These documents relate to the Burrell Collection (Lending and Borrowing) (Scotland) Bill (SP Bill 33) as introduced in the Scottish Parliament on 29 May 2013

BURRELL COLLECTION (LENDING AND BORROWING) (SCOTLAND) BILL

EXPLANATORY NOTES
(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9A.2 of the Parliament’s Standing Orders, the following documents are published to accompany the Burrell Collection (Lending and Borrowing) (Scotland) Bill introduced in the Scottish Parliament on 29 May 2013:
   • Explanatory Notes;
   • a Promoter’s Statement; and
   • the Presiding Officer’s Statement on legislative competence.

A Promoter’s Memorandum is printed separately as SP Bill 33–PM.

2. This document also includes an Assignment of Copyright/Licensing Agreement under Rule 9A.2.3(e) and the Promoter’s Statement on legislative competence given in accordance with Rule 9A.2.3(za). These items are also published separately by the promoter.
EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by Maclay Murray & Spens LLP (Solicitors) on behalf of the promoter, Glasgow City Council (“the Council”), in order to assist the reader of the Burrell Collection (Lending and Borrowing) (Scotland) Bill (“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.

2. 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 provision does not seem to require any explanation, none is given.

SUMMARY AND BACKGROUND TO THE BILL

3. The Burrell Collection (“the Collection”) consists of around 8,000 items donated to the Council by Sir William and Lady Burrell in terms of an Agreement in 1944 between Sir William, Lady Burrell and the Glasgow Corporation (a statutory predecessor to the Council) (“the Agreement”). The Collection is further augmented by the ongoing purchase in terms of Sir William Burrell’s Trust Disposition and Settlement dated 23 February 1953 and relative Codicils all registered in the Books of Council and Session on 11 April 1958 (“the Will”). The Will established the Sir William Burrell Trust, a registered Scottish charity (SC010109) (“the Burrell Trust”) which is managed and administered by charity trustees (“the Burrell Trustees”). Culture & Sport Glasgow, also a registered Scottish charity (SC037844) (known as Glasgow Life) manage and operate the Collection on behalf of the Council.

4. The terms of the 1944 Agreement and the Will contain restrictions relating to the lending of the Collection. The restrictions are considered by the promoter to be outdated and unduly restrictive in terms of promoting the Collection (by way of lending or touring) as one of Scotland’s most important cultural assets. The opportunity is also being taken to remove restrictions placed on the Council from taking receipt of items on loan from other museums and galleries which do not form part of the Collection and displaying them alongside items which do.

5. The purpose of the Bill is to amend and update the powers which are currently afforded to the Council, as well as making consequential changes to the powers of the Burrell Trustees, in order to facilitate international lending and touring of selected parts of the Collection from time to time, to an accredited museum or public gallery (or gallery or museum with equivalent status). The Bill will also clarify powers in relation to the receipt of items to be displayed in a manner which aims to further the understanding, interpretation and appreciation of the Collection. The powers sought in the Bill are necessary to enable lending of items from the Collection, and borrowing of items from elsewhere for display alongside the Collection, in a manner which would be common to the other leading collections elsewhere in the United Kingdom and internationally.
6. In addition, there are important physical accommodation issues to consider. The Collection is currently housed in the heart of Pollok Country Park. However, the building is in need of significant renovation and refurbishment. If such work is carried out, there will be period of closure for that building. During that period, lending would provide practical benefits for the Collection and provide opportunities to seek financial and other support for the refurbishment work.

COMMENTARY ON SECTIONS

Section 1

7. Subsection (1) states that the Council, as owner of the Collection, may only with the agreement of the Burrell Trustees in accordance with the code referred to in subsection (2), lend any item forming part of the Collection as well as receive on loan from other museums and galleries items that do not form part of the Collection and display them alongside items that are part of the Collection. The borrowing museum or gallery may be situated outside Great Britain so as not to limit, as is currently the case, the lending of items to British museums and galleries. The powers in subsection (1) are stated to be in addition to any current powers contained in the 1944 Agreement and the Will to allow lending of certain items within Great Britain.

8. Subsection (2) requires the Council and Burrell Trustees to agree a code setting out the agreed process for exercising the powers contained in subsection (1) as well as in respect of the existing powers. The Council must then publish the code. Any future revisals to the code agreed by the Council must be published no later than one week after such revisal.

