BURRELL COLLECTION (LENDING AND BORROWING) (SCOTLAND) BILL

PROMOTER’S MEMORANDUM

INTRODUCTION

1. This document relates to the Burrell Collection (Lending and Borrowing) (Scotland) Bill introduced in the Scottish Parliament on 29 May 2013. It has been prepared by Maclay Murray & Spens LLP (Solicitors) on behalf of the promoter, Glasgow City Council, to satisfy Rule 9A.2.3(b) of the Parliament’s Standing Orders. The contents are entirely the responsibility of the promoter and have not been endorsed by the Parliament.

2. Explanatory Notes and other accompanying documents published by the Parliament are available separately as SP Bill 33–EN. That document contains details of the accompanying documents published by the promoter, and where those documents may be inspected or purchased.

OBJECTIVES OF THE BILL

Summary

3. The policy objectives of the Bill are as follows: (1) to enable the promoter, with the consent of the trustees of the Sir William Burrell Trust (a registered Scottish charity SC010109) (“the Burrell Trustees”), to lend items which form part of the Burrell Collection (“the Collection”) to selected museums and galleries situated outside of Great Britain; and (2) to enable the promoter, with the consent of the Burrell Trustees, to borrow items from other collections, museums and galleries to display alongside the Collection.

4. The current restrictions on lending and borrowing are derived from two sources:

   (i) The central restrictions which apply to the main collection, and are contained in: FIRST the agreement between Sir William and Lady Burrell and the Corporation of the City of Glasgow dated 30th March and 6th April 1944 as varied by an exchange of correspondence between The Town Clerk, City Chambers, Glasgow and Messrs. Bannatyne, Kirkwood, France & Co, solicitors, dated 5th and 6th January 1945; SECOND a supplementary agreement between Sir William and Lady Burrell and the Glasgow Corporation dated 22nd and 30th November 1951; and THIRD an exchange of correspondence between The Town Clerk, City Chambers, Glasgow and Messrs. Bannatyne, Kirkwood, France & Co, solicitors dated 16th April and 22nd August 1956 (“the Agreement”); and
This document relates to the Burrell Collection (Lending and Borrowing) (Scotland) Bill (SP Bill 33) as introduced in the Scottish Parliament on 29 May 2013

(ii) The restrictions affecting items purchased by the Burrell Trustees after Sir William’s death (and subsequently transferred to Glasgow City Council), which are contained in the Trust Disposition and Settlement by Sir William Burrell dated 23rd February 1953 and relative Codicils, all registered in the Books of Council and Session on 11th April 1958 ("the Will").

BACKGROUND

5. Sir William Burrell (9 July 1861 – 29 March 1958), a Glaswegian and the third son of William Burrell and Isabella Burrell, worked from the age of 15 years with his brother to build the family shipping agency to exceptional financial and commercial success. He dealt with the commercial aspects of the business, as well being an ardent art collector. He was also an elected Member of the Corporation of Glasgow, and was awarded the Freedom of the City in 1944, following the donation of the Collection to the City.

6. In the 1920s and 1930s Sir William gave great deliberation to the future location of his collection. Whilst both Edinburgh and London were considered, only Glasgow would agree to the series of conditions which were ultimately contained in the Agreement. There were two main concerns. Firstly, the Collection could not be lent overseas. This restriction was, it is understood, intended to avoid the dangers associated with items travelling overseas, of which Sir William had a great deal of experience throughout his career in shipping. Secondly, the Collection was to be housed as a separate collection within four miles of Killearn and at least sixteen miles from Glasgow Royal Exchange. This condition reflected Sir William’s concerns about the vulnerability of the textiles within the Collection to the atmospheric pollutants present in City at the time, and his desire that the Collection be viewed in a rural setting. Indeed, Sir William was in regular correspondence with the Corporation from 1944 until his death in 1958 about both the use of the Collection, and the importance of finding a suitable location for the new build museum.

7. To this day, Sir William’s ultimate decision to gift the Collection to his home city represents the largest single gift of art treasures by one person to one city.

8. The Collection is one of Scotland’s most important cultural assets. It consists of around 8,000 items. Sir William was exceptionally knowledgeable and discerning and as a result, the Collection’s artefacts are quite unique and comparable in quality to those found at the V&A Museum in London, or the Metropolitan Museum of New York.

