



The Scottish Parliament
Pàrlamaid na h-Alba

SPICe

The Information Centre
An t-Ionad Fiosrachaidh

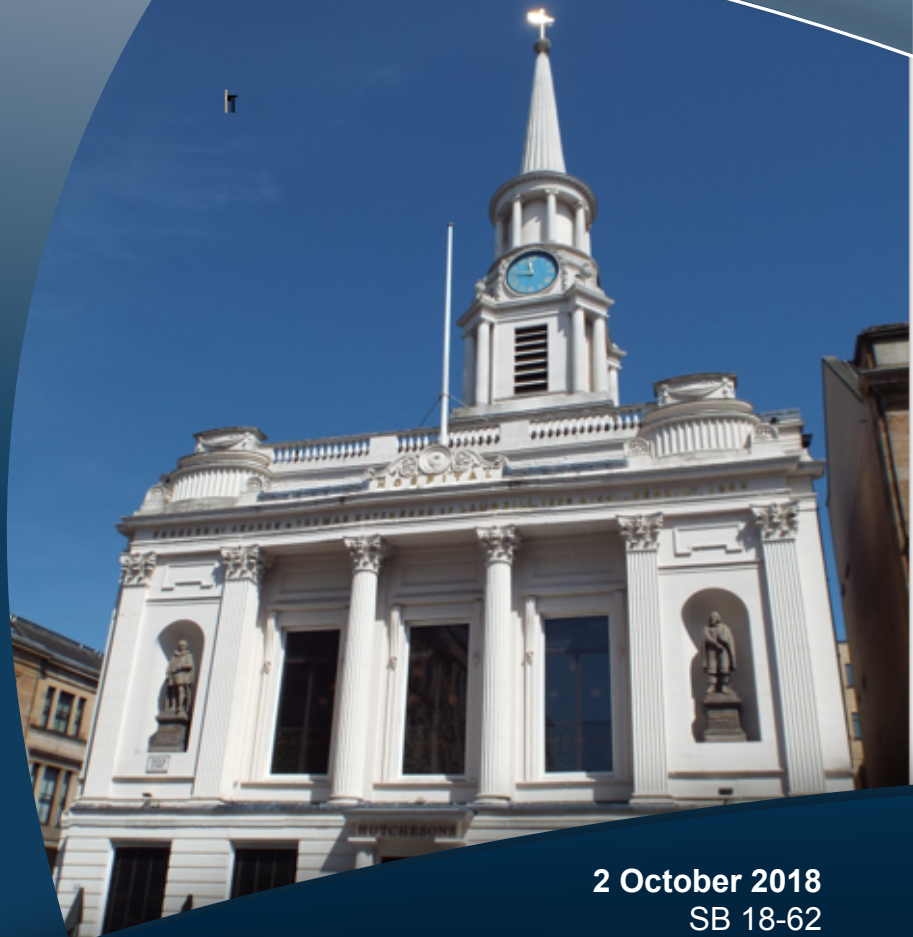
SPICe Briefing

Pàipear-ullachaidh SPICe

Hutchesons' Hospital Transfer and Dissolution (Scotland) Bill

Abigail Bremner

The Hutchesons' Hospital Transfer and Dissolution (Scotland) Bill is a private bill, promoted by the patrons of The Royal Incorporation of Hutchesons' Hospital. It would transfer the assets of the current Royal Incorporation to a more flexible form of charitable body.



2 October 2018
SB 18-62

Contents

Executive Summary	3
The Bill - relevant dates and documents	4
What the Bill does	5
Private bill procedure	6
The history of the Hutchesons' Hospital funds	7
How the Royal Incorporation currently operates	8
Allowances paid to needy individuals	8
The grant made to Hutchesons' Grammar School	8
Governance of the Royal Incorporation	9
How the new Royal Incorporation SCIO will operate	10
Is a private bill necessary?	11
Bibliography	12

Executive Summary

The Hutchesons' Hospital Transfer and Dissolution (Scotland) Bill deals with a charitable fund which pays allowances to needy Glaswegians and supports bursaries to Hutchesons' Grammar School. The charity is called The Royal Incorporation of Hutchesons' Hospital in the City of Glasgow.

The governance arrangements for the Royal Incorporation are to be found in the Hutchesons Hospital Act 1872. These have become unwieldy and inefficient over time. The patrons of the Royal Incorporation believe its assets could be used more effectively if arrangements for running it were modernised.

The Bill proposes to repeal the 1872 Act and transfer the assets, rights, interests and liabilities of the current Royal Incorporation to a Scottish Charitable Incorporated Organisation (SCIO) with similar aims.

