

February 2018

Briefing Note

CECA Scotland Member Briefing: Lobbying (Scotland) Act 2016

Introduction

The Lobbying (Scotland) Act will come into force on **Monday 12 March 2018**. From that date, all regulated lobbying in Scotland will have to be registered on Scotland's new Lobbying Register.

The register will record details of all lobbying activities. It will be fully searchable by anyone looking to find out when, where and on what issues lobbying has taken place.

The Act does not just cover "lobbyists". Everyone is subject to its provisions; the change is therefore likely to impact on any CECA member who engages with Members of the Scottish Parliament, Scottish Government Ministers or civil servants, whether your company is based in Scotland or not.

The aim of the Act is to increase public transparency and openness. It is not aimed at preventing lobbying, which is widely recognised as an important part of the democratic process.

This briefing is aimed at ensuring members are fully aware of their obligations under the new Act and can take the necessary steps to ensure compliance.

What counts as Lobbying?

In general, all face-to-face contact, by someone being paid for their services (*regardless of job title*) with MSPs, Scottish Government Ministers, Special Advisors and the Scottish Government's Permanent Secretary.

The lobbying must be in relation to government or parliamentary functions. For example, discussions which seek to change, inform or influence existing or future government legislation, policy development or contracts. The Act covers both planned and unplanned lobbying. For example an ad-hoc conversation with a Government Minister at a social function about challenges facing the civil engineering sector would count as lobbying under the Act and should be registered.

Will the Lobbying Act affect your Company?

You will likely have to register if you or your Company engage in any of the following activities:

- Face-to-face meetings with MSPs, Government Ministers or civil servants
- Engagement with MSPs during events such as business open days, dinners etc. This applies to all employees across the business.
- Hosting an event involving MSPs, Ministers and/or civil servants.
- If in doubt, check out the [5 Key Steps flowchart](http://www.parliament.scot/LobbyingRegister/5_Key_Steps.pdf):
http://www.parliament.scot/LobbyingRegister/5_Key_Steps.pdf

What are the exemptions to the Act?

- Communications by telephone, letter, email or social media (*e.g. tweets*).
- Where an issue being raised is a personal not a company or industry concern.

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- Where the MSP is your Constituency or Regional List representative and does not serve as a Government Minister.
- Where the individual lobbying is unpaid.
- Organisations with less than 10 employees, excluding representative organisations (*e.g. CECA Scotland will require to register as we actively promote the views of members*)
- Where comments are made during Parliamentary proceedings (*e.g. giving evidence to a Committee*) or during a Cross party Group meeting.
- If a regulated person (*e.g. an MSP*) asks for factual information or views on a topic, that and any meeting will not have to be registered, so long as you/your Company did not initiate the meeting.
- The Act does not cover engagement with Westminster MPs or local Councillors.

How do you register any “lobbying” activities?

- Registration is quick, straightforward and free. You can should sign up to the [Lobbying Register online](https://www.lobbying.scot/SPS/Account/Register): <https://www.lobbying.scot/SPS/Account/Register>. You can register now to test the service before it becomes a legal requirement.
- Once registered, each lobbying activity must be registered online within 30 days. Entries must include full details of the lobbyist, the person lobbied, the location of the lobbying and a brief description of what was discussed and purpose of the lobbying activity.
- An information return will be required every 6 months.

Enforcement

Failure to comply with the Act could lead to a fine of up to £1000. Failure to cooperate with any investigations conducted could lead to a £5000 fine or up to three months in prison.

What comes next?

A review of the Act is due to commence in 2020, to look at whether its objectives of increasing transparency are being delivered and how it could be improved. In particular, we would anticipate that some current exemptions, for example communications made by email and social media, could be reviewed at that stage.

Where can I find out more?

- Scottish Parliament Lobbying Registrar Website: <https://www.lobbying.scot/SPS/>
- Scottish Parliament “Common Scenarios” Guide http://www.parliament.scot/LobbyingRegister/5_Key_Steps.pdf
- Download this information leaflet: https://www.parliament.scot/LobbyingRegister/SP_Lobbying_Register_A5_Leaflet_PRINT.pdf
- Contact the Lobbying Register Team via lobbying@parliament.scot or 0131 348 5408.

CECA Scotland are considering holding a briefing seminar on the new Act. If you are interested, please email cara@cecascotland.co.uk to be kept updated.

For more information please contact Cara Hilton, CECA Scotland Policy & Public Affairs Manager on 01786 430007 or email cara@cecascotland.co.uk

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