9. The largest single sub-collection is that of Chinese art. This part of the Collection is considered to be of particular significance and is increasingly drawing the attention of Chinese scholars. The second greatest glory of the Collection is the Late Gothic and Early Renaissance works of art from Northern Europe which includes tapestries, stained glass, paintings, sculpture, furniture and architecture. The third area of strength is Burrell’s excellent collection of French art, amassed with the help of the dealer, Alexander Reid, a friend of van Gogh and Whistler. There are other areas of exceptional quality within the Collection including Dutch paintings, British portraits, Islamic art, Persian rugs and treasures from ancient Egypt, Greece and Rome.
10. On Sir William’s death in 1958, the Sir William Burrell Trust (“the Trust”) was established (and is now a registered Scottish charity (SC010109), and the Burrell Trustees were appointed. The Burrell Trustees were empowered to purchase suitable items which would then be donated to Glasgow City Council and added to the Collection. Restrictions narrated in the Will applied to the lending of these items and limited the ability of Glasgow City Council to lend items anywhere other than within Great Britain (with the exception of pastels, tapestries, carpets, rugs, lace, needlework and all other textiles, which cannot be lent at all). Despite the strong working relationship that has developed between Glasgow City Council and the Burrell Trustees in this regard, there is no formal legal relationship between Glasgow City Council and the Burrell Trustees.

11. The Collection is housed in the custom-built, award winning Burrell Museum in Pollok Park (“the Burrell Building”), opened by HM the Queen in 1983. It took 22 years to find an appropriate site that would meet the stipulations contained in Sir William’s 1944 Deed of Gift. The Burrell Trustees agreed to vary the original condition which would otherwise have precluded the site at Pollok Park on the basis of possible pollutants, due to the introduction of the Clean Air Act 1956. That variation was made by the Burrell Trustees using additional flexibility afforded to them by Sir William himself. The Burrell Trustees only took this action having been specifically authorised to do so by Sir William rather than the Burrell Trustees considering that they had the power under the Agreement and/or Will to take such action.

12. The Burrell Building is architecturally distinguished and exceptional, not only in design but in the quality of the materials and finishes used. It is much loved by the public and has been granted listed status by Historic Scotland. However, the roof now requires significant attention and the environmental conditions have deteriorated. The Burrell Building needs to be refurbished to ensure both the long term integrity of the building and the preservation of the Collection itself. Refurbishment presents a unique opportunity to refresh both the Burrell Building and the displays, as well as respond to the changing needs and expectations of the visiting public.

13. A proposed programme for the refurbishment will be put forward and, if approved, would mean that the Collection will be in storage (and therefore unavailable to the public) for a period of approximately 4 years.

14. Given the significance of the Collection, both domestically and internationally, it is considered desirable that the promoter is able to lend items, not only within Great Britain, but also overseas during the refurbishment period. However, the restrictions prevent them from doing so.

15. It is also considered desirable that the promoter is able to borrow items from other collections, thereby enhancing the Collection.

16. Finally, given the advantages for the Collection and for the City of Glasgow, the promoter considers borrowing and lending powers should extend beyond the period of refurbishment and continue indefinitely.
ADVANTAGES OF LENDING AND BORROWING

Knowledge and understanding

17. It is accepted museological practice that accredited museums will lend works to other similar museums on request, subject to reasonable criteria. For lenders, the main justification for lending is that displaying the work alongside related works in a well researched and curated show contributes significantly to knowledge and understanding of these works. Comparing a painting directly with others by the same artist, or reuniting parts of a set of tapestries that have not been seen together for over a hundred years, provides opportunities for detailed observation and comparison of the physical, technical and intellectual attributes of the work that no photograph can ever provide.

New audiences

18. Lending also enables works to be seen and enjoyed by new audiences, including scholars and connoisseurs. It is widely believed that lending helps to promote the reputation of the lending institution. The reverse is certainly true, and institutions that refuse to lend on what are considered insufficient grounds, may find that they are refused loans in turn, or the overall standing of that museum is diminished.

