

# **NATIONAL GALLERIES OF SCOTLAND ACT 2016**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes have been prepared by CMS Cameron McKenna LLP on behalf of the promoters, the Board of Trustees of the National Galleries of Scotland (“the Board”) to assist the reader of the National Galleries of Scotland Act 2016 (“the Act”) 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 a part of a section, does not seem to require any explanation or comment, none is given.

### **THE ACT**

3. In pursuance of their statutory functions, the Board propose to extend the Scottish National Gallery. The new section of the National Gallery will extend into an area of land (“the relevant land”) which currently forms part of Princes Street Gardens (“the Gardens”) and is part of the common good land of the City of Edinburgh Council (“the Council”).
4. The relevant land is currently in the ownership of the Council. Due to the relevant land’s common good status, the Council cannot dispose of it to a third party under existing law without, either, court authorisation under the terms of section 75(2) of the Local Government (Scotland) Act 1973 (“the 1973 Act”), or by means of primary legislation. The Act will change the status of the relevant land to enable the Council to dispose of it to the Board for the purpose of extending the Scottish National Gallery, as an alternative to court authorisation.
5. The disposal of the relevant land to the Board will not be sufficient in itself to enable the Board to extend the Scottish National Gallery. The Gardens are subject to a statutory restriction which prohibits the construction of buildings on any part of the Gardens. That restriction is contained in section 22 of the Schedule to the [City of Edinburgh District Council Order Confirmation Act 1991 \(c.xix\)](#) (“the 1991 Act”). While there are limited exceptions to this prohibition, e.g. for monuments and bandstands, none of them would permit the works proposed by the Board.
6. Without further legislation, the relevant land (even if owned by the Board rather than the Council):
  - a) would continue to be part of the Gardens; and accordingly
  - b) would continue to be subject to the statutory restriction contained in section 22 of the Schedule to the 1991 Act.
7. The Act is therefore necessary to remove the relevant land from the Gardens and hence to disapply the effect of section 22 of the Schedule to the 1991 Act to the relevant land.

## COMMENTARY ON SECTIONS

8. [Section 1\(1\)](#) provides that, when the Act comes into force, the relevant land will be deemed to be alienable common good land for the purposes of Part VI of the 1973 Act. This enables the Council to rely on section 74 of that Act, read with section 75(1), to dispose of the land.
9. [Section 1\(2\)](#) limits subsection (1) so that the Council may only dispose of the relevant land to the Board for the purpose of extending the Scottish National Gallery, The Mound, Edinburgh. The relevant land otherwise remains inalienable, and so the Council may not dispose of it under section 74 of the 1973 Act to any other party or for any other purpose without court authorisation or further legislation.
10. [Section 2](#) provides that, when the Act comes into force, the relevant land will cease to form part of the Gardens and, consequently, the restriction on construction contained in section 22 of the Schedule to the 1991 Act will cease to apply to the relevant land.
11. [Section 3](#) principally defines the relevant land. A plan which identifies its location and extent has been produced by the promoter and was published<sup>1</sup> when the Bill was introduced. It measures approximately 737 square metres.

## PARLIAMENTARY HISTORY

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

<i><b>PROCEEDINGS AND REPORTS</b></i>	<i><b>REFERENCE</b></i>
<b>INTRODUCTION</b>	
Bill as introduced - 25 June 2015	<a href="#">SP Bill 77, Session 4 (2015)</a>
SPICe briefing on the Bill – published 1 October 2016	<a href="#">SPICe Briefing SB 15/62</a>
<b>OBJECTIONS</b>	
The objection period ran from 26 June 2015 to 24 August 2015. No admissible objections were lodged	
<b>PRELIMINARY STAGE</b>	
<b>(a) National Galleries of Scotland Bill Committee</b>	
1st Meeting, 24 September 2015	<a href="#">1st Meeting, 24 September 2015</a>
2nd Meeting, 8 October 2015 (evidence)	<a href="#">2nd Meeting, 8 October 2015</a>

<sup>1</sup> [http://www.scottish.parliament.uk/S4\\_Bills/National%20Galleries%20of%20Scotland%20Bill/Plan\\_of\\_relevant\\_land\\_in\\_relation\\_to\\_National\\_Galleries\\_of\\_Scotland\\_Bill.pdf](http://www.scottish.parliament.uk/S4_Bills/National%20Galleries%20of%20Scotland%20Bill/Plan_of_relevant_land_in_relation_to_National_Galleries_of_Scotland_Bill.pdf)

*These notes relate to the National Galleries of Scotland Act  
2016 (asp 6) which received Royal Assent on 23 February 2016*

<b>PROCEEDINGS AND REPORTS</b>	<b>REFERENCE</b>
3rd Meeting, 29 October 2015 (evidence)	<a href="#">3rd Meeting, 29 October 2015</a>
4th Meeting, 12 November 2015	In private
Preliminary Stage Report, published 13 November 2015	<a href="#">1st Report, 2015 (Session 4)</a> SP Paper 833
<b>(b) Consideration by the Parliament</b>	
Preliminary Stage 1 debate – 3 December 2015	<a href="#">Cols 36-46</a>
<b>CONSIDERATION STAGE</b>	
<b>National Galleries of Scotland Bill Committee</b>	
Consideration Stage proceedings – 15 December 2015	<a href="#">5th Meeting, 15 December 2015</a>
<b>FINAL STAGE</b>	
<b>Consideration by the Parliament</b>	
Debate on motion to pass Bill – 19 January 2016	<a href="#">Cols 58 – 64</a>
<b>ROYAL ASSENT</b>	
23 February 2016	<a href="#">National Galleries of Scotland Act 2016 (asp 6)</a>