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Edinburgh Bakers' Widows' Fund Bill

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The Edinburgh Bakers' Widows' Fund Bill is a private bill, promoted by the trustees of the Fund. It would dissolve the current Widows' Fund and transfer its assets to a specially established charity.



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Executive Summary

The Edinburgh Bakers' Widows' Bill deals with a fund for widows set up by the Incorporation of Bakers of the City of Edinburgh. The fund was established by Act of Parliament in 1813. It has become increasingly difficult to distribute funds in line with the original requirements set out in legislation.

The trustees of the fund wish to transfer the funds to a more modern, flexible and relevant scheme and have established a new charity for this purpose.

The Bill would enable the assets of the current trust to be transferred to the new charity. It would also empower the trustees to make payments to potential beneficiaries to replace their contingent right to make a claim in the future.

The Bill - relevant dates and documents

The [Edinburgh Bakers' Widows' Bill](#) ¹ was introduced in the Scottish Parliament on 20 March 2017, under private bill procedures. It is being promoted by the trustees of the Widows' Scheme of the Incorporation of Bakers of the City of Edinburgh. The Bill is accompanied by [Explanatory Notes](#) ² and a [Promoter's Memorandum](#) ³.

Also accompanying the Bill is a [Promoter's Statement](#) ⁴. This gives several bits of information required under the Scottish Parliament's Standing Orders. It also notes that copies of the Bill and accompanying documents can be viewed in various libraries around Edinburgh.

Anyone wishing to lodge an [objection](#) to the Bill must do so by 5pm on Friday 19 May 2017. Objections can be made by individuals or organisations adversely affected by the proposals in the Bill.

What the Bill does

The Bill would put in place arrangements to transfer assets from a body supporting bakers' widows to a new charitable body supporting education in relation to baking.

The role of the Widows' Fund

The Widows' Fund for the Incorporation of Bakers within the City of Edinburgh ("the Widows' Fund") was set up to provide payments to the widowed wives of members. In some circumstances, it was also possible to make payments to the children of deceased members.

The Bill would dissolve the trust that makes these payments and transfer its assets to a specially established charity. The new charity supports educational and training opportunities relating to baking, as well as promoting appreciation of local baking.

Problems administering the Widows' Fund

The trustees of the Widows' Fund are the promoters of this Bill. They argue that it is becoming increasingly difficult to distribute funds in line with the original spirit of the scheme. Thus, they want to transfer the trust's assets to a more modern, flexible and relevant scheme.

The Widows' Fund was established by an Act of Parliament - an [Act for providing a fund for annuities for widows of members of the Incorporation of Bakers of the City of Edinburgh](#) (1813)⁵. This sets out the rules under which the Widows' Fund must be administered.

The 1813 Act limits membership to men under the age of 45 who are members of the Incorporation of Bakers of the City of Edinburgh. Recent members of the Incorporation have tended to be women or older men. Thus, no one has been eligible to join the Widows' Fund for a number of years. The trustees formally closed the scheme to new members in 2013.

There are no bakers' widows who are currently entitled to payment from the scheme. However, there are two wives of existing members who would be eligible for payments if their husbands died before them.

The trustees are concerned that it may soon stop being possible to make payments from the Widows' Fund because there will be no more beneficiaries. In this situation, the trust would no longer be able to fulfil its purpose.

The Crown's claim to ownerless property

Where no one has a claim on the assets of a trust, it is possible for them to be taken by the Crown. This term is used to refer to the state (technically, the monarch as head of state). Under Scots law, the Crown has a right to claim ownership of otherwise ownerless property.

If this were to happen, the trustees conclude ([Promoter's Memorandum](#)³, paragraph 14):

“ The Fund would not then be used in the general spirit of either the scheme, or the Incorporation. ”

Private Bill Procedure

The Edinburgh Bakers' Widows' Fund Bill is a private bill. It is considered under different procedures to the public bills the Scottish Parliament normally deals with.

Chapter 9A of the [Standing Orders of the Scottish Parliament](#)⁶ sets out what constitutes a private bill.

A Private Bill is a Bill introduced for the purpose of obtaining for an individual person, body corporate or unincorporated association of persons ("the promoter") particular powers or benefits in excess of or in conflict with the general law . . . (Rule 9A.1.1)

Each private bill is considered by a Private Bill Committee. The committee is established only to deal with the bill. It is made up of three to five MSPs without any direct link to, or personal interest in, the subject matter of the bill.

There are three stages to the Scottish Parliament's consideration of a private bill. These can be described, broadly, as follows:

- **Preliminary Stage** – consideration by the private bill committee of the general principles of the bill and whether the bill should proceed as a private bill. There is also preliminary consideration of any objections. This is followed by a parliamentary debate and vote;
- **Consideration Stage** – consideration by the private bill committee of the bill's proposals in detail, including any objections and/or amendments lodged; and
- **Final Stage** – consideration of any amendments lodged by the full Parliament, plus a parliamentary debate and vote on whether to pass the bill.