International Prestige

19. Overseas lending is prestigious since it is generally only associated with highly desirable, high quality collections. The great majority of loans are of oil paintings on canvas, a robust medium which is relatively straightforward to pack for transport. Lending old and fragile three-dimensional objects introduces a new level of complexity and only major, well resourced institutions tend to take on this type of project. In the UK, the British Museum and the V&A both have extensive experience of overseas touring of this type (often in conjunction with Foreign Office initiatives) as has Glasgow Museums.

20. A touring exhibition of a collection of this type and quality would have international significance. It would offer an opportunity to raise the profile and global presence not only of the Collection, but also Glasgow as a destination city and Scotland as a nation. To be able to lend overseas indefinitely (beyond the period of refurbishment) would also help maintain the Collection’s international profile.

21. The promoter considers that there may also be a moral obligation to share a collection of such international interest with the widest possible global audience.

Overseas Loan requests

22. The Collection receives a steady stream of loan requests for its works. The restrictions on lending from the Collection are widely understood, and the Collection would undoubtedly receive more requests if the restrictions were lifted. In the period from 2006-2011 the collection received 38 overseas loan requests which break down as follows:
It should be noted that all loan requests are subject to a stringent conservation assessment process, and not all the items above will have been deemed suitable for loan. Similarly, not all the exhibitors will have met the Collection’s curatorial criteria.

### Other advantages of lending and borrowing

23. One of the major benefits of lending is that it enables works from the collection of one institution to be seen alongside related works from other collections, contributing significantly to knowledge and understanding of the these works. The Collection features many items which were originally part of a set whose other components are now owned by museums (such as the Louvre, the Metropolitan Museum and the Art Institute of Chicago). Being able to lend these items to be seen as part of their set, would not only contribute to the understanding of the Collection, but would underline its extraordinary quality and international significance amongst Scotland’s national assets.

24. Similarly, being able to borrow related items for temporary exhibitions in the newly-refurbished Burrell Building in Glasgow would be expected to enhance the Collection as a whole, thereby further increasing the prestige of the Collection and the experience of those visiting the Burrell Building.

### The need for change

25. The Burrell Building is in need of serious renovation. The lending of the Collection would provide a revenue stream to support the necessary remedial works, and also present an opportunity to make the Collection accessible to new audiences all over the world.

26. Following on from a consultation and engagement process with individuals who have been connected to the Collection, the promoter has collated opinion which suggests that Sir William’s lending restrictions are less relevant today than they were at the time they were imposed. Of course, that is not state that the restrictions were anything other than well considered by Sir William at the time of imposition. While the specific restrictions may now be viewed as out of date, the promoter shares Sir William’s desire to ensure the Collection is properly protected and conserved.

27. Sir William was a shipping magnate with a detailed knowledge of shipping and transportation and perhaps this is why he was so concerned about the hazards of lending. Within the documentation there are no detailed explanations as to the reasons for the restrictions. However, the logistics of transporting art have vastly improved since the inception of the Collection. The International Convention of Exhibition and Fine Art Transporters (ICEFAT)
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was established in the 1970s and aims to manage risks and mitigate hazards which may threaten the safety of art and artefacts in transit. Bodies such as ICEFAT are also endorsed by museums from all over the world. Transporting the Collection today therefore presents far fewer risks than at the time that Sir William envisaged the lending of his collection.

Powers and a lending code

28. As noted above, the Bill seeks to provide the promoter with the power to lend and borrow items. The lending of items from the Collection and the receiving of items from other sources will be subject to the agreement of the Burrell Trustees in accordance with lending code referred to in the next paragraph. This will build on the existing working relationship between the promoters and the Burrell Trustees, but within a clear legal framework.

29. In order to provide appropriate flexibility and avoid the need for further legislation to regulate the Collection, the promoter considers that a lending code (“the Code”) established under the Bill would be more practicable than incorporating lending provisions that might require future legislative amendment within the body of the Bill itself.

30. The Bill provides for the promoter and the Burrell Trustees to agree, and for the promoter to publish, the Code which should be made available to the public in a readily accessible format, thus underpinning the Bill’s overall aim of transparency. Any changes to the Code should similarly be published and would require to be agreed by the promoter and the Burrell Trustees.

