

The Lobbying (Scotland) Act 2016

This is an Act of the Scottish Parliament which has created a Lobbying Register and introduced new duties to register lobbying activity which comes within the definition of “regulated lobbying”. The Act came fully in force on **12 March 2018**. On that date the duty to provide information to the Lobbying Registrar took effect and a new criminal offences relating to the failure to provide information also came into operation.

Lobbying Registrar

The Church of Scotland is registered with the Lobbying Registrar and this covers all the Councils and Committees of the General Assembly of the Church of Scotland.

If you are a congregation or Presbytery with 10 or more full time employees it is recommended you email lobbyingact@churchofscotland.org.uk with your legal name and charity number and our Parliamentary Officer will arrange for you to be registered with the Lobbying Register. This is important as you must be entered on the Register within 30 days of your first act of regulated lobbying but there is a longer period for the actual act of regulated lobbying to be registered.

Exemption for the Unincorporated Councils and Committees of the General Assembly of the Church of Scotland

The Church of Scotland, i.e. the Councils and Committees of the General Assembly, have gained an exemption to all face to face communication with MSPs who are not Scottish Government Ministers (or a Law Officer, Special Adviser or Permanent Secretary). A list of the MSPs who do not come within this exemption because they are in the Cabinet or are Scottish Ministers can be found at the end of this circular.

It should be noted this exemption does not apply to Presbyteries and congregations but the majority of their lobbying is already exempt as they have less than 10 full time employees or the lobbying is to their own constituency or region MSP (see next section for further details).

What is “regulated lobbying”?

How will the Act impact on your work for the Church? To understand this you must know what comes within the definition of **regulated lobbying**. The Parliamentary Guidance gives you **5 Key Steps** and if any of the steps do **not** apply you will **not** be engaged in regulated lobbying.

1. You have communicated face-to-face, in person or by video conference, with an MSP; a member of the Scottish Government Minister, including the Scottish Law Officers); Junior Ministers; Special Adviser and Permanent Secretary.
2. The communication relates to the Scottish Government or Scottish Parliament functions.
3. You have used this opportunity to inform or influence decisions on behalf of the Church. This could be for your Council, Committee, Presbytery, congregation or other part of the Church of Scotland.
4. You are paid by the Church of Scotland (this is payment in the widest context and does not mean payment for a particular piece of lobbying).
5. None of the 13 exemptions under the Act apply. The full list can be accessed using the following link. http://www.parliament.scot/LobbyingRegister/5_Key_Steps.pdf

The exemptions which are most likely to apply to you are:

- a. a communication about an issue you have raised on your own behalf, i.e. not on behalf of the Church.
- b. you are unpaid by the Church.

- c. a response to a request from anyone listed in Step 1 for factual information or views on a topic.

There are 2 further exemptions which may also be relevant to congregations and Presbyteries:

1. You have fewer than 10 full time employees (but the lobbying must be for the congregation or Presbytery, not a third party).
2. Communicating with an MSP who represents the constituency or region where the congregation/Presbytery operates (but not where the MSP in question is a member of the Scottish Government or you are communicating on behalf of a third party).

If you have answered ‘yes’ to **all 5 of the Steps** you have been carrying out regulated lobbying and you are required to record this on the Lobbying Register.

Due to the **exemption**, detailed above, there is a **6th step** – where you have answered ‘yes’ to all 5 questions and the regulated lobbying has been done on behalf of the ‘central’ Church and was **not** with a Scottish Government Minister you will **not** have to make a return to the Lobbying Registrar.

It is important to note there are no exclusions to where or when the lobbying can take place. It is possible for regulated lobbying to take place in an informal situation, e.g. social gathering, and outwith Scotland.

What do I do if I have carried out regulated lobbying?

No later than **twenty one days** after the regulated lobbying has taken place you must provide the undernoted information by email on a Notification of regulated lobbying form which can be downloaded at http://www.churchofscotland.org.uk/resources/law_circulars#Lobbying_Act to lobbyingact@churchofscotland.org.uk

1. The name and role of the person lobbied.
2. The date on which they were lobbied.
3. The location at which they were lobbied.
4. A description of the meeting, event or other circumstance in which the lobbying occurred.
5. Whether it was face to face communication or by video conference.
6. The name of the person who did the lobbying and details of which part of the Church they represented, e.g. Ecumenical Relations Committee.
7. Confirmation of whether the lobbying was carried out on the Church’s behalf or for someone else.
8. The purpose of the lobbying.

This information will be used by the Church of Scotland to make the required information return under the Lobbying (Scotland) Act 2016 timeously. This is the information which will appear on the Register. It will be made public and can be accessed online, without a charge.

Remember it is a criminal offence not to register timeously or to fail to submit a return on any regulated lobbying on the Lobbying Register by the date required. It is also an offence to provide information which is inaccurate or incomplete in a material respect.

THE SCOTTISH GOVERNMENT (as at 24/08/2021)

Cabinet, Ministers and Law Officers – click on the link below

Cabinet and Ministers - gov.scot (www.gov.scot)