

LOBBYING (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Core Concepts

Section 2: Government or parliamentary functions

37. *Section 2(1)(a) to (f)* sets out what are Government or parliamentary functions for the purposes of section 1. The section complements provision in section 1 which as noted above provides that, subject to the terms of the schedule, it is communications made orally and in person, or if not made in person are made using equipment (e.g. video-conferencing or similar mechanisms) that is intended to allow both parties to see and hear each other, to a member of the Scottish Parliament, a member of the Scottish Government, a junior Scottish Minister, a special adviser or the permanent secretary of the Scottish Government and which is made in relation to Government or parliamentary functions which trigger the requirements under the Act to register or submit returns of lobbying activity.
38. Subsection (2) provides that the retained functions of the Lord Advocate (within the meaning of section 52(6) of the Scotland Act 1998) are not Government or parliamentary functions. And so communications with the Lord Advocate or the Solicitor General in relation only to the retained functions of the Lord Advocate will not trigger the requirements under the Act to register or submit returns of lobbying activity. The retained functions of the Lord Advocate are, as noted, defined in section 52(6) of the Scotland Act 1998. They are any functions exercisable by the Lord Advocate immediately before the Lord Advocate ceased to be a Minister of the Crown on devolution and other statutory functions conferred on the Lord Advocate alone after he ceased to be a Minister of the Crown. These functions relate mainly to the Lord Advocate's role as head of the systems of criminal prosecution and investigation of deaths in Scotland.