31. The Code will be designed to reflect the highest standards of practice in the museum sector as well as providing a practical document for enabling information to be gathered and shared between the promoter and the Burrell Trustees.

32. The promoter and the Burrell Trustees have been working collaboratively on a draft Code and anticipate being in a position to complete this after the introduction of the Bill to the Scottish Parliament.

ALTERNATIVE APPROACHES

33. The promoter has considered whether the proposed changes to the lending and borrowing arrangements could be achieved without legislation. Since the opening of the Burrell Building, the promoter and others have endeavoured to respect the wishes of Sir William and operate and promote the Collection in the most effective manner possible.

34. The Agreement did not provide any ready method for variation or amendment. It contemplated the need for a method to resolve disputes regarding its terms only. However, the current proposals are not set against the background of dispute. When conditions under the Agreement in relation to the physical location were waived (to enable the present location to be used) this required the personal intervention of Sir William.

35. The promoter has engaged with the Burrell Trustees for a number of years regarding amendments to restrictions affecting the Collection. There has always been agreement between the promoter and the Burrell Trustees that the appropriate method of change is by way of
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legislation, since this would offer the greatest degree of certainty, clarity, coherence and transparency. Both the promoter and the Burrell Trustees have considered and discounted such alternatives as a private agreement between themselves, court applications and applications to the Office of the Scottish Charity Regulator (OSCR) (the latter by virtue of the Trust’s charitable status).

36. The promoter therefore considers that the promotion of a private Bill in the Scottish Parliament is the only competent, effective and efficient method to achieve the objectives of the Bill.

CONSULTATION

37. There are no mandatory consultees in terms of Rule 9A.1.4A and Rule 9A.1.1A of the Standing Orders since the Bill does not seek to authorise the construction or alteration of work, or to authorise the compulsory acquisition of any land or buildings.

38. The promoter has engaged with the Burrell Trustees, key institutions in the museums and galleries sector and the public prior to the introduction of the Bill.

39. The promoter has met regularly with the Burrell Trustees throughout the development of the Bill and the formulation of the Code.

40. In addition, the promoter has carried out a number of consultation exercises including: a consultation process involving key institutions in the museums and galleries sector in Scotland, the United Kingdom and internationally; a public survey of 1,602 users of the Burrell Collection; and the provision of an online survey on the proposed changes. The engagement process has been meaningful and effective, and has shaped the development of the Bill.

Consultation

41. Letters were sent to museums and institutions identified by the promoter as key consultees (“the Consultees”) in February 2013. The letters contained an explanation of the proposals which would be contained in the Bill, the background to the proposals, the current restrictions and the reasons for the proposals.

42. To date, responses have been received from the following: Burrell Trustees; Leeds Museums & Galleries; Manchester Galleries; the Trustees of the Hamilton Bequest; Museums Galleries Scotland; High Museum, Atlanta; Glasgow City Council; Victoria & Albert Museum; Glasgow Life; Friends of Glasgow Museums; and Museums Association.

43. The consultation exercise identified broad support for the proposed changes from the Consultees across a wide range of interests and areas of expertise. The responses underlined the uniqueness of the Collection, that the proposals contained in the Bill are consistent with modern museological practices and expectations as well as the importance of the experience for visitors to the Collection in Glasgow. These responses have assisted the promoter to develop the proposals in the form now contained in the Bill.
公共调查

44. 一项在2013年2月期间由The Social Marketing Gateway进行的出口调查，共有1,600多名访客参与。调查结果显示，69%的受访者对收集品被借出海外展览的想法表示‘积极’或‘非常积极’。

在线调查

45. 一个自选在线调查，包含与面对面调查相同的相同问题，于2013年2月8日到2月25日之间在Survey Monkey上进行。其中61位受访者中，56%表示他们对海外借出的想法持‘积极’或‘非常积极’的态度。

46. 在咨询过程中没有做出显著的政策目标更改的必要。相反，结果验证了提议的改革。

47. 2013年1月的公器宣布，推广者的意向推动法案吸引了媒体关注和提高了公众意识。推广者鼓励辩论，并广泛征求了感兴趣方的意见，以追求透明度和公众参与。
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