9. Subsection (3) modifies part of the Will (Purpose IN THE LAST PLACE) to provide the Burrell Trustees with an additional power under their own constitution to expend income (as opposed to capital) held in trust in order to obtain reports and advice and for other all purposes which would assist them in exercising powers and responsibilities under the published code. The Burrell Trustees currently only have financial powers to apply funds (whether income or capital) in order to facilitate the purchase of additional items for the Collection.

Section 2

10. Section 2 provides that certain parts of existing legal documents restricting lending and the display of items received on loan will cease to have effect. Future lending and receipt of items will instead be subject to the Council and Burrell Trustees reaching agreement in terms of the code under section 1(2). Clause NINTH of the 1944 Agreement states that:--

“The building in which the Collection is housed shall contain only (one) the Collection gifted by the Donors and any further articles purchased by the Trustees of either of them for the Collection as aftermentioned, (two) any articles which may hereafter be donated to the Collection by the Donors or either of them, and (three) any articles which may be donated or bequeathed to the Donees by the Donors’ daughter, Miss Marion Burrell, provided the said articles be deemed, by the experts to be appointed hereafter to advise on purchases for the Collection, suitable for the Collection, and no other pictures or works of art of any description shall be housed therein. It is the Donors wish that the Collection should comprise only works of the highest merit and the Donees shall not be
entitled on any pretext whatever to sell, or donate or exchange any item or part of
the Collection once it has formed part of the Collection but the Donees shall be
entitled from time to time to lend temporarily to responsible bodies any article
or articles forming part of the Collection as they may think fit for exhibition in
any Public Gallery in Great Britain.”

11. Purpose IN THE SEVENTH PLACE of the Will states that:-
“… And I further stipulate that the building in which the “The Burrell Collection”
is housed shall contain only the pictures and works of art et cetera bequeathed or
gifted by me or my said wife and such other pictures and works of art et cetera as
may be purchased for “The Burrell Collection” in terms hereof and no works of
art except those forming “The Burrell Collection” shall at any time be housed
in the said building: And it is my wish that the collection should contain works of
art of the highest merit only: And I expressly stipulate that the said Corporation
shall not on any pretext whatever be entitled to sell or donate or exchange or part
with any item of “The Burrell Collection” once it has formed part of that
Collection: But this stipulation is not intended to prohibit the said
Corporation from lending temporarily from time to time to responsible
Bodies, such articles except pastels, tapestries, carpets, rugs, lace, needlework
and all other textiles forming part of that collection as they make think proper
for exhibition in any Public Gallery in Great Britain; And I declare these
directions and stipulations shall apply also to any articles purchased in terms
of Purpose IN THE LAST PLACE hereof or from any cash gifts made by me
to the said Corporation for the purposes of the said Collection.”

12. The reference in purpose IN THE SEVENTH PLACE of the Will to purpose IN THE
LAST PLACE of the Will means that currently items purchased for the Collection by the Burrell
Trustees are similarly subject to the same lending restrictions contained in purpose IN THE
SEVENTH PLACE.

13. The effect of section 2 is that the restrictions prohibiting lending outwith Great Britain,
the restrictions on the lending of pastels, tapestries, carpets, rugs, lace, needlework and all other
textiles forming part of the Collection and apparent restrictions on the receipt of items to be
displayed alongside the Collection will cease to have effect. For ease of reference extracts from
the Will and Agreement noted above have text emboldened to highlight the restrictions they
contain.

Section 3

14. Section 3 set out terms which are defined in the Bill. Two key terms are “a Borrower”
and “the Accreditation Scheme” as these set out the basis for the quality and type of museum or
gallery to which the Council may lend with the new powers in the Bill. A “Borrower” must be
part of “the Accreditation Scheme” or operate to a standard which is equivalent that the standard
expected under the Accreditation Scheme.

15. The Accreditation Scheme is administered by the Arts Council of England in partnership
with CyMAL: Museum, Archives, Libraries Wales, Museums Galleries Scotland and the
Northern Ireland Museum Council. The Accreditation Scheme aims to encourage high standards
across museums and galleries in the United Kingdom. More details on the operation of the
Accreditation Scheme can be found at [http://www.artscouncil.org.uk/what-we-do/supporting-museums/accreditation-scheme/](http://www.artscouncil.org.uk/what-we-do/supporting-museums/accreditation-scheme/)

16. The inclusion in the Bill of the reference to the Accreditation Scheme is to provide a recognised reference point by which all proposed borrowers should be assessed.

