

# **NATIONAL LIBRARY OF SCOTLAND BILL**

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## **POLICY MEMORANDUM**

### **INTRODUCTION**

1. This document relates to the National Library of Scotland Bill introduced in the Scottish Parliament on 26 October 2011. It has been prepared by the Scottish Government to satisfy Rule 9.3.3(c) of the Parliament's Standing Orders. The contents are entirely the responsibility of the Scottish Government and have not been endorsed by the Parliament. Explanatory Notes and other accompanying documents are published separately as SP Bill 2–EN.

### **BACKGROUND**

2. The National Library of Scotland (NLS) is Scotland's national resource for reference, study, research and bibliography, and is a statutory Non-Departmental Public Body (NDPB) and a registered Scottish charity. As it continues to evolve in the twenty-first century, its early twentieth century governance arrangements are increasingly out of date. This Bill will:

- Bring NLS's governance arrangements, enacted in 1925, into line with those of many other public bodies. The governance provisions set out for the National Galleries of Scotland and the National Museums of Scotland in the National Heritage (Scotland) Act 1985 and for Creative Scotland, in the Public Services Reform (Scotland) Act 2010, have been the starting point for many of the provisions in this Bill.
- Provide the basis to enable NLS to continue to evolve and realise its ambitions as a modern organisation.
- Provide clarity as to the functions of NLS; update arrangements for the relationship with the Faculty of Advocates and its Library; set out the powers available to the NLS and in particular how it manages its collections through acquisitions, deposits, disposals and loans.
- Recognise the importance of NLS and the national collections it holds on behalf of the people of Scotland.

### **POLICY AIMS**

3. The Scottish Government believes in a creative Scotland which enriches our lives, enhances our learning and strengthens our economy and our society. To enable NLS to play its full part in this creative Scotland, the current constraints to NLS developing, as contained in its founding legislation from 1925, need to be stripped away. The Bill is also designed to provide sufficient scope for the further evolution of NLS and to cover future developments in Scottish Government policy.

4. The National Library of Scotland Act 1925 (“the 1925 Act”) was concerned with the original establishment of NLS and the transfer of non-legal books and legal deposit privileges from the Faculty of Advocates. Some 90 years on, much of the 1925 Act is redundant. The NLS board is out of step with modern public bodies; NLS’s functions have evolved and operational arrangements are in place to ensure clear relationships between NLS and the Faculty.

5. More broadly this legislation supports the Scottish Government’s simplification agenda and reform of the public services landscape. The Scottish Government’s core purpose is to create a more successful Scotland with opportunities for all through increasing sustainable economic growth. The Scottish Government wants to ensure that public services of the highest quality are delivered to people in Scotland, as efficiently, effectively and transparently as possible for the people who use them.

6. NLS’s operations align with the Scottish Government’s National Outcomes and NLS recognises the key role it plays in supporting education, research and innovation; in supporting business; in contributing to Scottish identity and by ensuring the public service it offers is continually improving and high quality.<sup>1</sup>

### **The importance of the National Library of Scotland**

7. NLS aids the continuous development of society whilst promoting our culture and heritage globally. NLS is Scotland’s only legal deposit library and can claim copies of anything published in print in the UK and Ireland. NLS is not a lending library and users request items they wish to view. NLS is a national resource which exists to advance universal access to knowledge about Scotland and in Scotland. Users from Scotland and beyond have free access to collections of over 14 million items. NLS is Scotland’s largest library and a major international centre for the study of Scotland and the Scots and a key resource for Scotland’s research community.

8. NLS’s collections span the centuries from early times to the digital age and cover virtually every subject. Every week, some 5,000 new items are added to its collections which cumulatively chart the global and historical influence of Scots at home and abroad, while also recording and reflecting the ideas and culture of the world. NLS holds over 7 million manuscripts, around two million maps and 25,000 newspaper and magazine titles. Material is held in over 490 languages. There are 70,000 visits per year to the reading room and around 2.5 million calls on the digital library. Users of NLS include researchers, cultural tourists, businesses, creative industries, libraries and the general public. NLS’s customers may be in Scotland, the rest of the UK or international.

9. Amongst the rare and valuable items held are the last letter written by Mary Queen of Scots hours before her execution and the only known copy of Blind Harry’s 15<sup>th</sup> century epic, *The Wallace*. A copy of the first printed book, the Gutenberg Bible of 1455 is preserved as are some of the earliest works printed in Scotland. The John Murray Archive contains some 250,000

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<sup>1</sup> NLS’s Corporate Plan for 2011-12 demonstrates its alignment with the Scottish Government’s National Outcomes <http://www.nls.uk/media/961969/2011-2012-corporate-plan.pdf>

items from some of the greatest writers, politicians, explorers and scientists of the past including, amongst others, Sir Walter Scott, David Livingstone, Jane Austen and Charles Darwin.