The Bill - relevant dates and documents

The [Hutchesons' Hospital Transfer and Dissolution \(Scotland\) Bill](#) ¹ was introduced in the Scottish Parliament on 25 June 2018.

It is a [private bill](#), introduced by the patrons of The Royal Incorporation of Hutchesons' Hospital in the City of Glasgow. The patrons of the Royal Incorporation are referred to as the promoters of the Bill.

The Bill is accompanied by the following documents:

- [Explanatory Notes](#) ² ;
- a [Promoter's Memorandum](#) ³ ;
- a [Promoter's Statement](#) ⁴ , which includes details of steps taken to notify those affected by the Bill's provisions; and
- [Statements on Legislative Competence](#) ⁵ .

Accessing other documents relevant to the Bill

The promoters have also made available the [Hutchesons Hospital Act 1872](#). This legislation provides the current framework under which the patrons of the Royal Incorporation deal with the management of the legacies which form the charity's funds.

Other documents relevant to the Royal Incorporation are available on request from the promoters. They can also be viewed at various libraries in Glasgow. Details are in the Promoter's Statement.

No objections to the Bill

Those affected by the provisions of a private bill can lodge objections during a 60 day period after a bill has been introduced. For the Hutchesons' Hospital Bill, this period ended on 24 August 2018. No objections were received.

What the Bill does

Private bills look to change the law for private individuals or bodies rather than for the wider public. They follow a special [private bill procedure](#), which is different from the procedure the Scottish Parliament follows for the scrutiny of public bills.

The purpose of the Bill is to transfer the assets, rights, interests and liabilities of the current Royal Incorporation to a more modern body. The promoters believe that this would allow the funds to be administered more efficiently.

The current Royal Incorporation is a charity. Its assets would be transferred to a new Royal Incorporation. This new body would also be a charity, but it would take the form of a Scottish Charitable Incorporated Organisation (SCIO).

The new charity is called The Royal Incorporation of Hutchesons' Hospital in the City of Glasgow (SCIO). It has been registered with the Office of the Scottish Charity Regulator (OSCR), with charity number SC048030.

SCIOs are a flexible form of organisation for charities, created under the Charities and Trustee Investment (Scotland) Act 2005. Essentially, they combine the advantages of having an organisational legal personality (so the organisation, rather than its members as individuals, can act) with a proportionate regulatory regime.

The Bill's sections

- **Section 1** would transfer the property, rights, interests and liabilities of the current Royal Incorporation to a new SCIO.
- **Section 2** would dissolve the current Royal Incorporation and repeal the Hutchesons Hospital Act 1872.
- **Section 3** would define the current Royal Incorporation and the new SCIO.

Private bill procedure

The Hutchesons' Hospital 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)

Essentially, private bills propose to change the law to benefit private individuals or bodies, rather than the general public.

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.

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 motion and vote;
- **Consideration Stage** – detailed consideration by the private bill committee of any objections and/or amendments lodged; and
- **Final Stage** – consideration by the full Parliament of any further amendments lodged, plus a parliamentary debate and vote on whether to pass the bill.

The history of the Hutchesons' Hospital funds

The original Hutchesons' Hospital bequest was made in 1639

The bequest took the form of a legacy from the will of George Hutcheson. It was to be used to support old men from Glasgow who had previously been merchants or tradesmen, but had fallen on hard times.

A "hospital" was built for those receiving support to live in, giving the legacy its name. However, for most of the time since, support from the funds has taken the form of an allowance (or "pension") which did not require residence at the hospital.

The original legacy from George Hutcheson was added to by his brother Thomas

Thomas made specific provision for support to be provided to poor (male) orphans, who were the sons of former merchants and traders.

A school was established for those orphans who had sufficient ability. This eventually became today's Hutchesons' Grammar School.

Various other legacies have since been added to the funds

These legacies had broadly the same purposes, although some of the wills created different requirements in terms of who was to benefit.

A Royal Charter was granted in 1821, giving a clearer legal basis for the administration and management of the funds

It also allowed the use of the name Royal Incorporation, so that the funds became known as the Royal Incorporation of Hutchesons' Hospital in the City of Glasgow.

The way the funds were governed was further reformed by the Hutchesons Hospital Act 1872

The legislation rationalised the way qualifying bodies appointed patrons to the Royal Incorporation. It also gave wider powers to the patrons to fund a range of educational initiatives, including education for girls.

The 1872 Act sets the rules which apply to the funds today.

How the Royal Incorporation currently operates

The Royal Incorporation manages money which has been left in various legacies. This is invested, and the profits are distributed to needy individuals who meet the Royal Incorporation's criteria, and to Hutchesons' Grammar School.

