Supplementary written evidence from the National Trust for Scotland

As the Committee is aware, the Trust is not obliged to appoint Vice-Presidents under the 1935 Order, but any Vice-Presidents which are appointed in terms of the Order will automatically be charity trustees. The Trust considers that it is very helpful to have Vice-Presidents, but, in accordance with the recommendations of the Reid Review, it does not wish these individuals to be charity trustees. The Trust therefore created new positions of Honorary Vice-Presidents under its Second Schedule as a temporary ‘work-around’ to allow the Reid Review’s recommendations to be implemented as much as possible within the confines of the present legislation. An appointment as an Honorary Vice-President does not carry with it charity trustee status.

If the Bill is passed, the Act will remove the charity trustee status of the Vice-Presidents and accordingly there will no longer be any need to have such a ‘work-around’ in place. Following this change of status, the functions that are currently performed by the Honorary Vice-Presidents will be the same as those that would be carried out by Vice-Presidents as created in the 1935 Order, following adjustment in the Bill. The Trust therefore intends to dispense with the appointment of Honorary Vice-Presidents once it has the ability to appoint Vice-Presidents under the 1935 Order who do not become charity trustees by virtue of that appointment.

The current Honorary Vice-Presidents will not be removed from their posts by the Bill as no provision is made for this to occur. However, they have been appointed to this position only until the Trust’s next AGM as the offices of Honorary Vice-President are subject to election annually. At the first AGM of the Trust held after the Bill is passed and comes into force, the Trust will not appoint any new individuals as Honorary Vice-Presidents and will appoint Vice-Presidents as created in the 1935 Order, following adjustment in the Bill, instead. The provisions relating to Honorary Vice-Presidents will then be removed from the Trust’s Second Schedule. In practice, as there will be no change in the role or functions carried out and it is simply a change in nomenclature, it is expected that the same people will seek election as Vice-Presidents as would otherwise have sought election as Honorary Vice-Presidents.

It may also be helpful for us to state in this context that the Trust considers that the temporary ‘work-around’ which it put in place was not a suitable long-term solution. Firstly, it is somewhat confusing to have the ability to appoint both Honorary Vice-Presidents and Vice-Presidents and it is potentially misleading to those reviewing the Trust’s constitution. Secondly, it is desirable to make this change in a permanent fashion to preclude the possibility of the Trust in future - accidentally or otherwise - appointing Vice-Presidents who are charity trustees. Finally, if the 1935 Order is being amended in order to change the status of the President (which is required as no similar ‘work-around’ was available for the President under the wording of the Order), it would seem logical to take this opportunity to clarify the position of the Vice-President as well and to deal with both positions together. It may also be of
assistance to note that although the Bill applies the transitional provisions in section 5 to any current Vice-Presidents, there are no such current appointments and the Vice-Presidents were included here only because advice was received that it was preferable to do so in order to avoid any confusion otherwise arising on the face of the Bill as to why they should be treated differently.