

# **CITY OF EDINBURGH COUNCIL (LEITH LINKS AND SURPLUS FIRE FUND) ACT 2014**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes have been prepared by Brodies LLP on behalf of the promoter, City of Edinburgh Council (“the Council”), in order to assist the reader of the City of Edinburgh Council (Leith Links and Surplus Fire Fund) Act 2014 and to help inform debate on it. They do not form part of the Act and have not been endorsed by the Parliament.
2. The Notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

### **THE ACT**

3. The first recorded rules of the game of golf were created in 1744, by the golfers playing at Leith Links. In order to commemorate this event, the Leith Rules Golf Society (the “Society”) wishes to erect a statue on Leith Links of John Rattray, a leading golfer at the Links at that time.
4. Section 22 of the Schedule to the City of Edinburgh District Council Order Confirmation Act 1991 (the “1991 Act”) prohibits the construction of buildings on Leith Links other than buildings falling into certain specified categories. The list of permitted categories does not include monuments or statues.
5. The Act amends section 22 of the Schedule to the 1991 Act to create an exception in respect of that particular statue, but otherwise leaves the existing building restrictions in place. While the Act removes the current statutory obstacle to the construction of the statue, the Act does not itself authorise its construction. The Council granted planning permission in respect of the statue on 18 April 2013.
6. The Act also makes provision in respect of the Surplus Fire Fund (the “Fund”), which is a registered Scottish Charity (Charity number SC018967). It was originally established after a series of fires in the High Street in Edinburgh in 1824, and was transferred to the Edinburgh Corporation (now the City of Edinburgh Council) by section 71 of the Schedule to the Edinburgh Corporation Order Confirmation Act 1927 (“the 1927 Act”). The Council is the sole trustee of the Fund. The charitable purposes for which the Fund assets may currently be applied are set out in section 41 of the Schedule to the 1991 Act, being essentially the same purposes as were set out in section 572 of the Schedule to the Edinburgh Corporation Order Confirmation Act 1967 (“the 1967 Act”), and are as follows:
  - the relief of any persons suffering injury, or of the dependents of persons who have lost their lives or have suffered serious injury, in or in connection with fires within the district; and

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- making awards or grants to persons who have rendered meritorious service in connection with fires within the district.
7. The Act will:
- amend the purposes for which the Fund can be applied in order to make those purposes more flexible;
  - transfer the property, rights, interests and liabilities of the Fund to a well-administered and active charitable body – the Edinburgh Voluntary Organisations Trust (“EVOT”) (charity number SC031561), with the assets to be held in a restricted fund and subject to the same amended purposes; and
  - thereafter dissolve the Fund.

## **COMMENTARY ON SECTIONS**

### ***Section 1: Modification of restriction on buildings in certain parks***

8. **Section 1** amends section 22 of the Schedule to the 1991 Act, which prohibits the erection of buildings on Leith Links other than buildings falling into specified categories, by creating an exception to that prohibition for the proposed statue of John Rattray.

### ***Section 2: Purposes for which the Surplus Fire Fund may be applied***

9. Subsection (1) limits the trustees of the Fund to applying it only in accordance with subsections (2) and (3).
10. Subsection (2) sets out the purposes for which the trustees must apply the Fund.
11. Subsection (3) provides that awards, grants, payments and other benefits in respect of injury or death, or in respect of damage to domestic premises or household contents, may only be made to, or conferred upon, individuals residing within the Council area.
12. Subsection (4) ensures that any other provision, in earlier legislation or any trust deed, that specifies purposes for which the Fund may be used no longer has effect. This ensures that the Fund may only be used for the purposes set out in this section.

