

SCOTTISH REGISTER OF TARTANS BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament's Standing Orders, the following documents are published to accompany the Scottish Register of Tartans Bill introduced in the Scottish Parliament on 25 March 2008:

- Explanatory Notes;
- a Financial Memorandum; and
- the Presiding Officer's Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 8-PM.

EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Government on behalf of Jamie McGrigor MSP, the member in charge of the Bill. They have been prepared in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section, or a part of a section, does not seem to require any explanation or comment, none is given.

SUMMARY OF AND BACKGROUND TO THE BILL

4. The Bill establishes a Scottish Register of Tartans, and requires a Keeper of the Register of Tartans to maintain and oversee the Register and new registrations, and sets down the process for registering new tartan designs in the Register.

5. The Bill does this by:

- creating a publicly held and maintained register of tartans;
- setting up a system for registering new tartan designs;
- providing a statutory definition of tartan for the purposes of the operation of the Register;
- conferring on the Keeper of the Records of Scotland the functions of keeping and maintaining the Register and overseeing the registration of new tartan designs; and
- providing the Keeper with a power to charge for services provided in relation to the Register, such as registration of new tartans and provision of copy material from the Register.

6. Registration of a new tartan design will not confer any intellectual property rights such as copyright or design right upon the person registering the tartan design. Nor will registration affect any existing intellectual property rights in such a tartan design. Intellectual property is a reserved matter under section C4 of Part II of Schedule 5 to the Scotland Act 1998.

SECTION 1: THE REGISTER

7. This section provides for there to be a Scottish Register of Tartans. Subsection (2) defines the purposes of the Register as a repository for tartans and a source of information on tartans.

SECTION 2: MEANING OF “TARTAN”

8. This section provides a definition of tartan for the purposes of the Bill.

SECTION 3: KEEPER OF THE SCOTTISH REGISTER OF TARTANS

9. This section concerns the Keeper of the Records of Scotland on whom functions in the Bill relating to the Register are conferred. Subsection (1) provides that in carrying out such functions, the Keeper takes the title “Keeper of the Scottish Register of Tartans”. Subsections (2) and (3) make provision regarding certain of the Keeper’s functions under existing legislation and how they relate to the Register and items associated with it. For example, the power of the Keeper under section 8 of the Public Records (Scotland) Act 1937 to preserve records transmitted to him would not apply to any document sent to the Keeper in connection with an application. A duty to preserve such documents is provided in section 4(2)(b).

SECTION 4: FUNCTIONS OF THE KEEPER

10. This section sets out the functions of the Keeper. Subsection (1) confers the functions of setting up, keeping and maintaining the Register. Subsection (2)(a) and (b) require the Keeper to make the Register publicly available, in electronic form, and to care for any documents, woven tartan samples or records supporting an application for registration in the Register or sent to the Keeper in connection with the exercise of his duties. The Keeper has control of the Register and responsibility for it and its contents. Subsection (2)(c) places a requirement on the Keeper to ensure the Register can be used effectively and efficiently. This means, for example, the Register must be organised in such a way as to be searchable.

11. Subsection (3) gives the Keeper a variety of powers in relation to the Register, its contents and physical things underpinning it. Paragraph (a) enables the Keeper to permit the public to inspect physical items associated with the Register (such as documents) held by him and to make copies of such documents. The Keeper can charge a fee for such services. Paragraph (c) enables the Keeper to answer enquiries or provide information on the Register, or undertake research in relation to the Register and its contents and to charge a fee for doing so. Paragraph (d) gives the Keeper a discretion to provide other services relating to the Register and paragraph (e) enables the Keeper to publicise the Register and promote its use. Paragraph (f) means the Keeper may issue guidance on the Register as respects matters the Keeper has power to specify, such as the form of the application for registration. Paragraph (g) allows the Keeper to consult anyone he considers appropriate before issuing guidance, for example tartan industry and other relevant experts.