17. As the Accreditation Scheme operates in the United Kingdom, where lending to an overseas museum or gallery is proposed, the Council and the Burrell Trustees would have to be satisfied that the proposed borrower operated to a standard equivalent to the Accreditation Scheme. It would be anticipated to be an extremely rare occasion in which the Council and the Burrell Trustees would permit lending to a United Kingdom situated museum or gallery which was not part of the Accreditation Scheme or, in the case of overseas lending, provided satisfactory evidence that the museum or gallery operates to equivalent standards.

18. Section 3, by defining “publish” and “publication”, also sets out the manner in which the Council shall publish the code (and revised versions) referred to in section 1(2).
PROMOTER’S STATEMENT

EFFECT ON HERITABLE PROPERTY

1. The Bill does not contain any provisions affecting heritable property. Accordingly, Rule 9A.2.3(d)(i) of the Parliament’s Standing Orders does not apply and no consent is required.

NOTIFICATION TO AND CONSENT FROM PROMOTER

2. This part of the statement is provided under Rule 9A.2.3(d)(ii) of the Parliament’s Standing Orders. That Rule applies to the Bill because the promoter is a body corporate.

3. Section 82 of the Local Government (Scotland) Act 1973 (as amended) requires that a local authority promoting private legislation must pass a resolution to promote the legislation and a further confirmatory resolution after the Bill has been introduced. At least ten clear days’ notice of each of the meetings at which these resolutions are voted on and of the purpose of the meetings must be given by advertisement in one or more newspapers circulating in the local authority’s area. Such notice must be given in addition to the ordinary notice required to be given for convening a meeting of the local authority. Both resolutions require to be passed by a majority of the whole number of the members of the local authority.

4. In accordance with section 82 a meeting of Glasgow City Council (“the Council”) was held on 22 February 2013 when a resolution to approve the promotion of the Bill was proposed.

5. Notice of the meeting was published in the Evening Times on 11 February 2013. That notice is reproduced at Annex 2 to this statement.

6. The resolution was agreed unanimously at the meeting on 21 February 2013, with 72 of the 79 Council members in attendance. The resolution, which was passed unanimously, was in three parts, as follows:

“that Glasgow City Council will promote a private bill in the Scottish Parliament for the following purposes:-

1. In addition to any current powers held by Glasgow City Council to grant Glasgow City Council the power to lend, with the agreement of the charity trustees of the Sir William Burrell Trust, a registered Scottish charity (SC010109) (“the Burrell Trustees”), any item, object or article which for the time being forms part of the Burrell Collection to other public galleries or museums wherever situated in the world.

2. To oblige Glasgow City Council and the Burrell trustees to agree and make public a code setting out the basis upon which lending powers will be exercised properly and responsibly having regard to recognised museums practice for loans.
These documents relate to the Burrell Collection (Lending and Borrowing) (Scotland) Bill (SP Bill 33) as introduced in the Scottish Parliament on 29 May 2013

3. To grant the Burrell Trustees additional and consequential trust powers to assist them exercise their rights and obligations under the bill.”

7. In accordance with section 82, a further meeting of the Council will be asked to confirm that resolution in a meeting held as soon as may be after the expiration of fourteen days after the Bill has been introduced. If the resolution is not confirmed by a majority of all members the Council will take all necessary steps to withdraw the Bill.

NOTIFICATION TO AND CONSENT FROM BODIES AFFECTED

8. The Bill contains provision to confer powers upon and modify the constitution of an unincorporated association of persons: the Burrell Trustees. In terms of Rule 9A.2.3(d)(iii) of the Parliament’s Standing Orders, the promoter has notified the Burrell Trustees of the proposed private bill and the Burrell Trustees have given their consent. The Burrell Trustees have been in regular dialogue with the Council, the promoter of the Bill throughout the period up to the introduction of the Bill.

9. The Burrell Trustees met formally on 3rd May 2013 (in terms of the Trusts own governance, there is no requirement to provide a set form of notice for the meeting) to consider fully as a group the Council’s intention to promote the Bill. The meeting was Quorate (all Trustees were present) and the Burrell Trustees voted unanimously in favour of supporting the promotion of the Bill. The Burrell Trustees complied with Scottish Trust law in terms of holding the meeting and voting, and did not require to advertise the calling of the meeting. A letter confirming consent is attached at Annex 3.

