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# **Standards, Procedures and Public Appointments Committee Comataidh Inbhean**

## **Lobbying (Scotland) Act 2016 - Standing Order rule changes**



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# Standards, Procedures and Public Appointments Committee

The remit of the Standards, Procedures and Public Appointments Committee is to consider and report on—

- (a) the practice and procedures of the Parliament in relation to its business;
- (b) whether a member's conduct is in accordance with these Rules and any Code of Conduct for members, matters relating to members interests, and any other matters relating to the conduct of members in carrying out their Parliamentary duties;
- (c) the adoption, amendment and application of any Code of Conduct for members; and
- (d) matters relating to public appointments in Scotland; and
- (e) matters relating to the regulation of lobbying.



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/standards-committee.aspx>



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# Committee Membership



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**Deputy Convener**  
**Patrick Harvie**  
Scottish Green Party



**Tom Arthur**  
Scottish National Party



**Emma Harper**  
Scottish National Party



**Daniel Johnson**  
Scottish Labour



**John Scott**  
Scottish Conservative  
and Unionist Party



**Alexander Stewart**  
Scottish Conservative  
and Unionist Party

# Introduction

1. The [Lobbying \(Scotland\) Act 2016](#) ("the Lobbying Act") establishes a registration regime for lobbyists, including an online register, which will be introduced and administered by the Scottish Parliament.
2. The Lobbying Act is designed to improve transparency of lobbying contact between organisations and:
  - Members of the Scottish Parliament (MSPs)
  - Scottish Government Ministers
  - The Permanent Secretary of the Scottish Government
  - Scottish Government Special Advisers
3. The Lobbying Act will require certain types of lobbying communication in future to be registered and published.
4. It is anticipated that the formal commencement date for the Lobbying Act will be in early 2018.

## **Consideration by the Committee**

5. The Lobbying Act gives certain delegated powers to the Parliament. The Standards, Procedures and Public Appointments Committee has considered carefully what new procedures are required in Standing Orders to allow the Parliament to give directions and make resolutions under the Lobbying Act.
6. Draft rules are attached at Annexe A. The proposed rules introduce into Standing Orders the following requirements.

## **Parliamentary directions**

7. The Lobbying Act places a duty on the Commissioner for Ethical Standards in Public life in Scotland ("the Commissioner") to investigate and report on admissible complaints into non-compliance or breaches under the Act.
8. The Commissioner must, in carrying out the functions conferred by or under the Lobbying Act, comply with any direction given by the Parliament. In practice, such directions will be given by the Standards, Procedures and Public Appointments Committee, to which the Commissioner will report.
9. Draft rule 3C.1 sets out the procedure for the giving of directions.



# Parliamentary resolutions

10. The Lobbying Act provides powers to make parliamentary resolutions to modify certain parts of the Act, to make provision about information notices, or procedures to be followed when the Commissioner for Ethical Standards in Public Life in Scotland submits a report to the Parliament under Part 3 of the Act.
11. Such resolutions are to be known as "lobbying resolutions". They will be promoted by the Standards, Procedures and Public Appointments Committee under cover of a motion lodged by a member of the Committee (normally the Convener).
12. Before making a resolution under the Lobbying Act, the Parliament must consult the Scottish Ministers.
13. A lobbying resolution will be subject to consideration by the Delegated Powers and Law Reform Committee ("the DPLRC"). The DPLRC will treat such resolutions as if they were items of subordinate legislation, checking for technical compliance with the relevant powers in the Lobbying Act. The DPLRC will report to the Parliament its decision on a lobbying resolution.
14. A lobbying resolution is made when the associated motion, once moved by a member of the Standards, Procedures and Public Appointments Committee, is approved by the Parliament.
15. Draft rule 3C.2 sets out the full procedure for making lobbying resolutions.

# Recommendation

16. The Committee considers it is important that new Standing Orders are put in place at an early opportunity, so that the delegated powers to make further provision about Parliament's procedures can be commenced and used to confirm details of the operation of the Lobbying (Scotland) Act 2016. The Committee will bring forward the necessary directions and resolutions in autumn 2017.
17. The Committee therefore recommends to the Parliament the proposed rule changes set out at Annexe A.

# Annexe A: Standing Order rule changes

After Chapter 3B insert:

## "CHAPTER 3C

### DIRECTIONS AND RESOLUTIONS UNDER THE LOBBYING (SCOTLAND) ACT 2016

#### Rule 3C.1 Parliamentary directions

1. Any direction that can be given by the Parliament to the Commissioner for Ethical Standards in Public Life in Scotland under sections 24, 27, 28 or 31 of the Lobbying (Scotland) Act 2016 (asp 16) ("the Lobbying Act") shall be given by the committee mentioned in Rule 6.4.
2. Where, under reference to section 41(2)(c) of the Lobbying Act, provision on the giving of a direction under Part 3 of that Act is contained within a resolution under section 41(1) of the Act, Rule 3C.2 shall apply.
3. A direction is given by the committee mentioned in Rule 6.4 if it is signed on its behalf by the convener (or acting convener) of that committee.

#### Rule 3C.2 Parliamentary resolutions

1. This Rule applies to any motion of a member of the committee mentioned in Rule 6.4 which seeks by resolution:
  - (a) to modify the schedule of the Lobbying Act, under reference to the power to do so contained within section 1 of that Act,
  - (b) to make provision about Part 2 of the Lobbying Act, which may include modifying sections 4 to 14 of that Act, under reference to the power to do so contained within section 15 of that Act,
  - (c) to make provision (or further provision) about information notices, under reference to the power to do so contained within section 20 of the Lobbying Act, or
  - (d) to make provision about procedures to be followed when the Commissioner for Ethical Standards in Public Life in Scotland submits a report to the Parliament under Part 3 of the Lobbying Act, under reference to the obligation to do so contained within section 41 of that Act.
2. A motion to which this Rule applies shall be known as a lobbying resolution motion.
3. Rules 8.1 to 8.3 apply to a lobbying resolution motion with the exception of Rule 8.2.6.
4. Notice of a lobbying resolution motion may only be given by a member of the committee mentioned in Rule 6.4. Such a motion may not be amended. It may be moved only by the member giving notice of it or if that member is not available another member of the committee mentioned in Rule 6.4.
5. A lobbying resolution motion must include details (including the text) of the provision to be modified, or the provision or further provision to be made.

6. Before making a resolution under the Lobbying Act, the Parliament must consult the Scottish Ministers.

7. Immediately after a lobbying resolution motion is lodged, the Clerk shall arrange for the motion and any explanatory note to be published and shall refer the motion to the committee mentioned in Rule 6.11 for consideration.

8. In considering that lobbying resolution motion the committee mentioned in Rule 6.11 shall determine whether the attention of the Parliament should be drawn to any issue which would constitute a reporting ground in terms of Rule 10.3, as if the modification, provision or further provision set out within the motion were set out in an instrument, and shall report its decision with its reasons in any particular case. It shall do so by a date no later than 22 days after the day on which the motion is referred. In calculating the 22 day period under this paragraph no account shall be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.

9. A lobbying resolution motion will not be taken by the Parliament until 7 days after the committee mentioned in Rule 6.11 reports to the Parliament.

10. A resolution is made when a lobbying resolution motion, once moved by a member of the committee mentioned in Rule 6.4, is approved by the Parliament."