This part of the briefing looks at:

- [allowances paid to needy individuals](#);
- [the grant made to Hutchesons' Grammar School](#); and
- [governance of the Royal Incorporation](#).

Allowances paid to needy individuals

The Royal Incorporation pays allowances (referred to as pensions) to needy men and women. The most recently available annual accounts ⁷ cover the period to 31 December 2016. These report that pensions were being paid to 23 women and four men.

The accounts outline the qualifying criteria for receiving support as follows:

The General Fund is designed to benefit persons who have carried on business or trade in Glasgow for some time with credit and reputation, or who have in any way promoted the prosperity of the City, who by misfortune have been reduced in circumstances and are now considered needful and deserving of aid. The fund also extends to support the widows and daughters of persons of the above description whose circumstances the Patrons may consider needful.

Applicants ought to be fifty years of age or over. Widows having two or more children dependant on them, may however be enrolled at forty years of age. The claims of applicants residing in Glasgow are preferable to those resident at a distance. Other things being equal, applicants of the name of Hutcheson are to be preferred on the Funds of Hutchesons' Hospital.

The grant made to Hutchesons' Grammar School

The Royal Incorporation uses at least 40% of its net income to support Hutchesons' Grammar School. The money is paid to Hutchesons' Educational Trust, which runs Hutchesons' Grammar School.

Hutchesons' Grammar School is a private school. Those attending are required to pay fees. The grant from the Royal Incorporation is used to provide bursaries to "those in need" ⁷.

Governance of the Royal Incorporation

The Hutchesons Hospital Act 1872 sets out the governance arrangements for the Royal Incorporation. Amongst other things, the 1872 Act aimed to rationalise what had previously been in place.

At present, the Royal Incorporation is run by trustees known as patrons. The patrons are either particular office holders or are appointed by organisations with an interest in the the work of the Royal Incorporation.

There are a large number of people currently entitled to be patrons. This covers, for example, all Glasgow City councillors, as well as local Church of Scotland ministers and six representatives of Christian denominations other than Church of Scotland.

A chair person (known as a "preceptor") is elected by the patrons.

In practice, the day-to-day management of the Royal Incorporation is carried out by an executive committee of the patrons

This executive committee is made up of people with considerable experience of the responsibilities of a charity trustee ([Promoter's Memorandum](#), paragraph 16). The executive committee is advised by solicitors (who have the official title of "chamberlains").

How the new Royal Incorporation SCIO will operate

The constitution of the new SCIO sets out how it will operate. It is available on request from the Bill promoters.

According to its constitution, the purposes of the SCIO are:

- to make over not less than 40% of its net annual revenue to Hutchesons' Grammar School;
- to make provision for those with a connection to Glasgow facing financial hardship or other disadvantage (including where this is due to older age, changes in personal circumstances, personal or family-owned business failure or bereavement); and
- to make provision for the education and learning of children, young people and adults in the City of Glasgow and its surroundings.

The SCIO will also have a simplified management structure

There will be a maximum of 15 charity trustees, who will carry out the business of managing the Fund. They will be able to make decisions with a quorum of five. Trustees will be able to participate in meetings remotely and decisions via email will be possible.

The fifteen trustees will be made up as follows:

- a maximum of three trustees appointed by Glasgow City Council;
- a maximum of three trustees appointed by the Merchants House charity;
- a maximum of three trustees appointed by the Trades House charity;
- a maximum of one trustee appointed by the Church of Scotland Glasgow Presbytery;
- a maximum of one trustee appointed by the Roman Catholic Church Archdiocese of Glasgow; and
- a maximum of four trustees appointed by the other trustees.

Is a private bill necessary?

One of the questions that a private bill committee must consider is whether a bill should proceed as a private bill. This involves considering whether there are other practical options for the bill promoter to achieve its aims.

The promoters set out their views in paragraphs 15 to 23 of the Promoter's Memorandum. In summary, the patrons would like to change the current governance arrangements for the Royal Incorporation because:

- **The requirement to pass legislation to change the way the Royal Incorporation is run is inefficient**, preventing the charity's income being used to the greatest effect. The Hutchesons Hospital Act 1872 sets out the current governance arrangements for the Royal Incorporation. The Bill would repeal this Act. If necessary, trustees would be able to amend the constitution of the new Royal Incorporation SCIO by agreement (with oversight from the Office of the Scottish Charity Regulator - OSCR) in the future.
- **The current governance arrangements are outdated and unwieldy**. There are a large number of patrons, many of whom do not regularly attend meetings. The governance arrangements for the new Royal Incorporation SCIO are simpler and allow for more modern ways of working.
- **It is no longer necessary to have parliamentary oversight of the Royal Incorporation to provide accountability**. Charities in Scotland are now regulated by OSCR and must comply with legislation which sets out their obligations. There are also requirements around financial accounting and transparency.