ADVERTISEMENT OF INTENTION TO INTRODUCE THE BILL

10. Notice of the intention to introduce the Bill was published in both the Glasgow Evening Times and the Herald on 8 and 15 May 2013 and has been displayed from 4 May 2013 in all public libraries in Glasgow in terms of Rule 9A.2.3(d)(iv) of the Parliament’s Standing Orders. The text of the notice is reproduced at Annex 1 to this statement.

INSPECTION AND PURCHASE OF DOCUMENTS

11. On 21 May 2013, the following statement was made:

“We, Glasgow City Council, hereby undertake to send copies of the accompanying documents for the Burrell Collection (Lending and Borrowing) (Scotland) Bill not published by the Parliament, together with any other documents relevant to the Bill submitted to the Parliament on or after introduction, to the premises determined by the Presiding Officer for the purpose of Rule 9A.4.2.”

12. The Bill and accompanying documents together with other relevant documents which are not accompanying documents (namely: the Will, the Agreement and the results of the

---

1 The text within inverted commas at paragraph 6 was omitted from the Promoter’s Statement on introduction of the Bill. The text was added on 5 February 2014.
engagement process which included a consultation exercise with key institutions, an exit survey of users and an online survey) may be inspected at the three premises listed in Annex 1.

13. The Bill and accompanying documents are also available on the Scottish Parliament’s website (www.scottish.parliament.uk – go to “Parliamentary Business” then “Bills”, then click “Current Bills”).

14. The documents mentioned in paragraph 2 and the other documents relevant to the Bill which are not accompanying documents may be purchased (for 10p per page for black and white and 30p per page for colour) from City Chambers, Glasgow, G2 1DU. Electronic copies may be obtained free of charge by emailing burrellbill@glasgow.gov.uk.

PROMOTER’S UNDERTAKING TO PAY COSTS

15. On 21 May 2013, the following statement was made:

“We, Glasgow City Council hereby undertake to pay any costs that may be incurred by the Scottish Parliamentary Corporate Body during the passage of the Burrell Collection (Lending and Borrowing) (Scotland) Bill in respect of the matters determined by that Body under Rule 9A.2.3(d)(vi) of the Parliament’s Standing Orders.”

ANNEX: FORM OF NOTICES SENT TO PERSONS AFFECTED AND NEWSPAPER NOTICES ETC.

Annex 1: Text of public notice of intention to promote the Bill

Notice of proposed Private Bill

Glasgow City Council intend to introduce a Private Bill, the Burrell Collection (Lending and Borrowing) (Scotland) Bill, into the Scottish Parliament in or around May 2013.

The purpose of the Bill is to afford the Council, with the agreement of the trustees of the Sir William Burrell Trust, power to lend any item of the Burrell Collection to certain museums or public galleries whether or not situated in Great Britain and to receive items from other museums and galleries to be displayed alongside the Collection and to make provision for the Council and the Trustees to agree a lending code setting out the process for reaching agreement between them.

From the day after introduction, the Bill and the accompanying documents will be available on the Parliament’s website (www.scottish.parliament.uk – go to Parliamentary Business, then Bills).

They will also be available for inspection at the following:

The Mitchell Library
North Street
Glasgow
G3 7DN
The Burrell Collection
Pollok Country Park
2060 Pollokshaws Road
Glasgow
G43 1AT

Pollokshaws Library
50/60 Shawbridge Street
Glasgow
G43 1RW

Detailed guidance about Private Bill procedures can be found on the Parliament website or obtained by post from the Non-Government Bills Unit, the Scottish Parliament, Edinburgh EH99 1SP, by emailing ngbu@scottish.parliament.uk, or calling 0131 348 5246.

Additional information about the content of the Bill may be obtained from Glasgow City Council, City Chambers, Glasgow, G2 1DU www.glasgow.gov.uk.

Annex 2: Text of newspaper notice of intention to promote the Bill

The following notice appeared in the Evening Times on 11 February 2013.

“GLASGOW CITY COUNCIL

Statutory meeting under Section 82 of the Local Government (Scotland) Act 1973

Notice is hereby given under Section 82 of the Local Government (Scotland) Act 1973 that a meeting of Glasgow City Council will be held at City Chambers, George Square, Glasgow, G2 1DU on 21 February 2013 at 13.30 to consider and if thought fit, approve and adopt a resolution that Glasgow City Council will promote a private bill in the Scottish Parliament to be known as the “Burrell Collection (Lending, etc) (Scotland) Bill” for the following purposes:

1. In addition to any current powers held by Glasgow City Council to grant Glasgow City Council the power to lend, with the agreement of the charity trustees of the Sir William Burrell Trust, a registered Scottish charity (SC010109) (“the Burrell Trustees”), any item, object or article which for the time being forms part of the Burrell Collection to other public galleries or museums wherever situated in the world.