12. Subsection (4) gives the Keeper a general power to take any steps he considers necessary to enable him to carry out properly and effectively his functions under the Bill. This provides him, for example, with flexibility to refine the operation of the Register.

13. Subsection (5) makes provision in relation to the Keeper’s duty to afford facilities for the inspection and copying of certain records under section 12A of the Public Records (Scotland) Act 1937. These are records which either fall to be disclosed in accordance with the Freedom of Information (Scotland) Act 2002 or comprise information which is exempt information within the meaning of that Act by virtue of section 25(2)(b)(ii) of that Act. Although the Keeper has a discretion to permit access to physical things and copying of documents under subsection (3), where such physical things fall within the meaning of “record” in section 12A of the Public Records Act 1937, the Keeper must make them available in terms of that section.

SECTION 5: EXISTING COLLECTIONS OF TARTANS

14. This section enables the Keeper to make entries on the Register derived from existing collections of tartan with the consent of the owner of those collections. Subsection (2) gives the Keeper discretion to determine what particulars or details from existing collections will be entered into the Register. Subsection (3) defines existing collections as those held in a register, in electronic or other form, that existed before the coming into force of the Scottish Register of Tartans Bill.

SECTION 6: THE APPLICATION

15. This section sets out the process for applying for registration of a tartan in the Register. Subsection (1) clarifies that anyone can apply to register a tartan. Subsection (3) applies only where a person can authorise the Keeper to register a tartan. This would be the case if he had intellectual property rights in the tartan or any material accompanying the application. The subsection requires the applicant to authorise registration and to certify that he has the right to provide such an authorisation. In the event that there is any other person who could also authorise the Keeper to register the tartan (for example someone who shares property rights in the tartan with the applicant), where such a person consents to their name and address appearing on the Register, the applicant must certify to the Keeper that the other person has consented.

16. Subsection (4) sets out what an applicant must do if he does not have a right to authorise the Keeper to register the tartan. This would be the case if he had no intellectual property rights in the tartan or any material accompanying the application. In such a case, an applicant has to be able to certify that there is no other person with the right to authorise registration. To avoid falsely certifying this, the applicant must take reasonable steps to establish whether a person with such a right exists.

17. Subsection (5) requires all applicants (regardless of whether they can authorise the Keeper to register the tartan or not) to provide an indemnity in the event of the Keeper having to pay damages or expenses in consequence of having registered a tartan. This might be the case where registration breached intellectual property rights in the tartan or material accompanying the application held by a third party.

18. Subsection (6) allows the Keeper to specify and amend the form of application.

19. Subsection (7) prescribes the information to be provided in support of an application for registration. This includes a requirement at paragraph (c) for a description of the tartan, including information on colour and on threadcount of the tartan, which is the main component of and identifier of a tartan design. Paragraph (d) seeks detail on the applicant's connection or relationship with the name that the design is intended to be registered under. The nature of the association with the name is explained further at subsection (12)(b). This requirement will clarify whether the applicant can establish a proper connection with the name of the tartan, or with any event or organisation with which the name suggests an association. There is also a general provision at paragraph (f) to require from the applicant any other information that the Keeper may specify.

20. Subsection (11) enables an applicant acting on behalf of a group to specify the capacity in which he or she is acting and who the group is, and to authorise the Keeper to record the detail of the group in the Register. This is to help clarify and establish that an application is linked to a particular group, body or organisation which lacks a separate legal personality and thus cannot register under its own name.

21. An application must be accompanied by a photograph or picture of the tartan and a woven sample of the tartan may be included if desired. Subsection (12)(a) allows for the photograph or pictorial representation to be in electronic form but, however provided, the image has to meet any requirements the Keeper sets out.

