

CHARITIES AND TRUSTEE INVESTMENT (SCOTLAND) BILL

[AS AMENDED AT STAGE 2]

SUPPLEMENTARY FINANCIAL MEMORANDUM

PURPOSE

1. This memorandum has been prepared by the Scottish Executive in accordance with Rule 9.7.8B of the Standing Orders in consequence of amendments made to Charities and Trustee Investment (Scotland) Bill (the Bill) at Stage 2. This memorandum should be read in conjunction with the original Accompanying Documents.

Amendments changing the financial implications of the Bill

Section 7 – the charity test

2. Section 7(3)(b), the prohibition on charities' constitutions allowing third party direction, has been amended to only refer to control and direction by Scottish Ministers or Ministers of the Crown. Section 7(3) continues to disallow charities whose constitutions permit the distribution of assets for non-charitable purposes. The existing subsection (4), the interpretation of "third party" has been removed.

3. A new order making power for Scottish Ministers has been put in place at section (4A) which allows them to disapply either or both of paragraphs (a) and (b) of subsection (3) in relation to any body or type of body specified in the order. This will allow Scottish Ministers to provide, by affirmative order that a body whose constitution allows it to distribute or apply its property for a non-charitable purpose or whose constitution expressly permits Scottish Ministers or a Minister of the Crown to direct or otherwise control its activities may remain a charity if it meets the other parts of the charity test. This power is created to allow the 5 national collections Non Departmental Public Bodies (The National Museums of Scotland, the National Library, The National Gallery, The Royal Botanic Gardens Edinburgh and the Royal Commission for Ancient and Historic Monuments) to remain as charities, as recommended by the Communities Committee. Scottish Ministers have committed themselves to exempting these bodies from this part of the charity test.

4. This changes the financial implications set out in the paragraphs 124 and 128 and the summary of the Financial Memorandum accompanying the Bill on introduction. In this the potential cost to the Scottish Administration of charitable Non Departmental Public Bodies losing their charitable status was recorded as being up to £7 million. The exemption of the 5 five National collections NDPBs would mean that this figure would be reduced. The value of the tax relief, non-domestic rates relief and donations flowing from the charitable status of the other 7 charitable NDPBs is estimated to be approximately £1.9 million per annum including

some £1.34 million in local rates relief. Without the rates relief, which is ultimately funded by the Executive and therefore cost neutral to the Scottish Consolidated fund, the total benefit to these NDPBs of their charitable status is some £560,000. The Executive still plans to look at these NDPBs on a case-by-case basis during their reviews and decide whether or not they should cease to be either charities or NDPBs. Should decisions to give up the charitable status of these charities, alongside any other outcomes of the reviews, result in a net loss of income then the Executive will consider providing additional grant-in-aid funding to reflect this, but only if the restructuring of services is not feasible. As set out above, this could ultimately cost the Executive up to £560,000.

These documents relate to the Charities and Trustee Investment (Scotland) Bill as amended at stage 2 (SP Bill 32)

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