### ***Section 3: Transfer of property, rights, interests and liabilities***

13. Subsection (1) transfers all property, rights, interests and liabilities of the Fund to EVOT.
14. Subsection (3) makes EVOT a party to any contract entered into by the Fund. This ensures that the other party or parties to any such contract are not prejudiced by the transfer of the Fund’s assets etc to EVOT, nor by the Fund’s dissolution under section 5.
15. Subsection (4) ensures that the transfer of any particular property, right, interest or liability of the Fund is not precluded or prejudiced because of the absence of any delivery, possession or intimation of assignation that would otherwise be required for such a transfer to be valid.
16. Subsection (5) ensures that the transfer of any property, right, interest or liability is not precluded or prejudiced because of the absence of a disposition, conveyance or assignation that would otherwise be required.
17. Subsection (6) ensures that any legal proceedings brought by or against the Fund at the date of transfer may be continued by or against EVOT. This ensures that any such proceedings are not frustrated because of the transfer of the Fund’s property, rights, interests and liabilities to EVOT, nor by the Fund’s dissolution under section 5.

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**Section 4: Restrictions on the transferee following transfer**

18. Subsection (1) ensures that EVOT must hold the property transferred to it, and any income deriving from it, separately from its other assets, as restricted funds.
19. Subsection (2) restricts EVOT to using that fund for the same purposes, and subject to the same condition, as are set out in section 2.
20. Subsections (3) to (5) permit the Fire Brigades Union (“FBU”) to nominate up to two individuals who will be entitled to attend any EVOT meetings at which the restricted funds are discussed. Those individuals must receive the same notice of the meeting as EVOT’s trustees and may contribute to any discussions at the meeting relating to the restricted funds. They may also access documents relating to the restricted funds on the same terms as any other EVOT trustee or committee member. However, they are not entitled to vote on any matter.
21. Subsection (6) makes provision for the FBU’s rights under this section to be transferred to another organisation representing professional firefighters in the event that the FBU ceases to exist.

**Section 5: Dissolution and repeal**

22. Section 5 dissolves the Fund and repeals the provisions of the 1927 Act, 1967 Act and 1991 Act relating to it.

**Section 7: Commencement**

23. The provisions creating the exception for the statue on Leith Links and changing the purposes of the Fund come into force the day after Royal Assent. The transfer of the Fund’s property, rights, interests and liabilities takes place at the end of 7 days beginning with the day of Royal Assent. The Fund is dissolved the day after the transfer.

**PARLIAMENTARY HISTORY**

24. The following table sets out, for each stage of the proceedings in the Scottish Parliament on the Bill for this Act, the dates which the proceedings at that stage took place, and the references to the Official Report of those proceedings. It also shows the dates on which the Committee report and other papers relating to the Bill were published, and the references to those reports and other papers.

<i><b>PROCEEDINGS AND REPORTS</b></i>	<i><b>REFERENCE</b></i>
<b>INTRODUCTION</b>	
Bill as introduced – 5 September 2013	<a href="#">SP Bill 37 –Session 4 (2013)</a>
<b>Preliminary Stage</b>	
1st meeting, 31 October 2013	<a href="#">1st Meeting, 31October 2013</a>
2nd meeting, 14 November 2013	<a href="#">2ndMeeting, 14 November 2013</a>
3rd meeting, 12 December 2013	(Meeting in private)
The City of Edinburgh Council (Leith Links and Surplus Fire Fund) Bill Committee Preliminary Stage Report, published – 16 December 2013	<a href="#">1st Report, 2013 (Session 4), City of EdinburghCouncil (Leith Links and Surplus Fire Fund) Bill Committee</a>

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<b>PROCEEDINGS AND REPORTS</b>	<b>REFERENCE</b>
Preliminary Stage debate – 21 January 2014	Cols 26811-26819
<b>Consideration Stage</b>	
4th meeting, 30 January 2014	4th Meeting, 30 January 2014
<b>Final Stage</b>	
<b>Consideration by the Parliament</b>	
Final Stage debate –18 February 2014	Cols 27638-27645
<b>ROYAL ASSENT</b>	
27 March 2014	City of Edinburgh Council (Leith Links and Surplus Fire Fund) Act 2014 (asp 7)