SECTION 7: DETERMINATION OF APPLICATION

22. This section sets out the process by which the Keeper will consider applications to register a tartan and gives the criteria against which an application is to be considered by the Keeper. It also allows the Keeper to seek additional information the Keeper deems necessary to enable him to consider the application. Subsections (2) sets out the criteria the Keeper will apply when considering applications for registration. An application cannot be accepted in the following situations: where a requirement of the application process set out in section 6 is not met; when the design does not meet the definition of tartan in the Bill; where the tartan is not unique or is similar enough to be mistaken for a tartan already registered; when the applicant cannot show sufficient connection/interest/relationship with the name of the tartan in the application (for example the applicant has no connection with an organisation or body whose name is part of, or associated with, the name of the tartan); where the application gives rise to a question more appropriately resolved elsewhere such as a court – such a question might be who is the owner of a tartan. Provided the Keeper is satisfied none of these grounds for refusal has been met, subsection (3) requires the Keeper to accept the application. The Keeper is not expected to check the veracity of the certification given under section 6. So long as the certificate is provided (and all the other criteria are met) the Keeper cannot refuse to register.

23. Subsection (4) requires the Keeper to notify the applicant of the outcome of the consideration of the application and to do so in writing. Subsection (5) requires the Keeper to provide an unsuccessful applicant with reasons for rejection and permits him to give advice on how to meet the criteria against which the Keeper considers applications for registration in relation to any subsequent application. This will enable the Keeper to give a view on any steps an applicant could take to satisfy the criteria.

24. Subsection (6) allows the Keeper, in reaching a view on an application for registration, to consult sources of expertise as necessary. This allows the Keeper in coming to a decision on an application to consult and engage with, for example, the tartan industry, the Lord Lyon and other sources of tartan and genealogical expertise as necessary.

SECTION 8: REFUSED APPLICATIONS: RECONSIDERATION

25. The Keeper will decide whether to accept or reject an application. This section provides that where an application for registration is not accepted on certain grounds, the applicant can, within 2 months of being notified of a refusal, and having paid the requisite fee, ask for the application to be reconsidered. Subsection (3) requires the Keeper to reconsider such an

application and subsection (4) requires the Keeper, where an application is accepted upon reconsideration, to reimburse the fee for that reconsideration.

SECTION 9: REGISTRATION

26. This section requires the Keeper to make an entry in the Register in relation to a successful application. Under subsection (3), the applicant will be provided with a unique certificate of registration. This will show that the tartan is entered in the Register. Subsection (4) allows the Keeper to specify the form and information on the certificate and subsection (5) allows the Keeper to issue a copy certificate, upon payment of the requisite fee.

SECTION 10: AMENDMENT OF REGISTER BY REQUEST

27. This section allows any person to seek amendment of the Register and sets out the process for doing so, including, at subsection (2), a requirement to provide a reason for amendment, and any other information that the Keeper may need. A fee is chargeable for requesting amendment of an entry in the Register. Subsections (3) to (5) make provision in respect of requests to amend that mirrors subsections (3) to (5) of section 6 in relation to applications. As with an application to register a tartan, a request to amend an entry may have implications for existing intellectual property rights. So similar authorisations and certifications are required, as is the indemnity of anyone asking for an amendment.

28. Subsection (10) allows the Keeper to determine how the Register should be amended and subsection (11) requires the Keeper to notify the requester of the outcome of the decision on the request to amend. Subsection (12) requires the Keeper to provide an unsuccessful requester for amendment with reasons for the rejection, or, where the request is successful, either provide a copy of the amended entry or some other form of notification that the amendment has been made. Subsection (13) enables the Keeper to consult sources of expertise as necessary in reaching a view on a request to amend an entry in the Register. Subsection (14) means that where the request is to correct a typographical, clerical or other administrative error, subsections (2) to (13) do not apply. Such requests are dealt with by the Keeper under section 12.