2. To oblige Glasgow City Council and the Burrell trustees to agree and make public a code setting out the basis upon which lending powers will be exercised properly and responsibly having regard to recognised museums practice for loans.

3. To grant the Burrell Trustees additional and consequential trust powers to assist them exercise their rights and obligations under the bill.”
Annex 3: text of a letter confirming consent from body affected – the Burrell Trustees

Maclay Murray & Spens LLP  
1 George Square  
Glasgow  
G2 1AL

29th May 2013

Dear Sirs,

On behalf of the Testamentary Trustees of the late Sir William Burrell, for whom we act, we would confirm that the Burrell Trustees consent to the introduction of the Burrell Collection (Borrowing and Lending) (Scotland) Bill (‘the Bill’).

The Burrell Trustees have been in regular dialogue with Glasgow City Council (‘the Council’) the promoter of the Bill throughout the period up to the introduction of the Bill.

The Burrell Trustees met formally on 3rd May 2013 (in terms of the Trusts own governance, there is no requirement to provide a set form of notice for the meeting) to consider fully as a group the Council’s intention to promote the Bill (with a draft Bill and Explanatory Notes in the forms annexed to this letter [not reproduced here] as the discussion documents on which consideration was based), which would cover powers of lending and borrowing of items from and to the Burrell Collection as well as the publication of a code agreed between the Council and the Burrell Trustees regulating the exercise of borrowing and lending powers. The Burrell trustees also noted the incorporation in the Bill of powers, as additional Trustee powers, to allow them to spend income for the purposes of assisting them exercise their rights and responsibilities under the code, and more generally under the Bill. The meeting was Quorate (all Trustees were present) and the Burrell Trustees voted unanimously, a simple majority being the required threshold, in favour of supporting the promotion of the Bill covering the matters outlined in this letter. The Burrell Trustees complied with Scottish Trust law in terms of holding the meeting and voting, and did not require to advertise the calling of the meeting. An extract of the meeting of 3rd May 2013 is as undernoted.

Yours faithfully,

Law Agents for the Testamentary Trustees of the late Sir William Burrell
Note:

The Trustees confirmed that the latest versions of the draft lending Bill and accompanying explanatory notes, copies of which they had received this morning and which had been discussed earlier were acceptable, subject to the law agent clarifying a number of matters regarding some of the proposed wording with Alan Eccles of Maclay Murray & Spens.
ASSIGNATION OF COPYRIGHT/LICENSING AGREEMENT

Given in accordance with Rule 9A.2.3(e) of the Parliament’s Standing Orders

We, Glasgow City Council, hereby assign to the Scottish Parliamentary Corporate Body copyright in the Burrell Collection (Lending and Borrowing) (Scotland) Bill, Explanatory Notes and any revised Explanatory Notes, the Promoter’s Memorandum and the Promoter’s Statement accompanying the Bill.

We, Glasgow City Council, hereby license the Scottish Parliamentary Corporate Body to use or reproduce for the Parliament’s purposes the documents accompanying the Burrell Collection (Lending and Borrowing) (Scotland) Bill, together with any other documents relevant to the Bill submitted to the Parliament on, or after, introduction.

PROMOTER’S STATEMENT ON LEGISLATIVE COMPETENCE

Given in accordance with Rule 9A.2.3(za) of the Parliament’s Standing Orders

On 21 May, Maclay Murray & Spens LLP, on behalf of Glasgow City Council, made the following statement:

“In our view, the provisions of the Burrell Collection (Lending and Borrowing) (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

On 29 May 2013, the Presiding Officer (Rt Hon Tricia Marwick MSP) made the following statement:

“In my view, the provisions of the Burrell Collection (Lending and Borrowing) (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”
These documents relate to the Burrell Collection (Lending and Borrowing) (Scotland) Bill (SP Bill 33) as introduced in the Scottish Parliament on 29 May 2013

BURRELL COLLECTION (LENDING AND BORROWING) (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament’s copyright policy can be found on the website -
www.scottish.parliament.uk

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by APS Group Scotland.