

*These notes relate to the Burrell Collection (Lending And Borrowing)
(Scotland) Act 2014 (asp 4) which received Royal Assent on 25 February 2014*

BURRELL COLLECTION (LENDING AND BORROWING) (SCOTLAND)) ACT 2014

EXPLANATORY NOTES

INTRODUCTION

1. The 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 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 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 (as revised) 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 The restrictions are considered by the promoter to be outdated and unduly restrictive in terms of promoting the Collection (by way of lending or touring) as one of Scotland’s most important cultural assets.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 Act 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 Act 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 Act 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.

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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 revisions to the code agreed by the Council must be published no later than one week after such revision.
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:-

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“... 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 Act. 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 Act. 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>
16. The inclusion in the Act 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).

PARLIAMENTARY HISTORY

19. 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>PROCEEDINGS AND REPORTS</i>	<i>REFERENCE</i>
INTRODUCTION	
Bill as introduced – 29 May 2013	SP Bill 33 –Session 4 (2013)
Preliminary Stage	
1st meeting, 18 June 2013	1st Meeting, 18 June 2013
2nd meeting, 9 September 2013	2nd Meeting, 9 September 2013
3rd meeting, 19 September 2013	3rd Meeting, 19 September 2013
4th meeting, 3 October 2013	(Meeting in private)
5th meeting, 31 October 2013	(Meeting in private)
Burrell Collection (Lending and Borrowing) (Scotland) Bill Committee Preliminary Stage Report, published – 11 November 2013	1st Report, 2013 (Session 4), Burrell Collection (Lending and Borrowing) (Scotland) Bill Committee
Preliminary Stage debate – 21 November 2013	Cols 24778- 24788
Consideration Stage	
6th meeting, 5 December 2013	6th Meeting, 5 December 2013
Final Stage	
Consideration by the Parliament	
Final Stage debate – 21 January 2014	Cols 26761 - 26772
ROYAL ASSENT	
25 February 2014	Burrell Collection (Lending and Borrowing) (Scotland) Act 2014 (asp 4)

ANNEXE:

20. This annexe sets out the following documents which together make up the Will and Agreement referred to in paragraph 3:

- Trust Disposition and Settlement made by Sir William Burrell on 23 February 1953 and registered in the Books of Council and Session on 11 April 1958,
- Codicil (1) to Trust Disposition and Settlement made by Sir William Burrell on 2 March 1956 and registered in the Books of Council and Session on 11 April 1958,
- Codicil (2) to Trust Disposition and Settlement made by Sir William Burrell on 25 April 1956 and registered in the Books of Council and Session on 11 April 1958,
- Codicil (3) to Trust Disposition and Settlement made by Sir William Burrell on 6 July 1956 and registered in the Books of Council and Session on 11 April 1958,
- Memorandum of Agreement between Sir William Burrell and Lady Constance Mary Lockhart Burrell and The Corporation of the City of Glasgow dated 30 March and 6 April 1944,
- Letter confirming amendment to Memorandum of Agreement dated 5 January 1945,
- Letter acknowledging amendment to Memorandum of Agreement dated 6 January 1945,
- Supplementary Memorandum of Agreement between Sir William Burrell and Lady Constance Mary Lockhart Burrell and The Corporation of the City of Glasgow dated 22 and 30 November 1951,
- Letter confirming amendment to Supplementary Memorandum of Agreement dated 16 April 1956,
- Letter acknowledging amendment to Supplementary Memorandum of Agreement dated 22 August 1956.

Trust Disposition and Settlement made by Sir William Burrell on 23 February 1953 and registered in the Books of Council and Session on 11 April 1958

Codicil (1) to Trust Disposition and Settlement made by Sir William Burrell on 2 March 1956 and registered in the Books of Council and Session on 11 April 1958

Codicil (2) to Trust Disposition and Settlement made by Sir William Burrell on 25 April 1956 and registered in the Books of Council and Session on 11 April 1958

Codicil (3) to Trust Disposition and Settlement made by Sir William Burrell on 6 July 1956 and registered in the Books of Council and Session on 11 April 1958

Memorandum of Agreement between Sir William Burrell and Lady Constance Mary Lockhart Burrell and The Corporation of the City of Glasgow dated 30 March and 6 April 1944

Letter confirming amendment to Memorandum Agreement dated 5 January 1945

Letter acknowledging amendment to Memorandum Agreement dated 6 January 1945

Supplementary Memorandum of Agreement between Sir William Burrell and Lady Constance Mary Lockhart Burrell and The Corporation of the City of Glasgow dated 22 and 30 November 1951

Letter confirming amendment to Supplementary Memorandum of Agreement dated 16 April 1956

Letter acknowledging amendments to Supplementary Memorandum of Agreement dated 22 August 1956