SECTION 11: AMENDMENT OF REGISTER: REQUEST OTHER THAN BY APPLICANT

29. This section provides additional procedure to that set out in section 10 where a person (called in subsection (1) a “third party”) to seek an amendment of an entry in relation to which that person did not make an application for registration. Where a third party seeks the amendment, the Keeper will contact the original applicant to send them a copy of the third party request to amend their registration and invite written comments within 28 days. Where the original applicant does comment, the Keeper will send those comments to the third party applicant and invite their comment. Again, the procedures set out in this section do not apply if the request is for correction of the sort of errors the Keeper can put right under section 12. The procedure in section 11 does not apply to the amendment of an entry made from an existing collection as in such a case there is no original applicant.

SECTION 12: AMENDMENT OF THE REGISTER: CORRECTIONS

30. This section enables the Keeper to amend the Register at any time to correct errors, such as clerical or typographical errors. Such an amendment may be made in response to a request under section 10(1) or simply by the Keeper himself identifying an error which should be corrected.

SECTION 13: CERTIFICATES OF REGISTRATION FOLLOWING AMENDMENT

31. This section allows the Keeper to send an amended certificate of registration to a person who has submitted a successful application under section 6. The certificate may be issued following a request (whether by the applicant or any other person) to amend the relevant entry under section 10(1).

SECTION 14: FEES

32. This section contains provision for Scottish Ministers to set the fees payable for matters relating to the Register. These are matters specified in the Bill as ones in respect of which a fee is payable. Under subsection (1), Scottish Ministers can also specify other matters for which a fee is chargeable and set the level of fee. The section specifies that those fees will be made by order made by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament, and after consultation with the Keeper. Section (5) gives the Keeper a discretion to waive fees in certain circumstances, where Ministers have agreed.

SECTION 15: SCOTTISH RECORDS ADVISORY COUNCIL

33. This section means the Scottish Records Advisory Council's functions will not extend to the Register or material kept by the Keeper in connection with the Register. The Council is a statutory body established under the Public Records (Scotland) Act 1937 and which offers advice to Ministers on matters relating to the keeping of public records in Scotland and on issues of importance to the archive community.

SECTION 16: ANCILLARY PROVISION

34. Under subsection (1) of this section, the Scottish Ministers have power to make, by order, any incidental or consequential provision they consider necessary or expedient for the purpose of or in connection with any provision of the Bill or to give full effect to it, or any provision of it. An order under subsection (1) is subject to the negative resolution procedure in the Scottish Parliament, except in cases where it textually amends an Act, when the affirmative procedure is applicable.

FINANCIAL MEMORANDUM

INTRODUCTION

35. This document relates to the Scottish Register of Tartans Bill, introduced in the Scottish Parliament on 25 March 2008. It has been prepared by Jamie McGrigor MSP, with the support of the Scottish Government, to satisfy Rule 9.3.2 of the Parliament's Standing Orders. It does not form part of the Bill and has not been endorsed by the Parliament.

36. This Bill is a revise of the Scottish Register of Tartans Bill (SP Bill 76)¹ introduced by Jamie McGrigor MSP in the Scottish Parliament during the last Parliamentary session on 27 September 2006 and withdrawn on 16 February 2007.

37. The policy aim of this Bill is to create a publicly available Scottish Register of Tartans to be a repository for the preservation of tartans and a source of information on tartans. The Keeper of the Records of Scotland (KRS) will set up, keep and maintain the Register. His title in relation to the Register will be Keeper of the Scottish Register of Tartans. The KRS is a non-ministerial office in the Scottish Administration and head of the National Archives of Scotland (NAS), which is an agency of the Scottish Government. The Register will be run by NAS.

BACKGROUND

38. The financial memorandum accompanying Jamie McGrigor's original Member's Bill for a Scottish Register of Tartans envisaged start up costs for a Register of £137,868 with an annual running cost of £95,368 each year thereafter. It was envisaged these costs would be met by the Scottish Parliament funded through the Scottish Parliamentary Corporate Body (SPCB).

