



Lobbying (Scotland) Bill

Bill Number:	SP Bill 82
Introduced on:	29 October 2015
Introduced by:	John Swinney MSP (Government Bill)
Passed:	10 March 2016
Royal Assent:	14 April 2016

Passage of the Bill

The Lobbying (Scotland) Bill (the Bill) was introduced in the Scottish Parliament on 29 October 2015 by the Cabinet Secretary for Finance, Constitution and Economy, John Swinney MSP.

The Standards, Procedures and Public Appointments Committee (SPPA Committee) was designated as lead committee on 3 November 2015. Just prior to this, the SPPA Committee [issued a call for written evidence](#) on 30 October 2015. The call for evidence closed on 30 November 2015.

The SPPA Committee took Stage 1 evidence at two meetings on [12 November](#) and [19 November 2015](#).

The Delegated Powers and Law Reform (DPLR) Committee considered the delegated power in the Bill (for the Parliament to publish a code of conduct) at Stage 1 on [17 November](#) and [1 December 2015](#).

The DPLR Committee published its Stage 1 Report on [2 December 2015](#) and the SPPA Committee published its Stage 1 Report on [15 December 2015](#).

The Stage 1 debate took place on [7 January 2016](#) at which the general principles of the Bill were agreed to (S4M-15220).

Thirty seven amendments were lodged at Stage 2 with the SPPA Committee taking Stage 2 proceedings on [4 February 2016](#).

The Bill was passed by the Parliament after the [Stage 3 debate on 10 March 2016](#) and received Royal Assent on 14 April 2016 to become the Lobbying (Scotland) Act 2016 (asp 16).

Purpose and objectives of the Bill

The broad objective of the Bill was to increase public transparency of contacts between organisations and elected Members by establishing a register to contain certain details relating to lobbying by paid consultant and in-house lobbyists who engage directly (orally and in person) with MSPs and Scottish Ministers.

Provisions of the Bill

The Bill was in 5 parts with 1 schedule. The main provisions in each part of the Bill, as introduced, are described below. [SPICe briefing SB 15/79](#) Lobbying (Scotland) Bill (Oag and McGrath, 2015) provides more information on the Bill as introduced.

Part 1

- Defines ‘regulated lobbying’ as oral, face to face engagement with MSPs and Ministers in relation to their Government or parliamentary functions. This would include ‘in person’ meetings, events and other hospitality but exclude all other forms of communication such as letters, emails, telephone calls and video conferences.
- Defines “Government or parliamentary functions” as including: the development, adoption or modification of any proposal related to primary or secondary legislation or to any policy of the Scottish Ministers or other Scottish Administration office-holders; the making, giving or issuing by Scottish Ministers or other Scottish Administration office-holders of contracts, agreements, grants, financial assistance, licences or other authorisations.

Part 2

- Requires the Clerk of the Parliament (the Clerk) to establish and maintain a register containing information about active registrants; inactive registrants and voluntary registrants
- Makes provision for the content of the lobbying register to include information about the identity of the registrant and information about the regulated lobbying activity
- Imposes a duty to register on lobbying firms and organisations with in-house lobbyists who engage in regulated lobbying but who are not yet registered as active registrants

Part 3

- Places a duty on the Clerk to monitor compliance with the Bill and provides the Clerk with powers to require information (by serving an ‘information notice’) relating to compliance.

- Creates a criminal offence of failing to provide the required information on or before the date specified for those served with an information notice
- Establishes an enforcement regime, with the Clerk overseeing registration and monitoring compliance.

Part 4

- Provides that the Parliament may publish guidance on the operation of the Act and that it must publish, and from time to time review, a Code of Conduct for lobbyists. Lobbying” in relation to the Code of Conduct is defined more widely than regulated lobbying, to include communication of any kind by a lobbyist to an MSP in relation to the MSPs’ functions.

Part 5

- Contains various provisions including provision for offences committed by bodies corporate and, in certain circumstances, by specific individuals who played a role in the offence.

Schedule

The Schedule to the Bill lists the forms of communication which are **not** lobbying activities.

Parliamentary consideration

The main issues which arose during parliamentary consideration of the Bill included:

Methods of Communication

The SPPA Committee, and many consultation respondents and witnesses, felt that, in addition to oral face to face engagement, the Bill should capture other means of communication by lobbyists such as telephone calls, emails and letters.

Opposition amendments were lodged at Stage 2 to expand the range of oral and written communications which would be covered by regulated lobbying. However, the only successful amendments were those by the Government to include videoconferencing and equivalent forms of communications.

Targets of lobbying

The SPPA Committee considered that the definition of regulated lobbying should be expanded to include other public officials who may be the target of lobbyists.

At Stage 2, the Government lodged an amendment to bring government special advisers (Spads) within the definition of regulated lobbying. At Stage 3, the Government brought a further amendment to include the Permanent Secretary of the Scottish Government within the definition. Both amendments were agreed to.

Communications which are not lobbying

At Stage 2, the Scottish Government responded to criticism of the exemption for meetings initiated by Members by lodging an amendment to replace this exception for one which exempted “communications made on request”. This extends only to factual information or views from the person to whom the request was made, or to someone acting on his or her behalf.

Also at Stage 2, the Government lodged an amendment to exempt communications made by trade unions or employers in relation to terms and conditions of employment.

At Stage 3, the Government lodged an amendment to exclude constituency-based engagement from the regulated lobbying regime by exempting communications made by organisations on their own behalf in the course of a business or other activity to a local constituency or regional list MSP. “Local” in this situation means an MSP for the constituency or region in which the person’s business or other activity is ordinarily carried out, or for the place of residence of the individual who made the communication.

The Scottish Government also lodged an amendment at Stage 3 to exempt communications by individuals to MSPs, carried out in the course of a business or other activity on their own behalf, where that individual represents a small business or organisation (but not a representative body) which has fewer than 10 full-time equivalent employees.

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