

## EXPLANATORY NOTE

*(This note is not part of the Order)*

By this Order, Scottish Ministers have disapplied paragraphs (a) and (b) of section 7(4) of the Charities and Trustee Investment (Scotland) Act 2005 (“the 2005 Act”) in relation to the National Library of Scotland, the National Galleries of Scotland, the National Museums of Scotland, the Royal Commission of Ancient and Historical Monuments of Scotland and the Royal Botanic Garden, Edinburgh.

Section 7(4)(a) of the 2005 Act provides that if a body’s constitution allows it to distribute or otherwise apply any of its property for a non charitable purpose, it will not meet the charity test in the 2005 Act. Section 7(4)(b) of the 2005 Act provides that if a body’s constitution expressly permits the Scottish Ministers or a Minister of the Crown to direct or otherwise control its activities, it will not meet the charity test in the 2005 Act.