¹ <http://www.scottish.parliament.uk/business/bills/76-tartans/index.htm>

These documents relate to the Scottish Register of Tartans Bill (SP Bill 8) as introduced in the Scottish Parliament on 25 March 2008

39. The detail of the costs envisaged in the original Member's Bill for the operations of the Keeper of the Register of Tartans set up under that Bill were as follows:

	Costs (£) Year 1	Costs (£) Subsequent Years
<i>Staff costs</i>		
Recruitment	17,000	
Keeper's Salary	20,000	20,000
Recruitment of Staff	2,000	
Staff Salaries	15,768	15,768
Staff Training	1,100	1,100
<i>Sub total</i>	<i>55,868</i>	<i>36,868</i>
<i>Office Costs</i>		
Rental	20,000	20000
Office Equipment	12,000	5,000
Stationery and Utility	5,000	5,000
<i>Sub total</i>	<i>37,000</i>	<i>30,000</i>
<i>Functional costs</i>		
Set up of Register and Storage	30,000	10,000
Promotion	10,000	10,000
Travel	5,000	5,000
Annual Report		3,500
<i>Sub total</i>	<i>45,000</i>	<i>28,500</i>
Total	137,868	95,368

40. These estimated costs were formulated by the Non-Executive Bills Unit of the Scottish Parliament based on comparable costing for independently-appointed and stand-alone bodies and Commissioners. The costs of office rental reflect the market position at that time. The staff costs in support of the Keeper are based on the pay scales for administrative staff in the Scottish Parliament.

41. In relation to the present Bill, using information from relevant sources, it has been possible to provide a best estimate of the financial consequences of the provisions of the Bill. Financial implications occur only in the 3 areas identified below:

- setting up and running the Register;
- charging for services; and
- ongoing support for the tartan industry.

COSTS ON THE SCOTTISH ADMINISTRATION

42. NAS will set up the electronic Register from the two main privately held tartan databases in Scotland operated by the Scottish Tartans Authority (STA) and the Scottish Tartans World

Register (STWR). Since August 2007, NAS has been providing the information and communications technology (ICT) and professional archiving staff resources required during the initial design and start up phase to establish the Register. This set up work will continue until the Register is operational, and the target is October 2008. This Bill will therefore use existing public resource rather than requiring additional public resource.

43. The costs of **setting up the Register** are given in the table at paragraph 44 below. Most of the costs of setting up the Register have been or will be met from within NAS resources and budgets over the period August 2007 to October 2008. All NAS staff shown in the table at paragraph 44 are from the existing complement. During the initial development phase they have been released by reorganising and postponing other work priorities. From April 2008 some of the transferred staff resources will be switched back to cover the postponed work. As many of the set up costs in paragraph 44 have either already been incurred or have been factored into NAS workplans, the margin of uncertainty in the costs of setting up the Register is low.

44. A breakdown of the anticipated NAS costs for setting up the Register is as follows:

National Archives of Scotland: Setting up the Tartan Register: Estimated Costs			
Description	Estimate costs		Comments
Head of Organisation Input	£5,000		Keeper of the Records of Scotland (est. 10% of time) ¹
Project Management and Analysis	£20,000		NAS ICT Manager (est. 50% of time) ¹
ICT Applications Development Services	£35,000		NAS ICT Staff
ICT Infrastructure Services	£2,000		NAS ICT Staff
IT Infrastructure Costs	£5,000		Includes procurement of Image Creation Software
Archivist Services	£31,000		NAS Archivist Staff Resource ¹
Conservation Services	£2,000		NAS Conservation Staff Resource (est. 10% of time)
Total	£100,000		
¹ Note: 9 months allocation to take account of advance analysis and project/business management preparation			

45. After the set up phase, NAS will run the Register and facilitate public access to it. To offset the cost of running the Register the Scottish Government has agreed a running costs transfer of £75,000 per year to the National Archives of Scotland for the duration of the current Scottish Government spending review cycle 2008/09-2011/12. The transfer will be made with effect from 1 April 2008 and will come from within the existing budget. A review of the costs for running the Register will be carried out in line with the NAS annual accounting and reporting cycle. A review of the costs of the Register will also become part of the Scottish Government financial planning cycle at the end of the spending review period.

