no such place, the individual's residence),
- (b) in the case of a company (within the meaning of the Companies Act 2006)—
  - (i) the name of the company,
  - (ii) its registered number,
  - (iii) the address of its registered office,
  - (iv) the names of its directors and of any secretary, and
  - (v) the names of any shadow directors,

(each of those expressions having the same meaning as in that Act),
- (c) in the case of a partnership (including a limited liability partnership)—
  - (i) the name of the partnership,
  - (ii) the names of the partners, and
  - (iii) the address of its main office or place of business, and
- (d) in the case of any other person—
  - (i) the name of the person, and
  - (ii) the address of the person's main office or place of business.

#### **6 Information about regulated lobbying activity**

- (1) The information about the registrant's regulated lobbying activity is information submitted by the registrant about instances of the registrant engaging in regulated lobbying.
- (2) That is, in relation to each instance of regulated lobbying—
  - (a) the name of the person lobbied,
  - (b) the date on which the person was lobbied,
  - (c) the location at which the person was lobbied,
  - (d) a description of the meeting, event or other circumstances in which the lobbying occurred,
  - (e) the name of the individual who made the communication falling within section 1(1),
  - (f) either—
    - (i) a statement that the lobbying was undertaken on the registrant's own behalf, or

- (ii) the name of the person on whose behalf the lobbying was undertaken,  
and
- (g) the purpose of the lobbying.

## **7 Additional information**

The additional information provided by the registrant is—

- (a) any information submitted by the registrant about—
  - (i) whether there is an undertaking by the registrant to comply with a code of conduct which governs regulated lobbying (whether or not it also governs other activities) and is available for public inspection,
  - (ii) where a copy of the code may be inspected, and
  - (iii) any individual given responsibility by the registrant for monitoring the registrant's compliance with the code, and
- (b) such other information provided by the registrant which the Clerk considers appropriate to include in the register.

### *Active registrants*

## **8 Duty to register**

- (1) A person who engages in regulated lobbying when the person is not an active registrant must, before the end of the relevant period, provide to the Clerk—
  - (a) the information mentioned in section 5 in relation to the person's identity, and
  - (b) the information mentioned in section 6 in relation to the first instance of the regulated lobbying.
- (2) The "relevant period" is the period of 30 days beginning with the date on which the first instance of the regulated lobbying occurred.
- (3) A person must provide the information under subsection (1) in such form as the Clerk may determine.

## **9 Application for registration**

- (1) A person may apply to the Clerk to be entered in the register if the person—
  - (a) is not an active registrant, and
  - (b) has not engaged in regulated lobbying during the period of 30 days before the date of the application.
- (2) An application under subsection (1) must—
  - (a) be in such form as the Clerk may determine, and
  - (b) include the information mentioned in section 5 in relation to the person's identity.

## **10 Entry in the register**

- (1) This section applies where a person—
  - (a) provides information in accordance with section 8, or
  - (b) applies in accordance with section 9.

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- (2) The Clerk must as soon as reasonably practicable after the information or application is received—
  - (a) enter the person in the register as an active registrant, and
  - (b) update the register to include—
    - (i) the information provided by the registrant under section 8(1) or, as the case may be, section 9(2)(b), and
    - (ii) any other information provided by the registrant which the Clerk considers appropriate to include in the register.
- (3) The Clerk must, as soon as reasonably practicable after entering the person in the register, notify that person in writing of—
  - (a) the date on which the period of 6 months mentioned in section 11(1)(a) begins in relation to the person, and
  - (b) the effect of section 11(1)(b) on an active registrant.
- (4) The Clerk may send additional copies of the notice sent under subsection (3) by whatever means the Clerk considers appropriate.

## **11 Information returns**

- (1) An active registrant must submit to the Clerk an information return in respect of—
  - (a) the period of 6 months beginning with—
    - (i) in the case of a registrant who provided information under section 8(1), the date on which the relevant period mentioned in that section began in relation to that person, or
    - (ii) in the case of a registrant who applied under section 9(1), the date of the application, and
  - (b) each subsequent period of 6 months.
- (2) The information return must be submitted—
  - (a) in such form as the Clerk may determine,
  - (b) before the end of the period of 2 weeks beginning immediately after the end of the period to which the return relates.
- (3) The first information return submitted by a registrant mentioned in subsection (1)(a)
  - (i) must contain—
    - (a) either—
      - (i) the information mentioned in section 6 in relation to each instance of the registrant engaging in regulated lobbying during the period in question (other than information provided under section 8(1)(b)), or
      - (ii) a statement that, during the period in question, other than the registrant's first instance of regulated lobbying, the registrant did not engage in regulated lobbying, and
    - (b) if any information included in the register in relation to the registrant is or has become inaccurate, information about the changes that have occurred.
- (4) Every other information return submitted by a registrant under this section must contain—
  - (a) either—

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- (i) the information mentioned in section 6 in relation to each instance of the registrant engaging in regulated lobbying during the period in question, or
    - (ii) a statement that, during the period in question, the registrant did not engage in regulated lobbying, and
  - (b) if any information included in the register in relation to the registrant is or has become inaccurate, information about the changes that have occurred.
- (5) An active registrant may, at any time, notify the Clerk in writing—
- (a) if any information included in the register in relation to that registrant has become inaccurate, about the changes that have occurred,
  - (b) about information of the type mentioned in section 7(a),
  - (c) about such other information which the registrant wishes to include in the register.
- (6) The Clerk must, as soon as reasonably practicable after receiving an information return or information under subsection (5), update the register to include—
- (a) the information contained in the information return or as the case may be provided under subsection (5)(a) or (b),
  - (b) any information provided under subsection (5)(c) which the Clerk considers appropriate to include in the register.

