

**Sewel Memorandum**  
**Culture And Recreation Bill**

Background

1. The Culture and Recreation Bill was introduced in the House of Lords on 14 December 2000. The Bill has its origins in *A New Cultural Framework* published in 1998 by the Secretary of State for Culture Media and Sport in which he announced the outcome of his Comprehensive Spending Review. The report concluded that benefits would be gained in terms of efficiency and effectiveness by means of a number of structural changes in the way the Department of Culture, Media and Sport (DCMS) provides funding and support to culture, media and sport, particularly in relation to the public bodies sponsored by the Department.

2. Much has already been done to implement *A New Cultural Framework*. However, some measures could not be implemented without primary legislation, and a number of the DCMS sponsored public bodies lack a proper statutory basis for providing them with funds. The Culture and Recreation Bill provides the opportunity to address these matters. The main provisions of the Bill are set out in the Annex.

3. Scottish interests in the Bill are relatively minor. They are limited to provisions which provide a statutory basis for 2 DCMS-sponsored public bodies, the Film Council and Resource: The Council for Museums, Archives and Libraries; provisions which delegate to another body the power of the Secretary of State for Culture, Media and Sport to designate a film as British; and a technical measure to provide a simplified procedure for the making of Parks Regulations in Scotland. The consent of the Scottish Parliament is required for these provisions as described in paragraphs 4-11 below.

Film Council

4. Film in Scotland is a devolved matter. Scottish Screen carries out most film-related functions in Scotland but the Film Council, an executive non-departmental public body established by administrative means, exercises some functions on a UK basis. The Bill allows the conversion of the Film Council from private company to statutory body, either by conversion of the existing company or by the creation of a new public body, and provides a statutory basis for making grants of public funds to the Council.

5. The Bill also enables the Secretary of State for Culture, Media and Sport to delegate his power to certify a film as a British film for purposes relating to taxation. At present film makers may apply to the Secretary of State for certification of their work as a British film for the purposes of gaining tax and other benefits. Assessing applications for certification requires a great deal of work with lawyers and accountants in the film world, and familiarity with the way in which film finance works. A high level of expertise in these complex areas is required and the Bill makes provision for the Secretary of State to appoint a person - intended to be the Film Council - to undertake, or assist him with, the task of certifying a film as a British film. Scottish Screen is content that the Film Council should be appointed to advise on the certification of a film as a British film, which confirms the existing arrangements.

## Resource: The Council for Museums, Archives and Libraries

6. Museums, archives and libraries in Scotland are devolved matters. As explained below, under longstanding arrangements some museum and library matters have been handled by organisations operating on a UK-wide basis. These arrangements, which take account of Scottish interests, are so far still in place following devolution although organisational changes have been recently been made.

7. Resource was established by administrative means on 1 April 2000 as a non-departmental public body. On that date Resource subsumed the functions of the former Museums and Galleries Commission and the Library and Information Commission, and acquired new functions in relation to Archives. The Bill allows the conversion of Resource from private company to statutory body, either by conversion of the existing company or by the creation of a new public body, and provides a statutory basis for making grants of public funds to Resource.

8. The Museums and Galleries Commission exercised certain of its functions in relation to Scotland, for example the provision of advice to Government on museum and gallery matters; the operation of the Acceptance of Works of Art in lieu of Tax Scheme, the Government Indemnity Scheme for works of art on loan to museums and galleries, and the Museums and Galleries Registration Scheme; and the provision of advice on security and other matters to museums and galleries. The Library and Information Commission's functions in relation to Scotland were restricted to research and development and international library business, but it also played a leading role in co-operation with the Scottish Library and Information Council in the development of The People's Network, the public libraries IT network.

9. With Scottish Ministers' agreement, Resource has taken over these functions of the Museums and Galleries Commission and the Library and Information Commission, but it has no functions in relation to archives in Scotland. Resource will continue to exercise the former Commissions' functions in relation to Scotland until such time as the Scottish Ministers may determine otherwise. On the recommendation of the Scottish Ministers, Scottish interests on the Board of Resource are represented by the Director of the Scottish Museums Council. The Director of the National Museums of Scotland is also a member of the Board. The National Cultural Strategy for Scotland published in August 2000 identifies the need for a review of the framework for museum and gallery provision in Scotland in due course.

## Parks

10. The primary legislation for the Royal Parks in Scotland and England are the Parks Regulation Acts 1872 to 1974, all of which relate to both countries. These Acts are the main enabling mechanisms by which managers of the Parks can introduce local regulations. Management of the Royal Parks in Scotland is devolved to the Scottish Ministers, and in practice falls to Historic Scotland.

11. Clause 18 of the Bill provides for a simpler procedure in the making of Parks Regulations. In place of the previous requirement that Regulations can only be made after a draft of them has been laid before the Parliament for at least 21 days (without an Address against the draft being presented), there will be substituted a requirement for Parks Regulations to be subject to normal negative resolution procedure before the

Parliament. Clause 18(2) deems that clause to be a pre-commencement enactment for the purposes of the Scotland Act. This has the result that the reference to "either House of Parliament" (being inserted in the Parks Regulation (Amendment) Act 1926 by the Bill) will, by virtue of section 118 of the Scotland Act, be read as a reference to the Scottish Parliament as far as Regulations made by the Scottish Ministers are concerned.

### Conclusion

12. The Executive believes that it would make sense to take the opportunity offered by the bill to enable the Film Council and Resource to continue to carry out limited functions in relation to Scotland; to enable the Secretary of State for Culture, Media and Sport to delegate his power to designate a film as a British film; and to simplify the procedure for making Parks Regulations in Scotland.

Scottish Executive  
January 2001

## **Culture And Recreation Bill**

The Bill's main effects will be to

- reconstitute the Football Licensing Authority as the Sports Ground Safety Authority;
- introduce new fixed penalty regulations for the Royal Parks and provide a simplified procedure for the making of Parks Regulations
- enable the merger of English Heritage and the Royal Commission on Historic Monuments in England (RCHME) by providing English Heritage with powers to undertake functions relating to underwater archaeology formerly carried out by the RCHME. The Bill also expands the powers of English Heritage so that it can carry out trading activities overseas;
- enable the creation of a new organisation, to be known as Culture Online, whose job will be to make performing arts activities and treasures from cultural institutions available to the public in digital form on the Internet or via other forms of digital technology;
- provide a statutory basis for making grants to the Arts Council of England;
- allow the Film Council, the Commission for Architecture and the Built Environment and Resource to become statutory bodies and provide a statutory basis for making grants to them;
- enable the Secretary of State to appoint a person to undertake, or to assist him with, the task of certifying a film as a British film for purposes relating to taxation;
- abolish the Library Advisory Council for England;
- enable the Secretary of State to make an order, following consultation with the governing bodies concerned, to amend legislation in relation to appointments to the governing bodies of various national museums and galleries;
- enable the British Library to establish subsidiary or trading companies;
- end the obligation to use parts of Osborne House and grounds for the benefit of members of the Armed Forces and the Civil Service;
- remove the requirement for the Secretary of State to give written consent for the erection of a public statue in a public place in Greater London;
- formally change the name of the English Tourist Board to the English Tourism Council (ETC) and vary, or give power to vary, the membership of the ETC and other national tourist boards; and
- enable the staff and former staff of a number of public bodies sponsored by the Secretary of State to be transferred to the Principal Civil Service Pension Scheme.