46. The £75,000 is an estimate based on average staff costs for one executive grade member of staff on Scottish Government pay scales (approx £40,000), plus average office running costs

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(approx £10,000) for equivalent staff. The estimate also includes an element of start up costs (e.g. training) and a degree of flexibility in the estimate for other unforeseen start up costs.

47. The costs of running the Register are set out at paragraph 48 below. To run the Register, NAS will require a net staff increase equivalent to one full time post at Scottish Government executive staff level (grade B2). This staff increase will be split between developing and operating the ICT systems on the one hand, and managing the applications process and arranging the underlying records on the other. NAS will provide the other staff resources required, including the management overhead, from within its existing staff, by re-organising some other work and by combining Register responsibilities with other staff duties. These running costs have been estimated on current staff cost levels, levels of tartan registrations and experience of working with the existing registers to date. The Register may stimulate interest in tartan and registration. There is also a risk that the anticipated work on the Register will prove less once the Register is operational. In either case, ongoing reporting of running costs will ensure the resource dedicated to running the Register is kept under review, and allow the staffing dedicated to running the Register to be adapted if required.

48. A breakdown of the anticipated NAS costs for running the Register is as follows:

National Archives of Scotland: Running the Tartan Register (Year 1): Estimated Costs			
Description	Estimate costs		Comments
ICT/Archivist Services	£40,000		B2 (full time)*
Overheads	£10,000		
Training	£10,000		NAS ICT and Archivist Staff
ICT Infrastructure Maintenance and Support Services	£5,000		NAS ICT Support Services
Unforeseen Costs	£10,000		NAS ICT On-going Support Costs
Total	£75,000		
*additional NAS post			

49. The funds transfer to NAS from the Scottish Government will be used partly to offset the extra staff cost. It will also be used to enhance the services that NAS provides to the public, in particular to integrate the Register with the family history resources in the Scotland's People centre, and to make the documents and other records of tartan that will underpin the Register available for inspection. Adding the Register to the existing range of services NAS offer will enhance and improve the overall range of services NAS provide and support. The Register will become operational in Autumn 2008 and the staff resource to run the Register will be put in place before the Register goes live. Staff costs and consequential start up costs such as training and overheads will be incurred in 2008/09, although the amount will be dependent on timing of appointment. It is possible, however, that an element of the full allocation may not be used in 2008/09. This would be utilised to accelerate arranging and developing the underlying records underpinning the Register.

Charging for services

50. The Register will be held and maintained by NAS and open to the public. It is hoped the Register will become a focal point for interest in tartan, for example academic research, as well as family history and genealogical research and tourism. In that respect, and to make the Register as widely accessible as possible, searching, viewing and downloading basic information from the Register will be free of charge.

51. There will be a charge for registering a new tartan in the Register and for seeking amendment of an entry in the Register. Charging is a means to recover the whole or part of the costs of providing a registration service. In this instance, charging will recover part of the costs of running the Register. Charging for registration will also help ensure applications for registration are genuine, deterring inappropriate, frivolous or vexatious registrations.

52. There will be a charge for other services provided to the public in relation to the Register, including provision of copy documentation from the Register, access to the documents and records that underpin the Register and provision of duplicate certificates of registration. The fees are to be fixed by order made by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.

53. In setting and varying those fees, the Government will consult the Keeper. The scope and level of such fees will take account of guidance on fees and charging in the Scottish Public Finance Manual². This will take account of the Finance Manual guidance on Fees and Charges including: clearly defining charges; charging at a realistic and objective level; routinely monitoring and reviewing charging levels to ensure they are appropriate; and appropriate recording and accounting for fee income from charging.