#### *Inactive registrants*

## **12      Reclassification as an inactive registrant on application**

- (1) An active registrant may apply to the Clerk to be instead entered in the register as an inactive registrant (in this section referred to as the “applicant”).
- (2) The application under subsection (1) must—
- (a) be in such form as the Clerk may determine, and
  - (b) contain either—
    - (i) in the case of an applicant who has not submitted an information return under section 11, the information about the applicant’s regulated lobbying activity mentioned in subsection (3), or
    - (ii) in the case of an applicant who has submitted a return under that section, the information about the applicant’s regulated lobbying activity mentioned in subsection (4).
- (3) The information about the applicant’s regulated lobbying activity is either—
- (a) the information mentioned in section 6 (other than any information provided under section 8(1)(b)) about each instance of the applicant engaging in regulated lobbying during the period—
    - (i) beginning with the date on which the period mentioned in section 11(1)(a) began in relation to the applicant, and
    - (ii) ending with the date of the application, or
  - (b) a statement that, in that period, the applicant—
    - (i) did not engage in regulated lobbying, or
    - (ii) other than the applicant’s first instance of regulated lobbying, did not engage in regulated lobbying.

- (4) The information about the applicant's regulated lobbying activity is either—
  - (a) the information mentioned in section 6 about each instance of the applicant engaging in regulated lobbying during the period—
    - (i) beginning with the day after the end of the 6 month period covered by the last information return submitted by the applicant under section 11, and
    - (ii) ending with the date of the application, or
  - (b) a statement that, in that period, the applicant did not engage in regulated lobbying.
- (5) If, following an application under subsection (1), the Clerk has reasonable grounds to believe the applicant is not, or is no longer, engaged in regulated lobbying, the Clerk may enter the applicant in the register as an inactive registrant by updating the applicant's entry in the register accordingly.
- (6) The Clerk must, as soon as practicable after making a decision under this section, notify the applicant of—
  - (a) the decision and the Clerk's reasons for the decision, and
  - (b) in the case of a decision to enter the applicant in the register as an inactive registrant—
    - (i) the date on which the applicant is entered in the register as an inactive registrant, and
    - (ii) the effect of the applicant being entered in the register as an inactive registrant.

### **13      Reclassification as an inactive registrant without application**

- (1) The Clerk may enter an active registrant in the register as an inactive registrant if—
  - (a) there is no outstanding application by the registrant under section 12, but
  - (b) the Clerk has reasonable grounds to believe the registrant is not, or is no longer, engaged in regulated lobbying.
- (2) Before deciding under this section to enter an active registrant in the register as an inactive registrant the Clerk must give to the registrant a notice stating—
  - (a) that the Clerk is considering updating the registrant's entry in the register to be instead entered in the register as an inactive registrant,
  - (b) the Clerk's reasons for doing so, and
  - (c) that the registrant has the right to make written representations to the Clerk before the date which is specified in the notice (such date to be at least 28 days after the date on which the notice is given).
- (3) In making a decision under this section the Clerk must consider any representations made in accordance with subsection (2)(c).
- (4) The Clerk must, as soon as practicable after making a decision under this section to enter a registrant in the register as an inactive registrant, update the registrant's entry in the register accordingly.
- (5) The Clerk must, as soon as practicable after making a decision under this section notify the registrant in respect of whom the decision is made of—
  - (a) the decision and the Clerk's reasons for that decision, and

- (b) in the case of a decision to enter a registrant in the register as an inactive registrant—
  - (i) the date on which the registrant is entered in the register as an inactive registrant, and
  - (ii) the effect of the person being entered in the register as an inactive registrant.

### *Voluntary registrants*

## **14 Voluntary registration**

- (1) A person may apply to the Clerk to be entered in the register as a voluntary registrant (unless the person is already an active registrant).
- (2) The application must—
  - (a) be in such form as the Clerk may determine, and
  - (b) include the information mentioned in section 5 in relation to the applicant's identity.
- (3) The Clerk may—
  - (a) enter the applicant in the register, or
  - (b) refuse to enter the applicant in the register.
- (4) The Clerk may—
  - (a) remove a voluntary registrant from the register if, following an application by the voluntary registrant or otherwise, the Clerk considers it appropriate to do so,
  - (b) update the register accordingly if a voluntary registrant is instead entered in the register as an active registrant.

### *Further provision*

## **15 Power to specify requirements about the register**

- (1) The Scottish Parliament may by resolution make provision about this Part including provision about—
  - (a) the duties of the Clerk in relation to the register,
  - (b) the content of the register,
  - (c) the duty of a person who is not an active registrant to provide information,
  - (d) information to be provided by a person before the person is included in the register as an active registrant,
  - (e) information to be provided while a person is an active registrant,
  - (f) action to be taken when an active registrant is not, or is no longer, engaged in regulated lobbying,
  - (g) the circumstances in which the Clerk may remove information about a registrant from the register,
  - (h) voluntary registration, including—
    - (i) applying with modifications, or making provision equivalent to, the provisions applicable to active and inactive registrants, and

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- (ii) making provision about a voluntary registrant being instead entered in the register as an active registrant,
  - (i) the review of, or appeal to a court against, a decision by the Clerk under this Part.
- (2) A resolution under subsection (1) may modify sections 4 to 14.