Objections

Any person or organisation adversely affected by a private bill can register an objection.

To be admissible, an objection must:

- be in writing;
- state the objector's name and address (and any other contact details);
- set out the grounds for objection (and whether these relate to the whole bill or specific provisions);
- explain how the objector's interests would be adversely affected by the bill; and
- be signed and dated by the objector.

The Scottish Parliament leaflet "[Information for Objectors to Private Bills](#)"⁷ provides more information.

It is possible for those who are not adversely affected by a bill, but who nevertheless have views on it, to make a written submission to the Private Bill Committee.

Why is a private bill necessary?

Private bills are used to provide their promoters with benefits which go beyond the general law. In this case, the trustees wish to re-constitute a trust in a way which would be difficult to achieve using the current law.

The word "trust" describes an arrangement by which one party manages assets for the benefit of another party. The people who manage the trust are known as "trustees". The people who benefit are "beneficiaries".

The trustees must act in accordance with the document setting up the trust. In this case, this is the 1813 Act. This places strict limits on how the Widows' Fund can be operated.

In recognition of the fact that such instructions can become outdated or impractical over time, the law provides various options for re-organising trusts. These are discussed in more detail in the [Promoter's Memorandum](#)³ (paragraphs 18-31).

However, the trustees consider that none of the available options - other than a private bill - will deliver the changes they want to see. In particular they want:

- **more flexibility** - by moving away from regulation by Act of Parliament;
- **to change the purpose of the trust quite significantly** - which the trustees consider would be difficult to achieve under the current law.

The trustees have concluded that legislation which would dissolve the current trust and transfer its assets to a new charity is the best way of achieving this.

More information about the various bodies affected

The Incorporation of Bakers of the City of Edinburgh

The Incorporation of Bakers of the City of Edinburgh is one of a number of similar bodies set up in medieval times to control trade. Incorporations or guilds were usually given exclusive rights to trade in a town, in return for regulating the quality of the goods supplied.

The Incorporation of Bakers controlled the baking trade in Edinburgh. As well as regulating quality, it made provision for entry into the trade, training and the welfare of members.

The Incorporation is still in existence today. However, its influence - along with that of similar bodies - was much reduced after the loss of exclusive trading rights in the mid-19th century.

The Widows' Fund for the Incorporation of Bakers within the City of Edinburgh

In 1803, the Incorporation of Bakers set up a fund to support the widowed wives of members. It could also support the children of deceased members in certain circumstances.

For their wives to benefit, members had to make sufficient contributions into the scheme. Its set up therefore has much in common with a mutual insurance or friendly society-type arrangement.

Operation of the Widows' Fund is regulated by an Act of Parliament - the [Act for providing a fund for annuities for widows of members of the Incorporation of Bakers of the City of Edinburgh \(1813\)](#)⁵. Its provisions have become outdated.

Trustees of the Widows' Scheme of the Incorporation of Bakers of the City of Edinburgh

The trustees are the people responsible for administering the Widows' Fund's assets in accordance with the scheme established under the 1813 Act. This includes investing assets and making payments to widows. The trustees are the promoters of the Bill.

The Incorporation of Bakers of Edinburgh Charitable Trust

The trustees have established a new trust, regulated by charity legislation, to receive assets from the dissolved Widows' Fund. It has been approved by the Office of the Scottish Charities Regulator.

The purposes of the new charity are:

- the advancement of education, by supporting education and training opportunities in baking; and
- the advancement of the arts, heritage, culture or science, by providing public information and promoting an appreciation of local baking and the history of the baking trade, particularly in Edinburgh.

The provisions in the Bill

The Bill does four things:

- It enables the trustees to make capital payments to the wives of contributing members to replace their potential future right to make a claim.
- It transfers the assets of the Widows' Fund to a specially established charity - the Incorporation of Bakers of Edinburgh Charitable Trust.
- It dissolves the Widows' Fund.
- It repeals the 1813 Act.

Capital payments

There are two remaining wives of existing Widows' Fund members. These wives have the potential to make a future claim on the Widows' Fund should their husbands die before them.

The method of calculating the payment these women would receive is not set out on the face of the Bill. However, the [Promoter's Memorandum](#)³ (paragraph 38) notes that an actuary was consulted to come up with a fair sum. The wives have agreed to accept the payments.

Bibliography

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- 3 Edinburgh Bakers' Widows' Fund Bill Promoter's Memorandum, SP Bill 10-PM. (2017). Retrieved from <http://www.parliament.scot/Edinburgh%20Bakers%20Widows%20Fund%20Bill/SPBILL10PMS052017.pdf> [accessed 25 April 2017]
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