54. The fees collected for tartan registration and provision of services from the Register will be used to offset the running costs of the Register. Current levels of tartan registration suggest it is reasonable to expect about 120 new applications per year. At the lower end of the level of charging (approx £80 per application) applied by the existing registers operated by the STA and the STWR, this would give a fee income from new applications of **£9,600** per year. The upper end of charging (approx £200 per application) would generate fee income of **£24,000**. Fees for provision of copies of documents, provision of duplicate certificates, and access to the documents and records and applications to amend the Register would be a subsidiary income stream. It is difficult to estimate this, but at 30%-50% of projected income for new applications it could be between **£2,880-£4,800** per year. As the Register is a new initiative, and there is no precedent to draw on, these forecasts cannot be not exact. Allowing for a reasonable margin of error, it can be assumed the estimated income from the Register could be between **£10,000 to £30,000** per year. It is not therefore anticipated that full cost recovery will be possible. If the Keeper determines, this fee income may be used to promote, improve and refine the Register.

² <http://www.scotland.gov.uk/Topics/Government/Finance/spfm/feescharges>

Displacement or enhancement

55. The approach in the Bill will not disproportionately impact on or displace any private sector activity. Rather, a policy aim behind the Bill is to position the Scottish tartan industry to capitalise on the commercial opportunities that may flow from the Register and from raised interest in tartan. Both the STA and the STWR are content to share the tartans they hold with the Register. The STWR and the STA will provide expert and consultative support to the Keeper of the Scottish Register of Tartans. A memorandum of understanding between the industry body and the Keeper of the Scottish Register of Tartans will facilitate mutual information sharing on any newly registered tartans. The STA will also continue to develop its trade body activity and to provide a range of services to its members.

Ongoing support to develop the tartan industry

56. A potential consequential benefit to the tartan industry in Scotland of the Bill is that the Textiles Team at Scottish Enterprise will work with the STA to develop their capacity as an industry organisation and their educational and promotional activity relating to tartans. Working with sectoral bodies to build their capacity and position them to collectively develop, grow and promote their sector is a key activity of the sectoral teams within Scottish Enterprise. Working with the STA is therefore about supporting part of the Textiles sector and the form of this support from Scottish Enterprise, including financial support, is under discussion.

FINANCIAL ACCOUNTABILITY AND REPORTING

57. The NAS will make the necessary amendments to its accounting systems to ensure that all expenditure and income in relation to the Register can be identified separately from other NAS business.

58. The Deputy Keeper of the Records of Scotland is the accountable officer for NAS and will be the accountable officer in relation to the Register of Tartans.

59. The operation of the Register, as with the operation of NAS generally, will be open to scrutiny by Audit Scotland and incorporated into the NAS audit cycle (both internal and external). NAS will also extend its current reporting arrangements to cover expenditure, income and performance on the operation of the Register. This will include detail on the operation of the Register in the Keeper of the Records of Scotland's Annual Report.

COSTS ON LOCAL AUTHORITIES, OTHER BODIES, INDIVIDUALS AND BUSINESSES

60. It is not envisaged the Bill will have a financial cost on local authorities, other public bodies or individuals.

61. It is envisaged an ancillary benefit of the Bill will be to position businesses in the Scottish tartan industry to pursue some of the commercial opportunities that will flow from increased interest in tartan that the Register will generate and to help the tartan industry in Scotland to

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promote its products. A further consequential benefit will be ongoing support for the tartan industry (as outlined at paragraph 56 above).

**PRESIDING OFFICER'S STATEMENT ON LEGISLATIVE
COMPETENCE**

62. On 20 March 2008, the Presiding Officer (Alex Fergusson MSP) made the following statement:

“In my view, the provisions of the Scottish Register of Tartans Bill would be within the legislative competence of the Scottish Parliament.”

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SCOTTISH REGISTER OF TARTANS BILL

EXPLANATORY NOTES

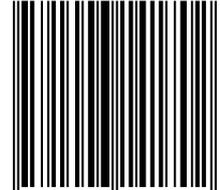
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