The law provides various ways for charities to re-organise their affairs which do not involve a private bill

This is in specific recognition of the fact that the aims or governance arrangements of such bodies can become outdated over time.

There are options which may apply to the Royal Incorporation. These would include asking for OSCR's approval for reorganisation under provisions in the Charities and Trustee Investment (Scotland) Act 2005.

However, the promoters have taken the view that the law in this area is unclear. They have chosen to proceed with a private bill to minimise the risk that the re-organisation arrangements could be challenged in the future. Their position is explained in more detail in paragraphs 32 to 41 of the [Promoter's Memorandum](#).

Bibliography

- 1 Hutchesons' Hospital Transfer and Dissolution (Scotland) Bill [as introduced] SP Bill 36. (2018). Retrieved from [http://www.parliament.scot/Hutchesons%20Hospital%20Transfer%20and%20Dissolution%20\(Scotland\)%20Bill/SPBill36S052018.pdf](http://www.parliament.scot/Hutchesons%20Hospital%20Transfer%20and%20Dissolution%20(Scotland)%20Bill/SPBill36S052018.pdf) [accessed 6 September 2018]
- 2 Hutchesons' Hospital Transfer and Dissolution (Scotland) Bill Explanatory Notes SP Bill 36-EN. (2018). Retrieved from [http://www.parliament.scot/Hutchesons%20Hospital%20Transfer%20and%20Dissolution%20\(Scotland\)%20Bill/SPBill36ENS052018.pdf](http://www.parliament.scot/Hutchesons%20Hospital%20Transfer%20and%20Dissolution%20(Scotland)%20Bill/SPBill36ENS052018.pdf) [accessed 6 September 2018]
- 3 Hutchesons' Hospital Transfer and Dissolution (Scotland) Bill Promoter's Memorandum SP Bill 36-PM. (2018). Retrieved from [http://www.parliament.scot/Hutchesons%20Hospital%20Transfer%20and%20Dissolution%20\(Scotland\)%20Bill/SPBill36PMS052018.pdf](http://www.parliament.scot/Hutchesons%20Hospital%20Transfer%20and%20Dissolution%20(Scotland)%20Bill/SPBill36PMS052018.pdf) [accessed 6 September 2018]
- 4 Hutchesons' Hospital Transfer and Dissolution (Scotland) Bill Promoter's Statement SP Bill 36-PS. (2018). Retrieved from [http://www.parliament.scot/Hutchesons%20Hospital%20Transfer%20and%20Dissolution%20\(Scotland\)%20Bill/SPBill36PSS052018.pdf](http://www.parliament.scot/Hutchesons%20Hospital%20Transfer%20and%20Dissolution%20(Scotland)%20Bill/SPBill36PSS052018.pdf) [accessed 6 September 2018]
- 5 Hutchesons' Hospital Transfer and Dissolution (Scotland) Bill Statements on Legislative Competence SP Bill 36-LC. (2018). Retrieved from [http://www.parliament.scot/Hutchesons%20Hospital%20Transfer%20and%20Dissolution%20\(Scotland\)%20Bill/SPBill36LCS052018.pdf](http://www.parliament.scot/Hutchesons%20Hospital%20Transfer%20and%20Dissolution%20(Scotland)%20Bill/SPBill36LCS052018.pdf) [accessed 6 September 2018]
- 6 Scottish Parliament. (2018, May). Standing Orders of the Scottish Parliament - Chapter 9A: Private Bill Procedures. Retrieved from <http://www.parliament.scot/parliamentarybusiness/26513.aspx> [accessed 6 September 2018]
- 7 Royal Incorporation of Hutchesons Hospital in the City of Glasgow. (2017, undefined). Report and Accounts as at 31 December 2016. Website link no longer available but a hard copy can be requested from SPICe..

Scottish Parliament Information Centre (SPICe) Briefings are compiled for the benefit of the Members of the Parliament and their personal staff. Authors are available to discuss the contents of these papers with MSPs and their staff who should contact Abigail Bremner on telephone number 85361 or abigail.bremner@parliament.scot.

Members of the public or external organisations may comment on this briefing by emailing us at SPICe@parliament.scot. However, researchers are unable to enter into personal discussion in relation to SPICe Briefing Papers. If you have any general questions about the work of the Parliament you can email the Parliament's Public Information Service at sp.info@parliament.scot. Every effort is made to ensure that the information contained in SPICe briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