10. NLS brings Scotland's history and culture to life in the modern context. For example when the Mary Queen of Scots letter was displayed in September 2009 NLS received 12,000 visitors in two weeks. Recent exhibitions such as A Swing through Time told the history of golf, drawing on historical items to help tell why the game took off in Scotland. The exhibition coincided with the 150th anniversary of the Open Championship. NLS has also brought the John Murray Archive to life with the creation of an app for mobile phones.

11. NLS is an ambitious organisation and its current strategy, Connecting Knowledge,<sup>2</sup> commits it to demonstrating the wider impact of the Library and the difference that it makes. NLS is responding to the changing needs of its users. Traditional means of production and use of knowledge have shifted from print and paper to electronic formats. NLS has undertaken a significant programme of digitising its collections. More than 1.5 million manuscripts, letters, books, newspapers and market research reports can be accessed remotely. Key parts of the collections that have been digitised include Post Office directories, early Gaelic books and maps of Scotland dating from between 1560-1928. This shift presents challenges and opportunities to NLS as it considers collecting and preserving more electronic publications and ensuring that its wide range of customers can access resources online where and when it suits them. It is therefore vital that NLS has clear functions and governance structures which are fit for purpose and support both its existing and new ways of working.

### **Links between the Faculty of Advocates and the National Library of Scotland**

12. The Faculty of Advocates is an incorporation of independent lawyers that has run and funded the Advocates Library since 1689. Legal deposit was introduced in Scotland in 1709 and between 1842 and 1925 the Advocates Library held sole right of legal deposit for Scotland. (For more information on legal deposit see paragraphs 33-36). The Faculty gifted its collection of non-legal books to the nation in 1925, with the introduction of the National Library of Scotland Act in that year, to provide the foundation of the NLS.

13. The 1925 Act, alongside establishing the NLS, also ensured that NLS held the right of legal deposit for Scotland for both legal and non-legal publications (in addition to taking receipt of the Faculty's non-legal books). However, NLS is required under the provisions of the 1925 Act to pass all legal publications to the Advocates Library. The Faculty also owns part of the land on which the NLS is situated.

14. Given both the historical and continuing partnership working between the NLS and the Faculty of Advocates, the Government recognises that it is important that this Bill will maintain and enhance this relationship. The Advocates Library is Scotland's pre-eminent working law library and the Faculty's collections include rare manuscripts and many of the earliest Scottish law books. The Faculty Library's stock of legal deposit books is made available to the public, students and researchers through NLS and the public further benefits from the Faculty's collections of legal publications through the provision by advocates of qualified and independent advice on the law of Scotland.

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<sup>2</sup> Connecting Knowledge: <http://www.nls.uk/about-us/corporate-documents/2011-2014-strategy>

## **POLICY OBJECTIVES OF THE BILL**

### **Functions**

15. To allow NLS to develop as a modern organisation there needs to be a clear purpose to what it does and can do for Scotland. The current legislation, the 1925 Act, does not specify the functions of the NLS other than that the board manages the library. The overarching function of NLS will be as a national resource for reference, study, research and bibliography.
16. Rather than just stipulating a list of the particular functions that NLS has developed over the years the Government has taken the opportunity to consider functions that are outward and outcome focused. The functions provide the opportunity to express the importance, ambitions and benefits of NLS and the national collections. NLS and its collections offer enormous value to the economic, social and educational life of Scotland and attract audiences at local, national and international levels.
17. NLS will have the following particular functions:
- Preserving, conserving and developing its collections
  - Making the collections accessible to the public and to persons wishing to carry out study and research
  - Exhibiting and interpreting objects in the collections
  - Promoting collaboration between, and the adoption and sharing of good practice by, other persons providing library and information services.
18. NLS is to exercise its functions with a view to the objectives of:
- Encouraging education and research
  - Promoting understanding and enjoyment of the collections
  - Promoting the diversity of persons who access the collections
  - Contributing to understanding of Scotland's national culture.
19. The functions are designed to emphasise the 4 key areas that are vital to NLS's role:
- Collections: which recognises that the collections need to be maintained, developed and relevant to users. NLS collects the published record for the future, as well as current generations: adding to the collections is essential to ensure their currency, relevance and comprehensiveness. The collections will be exhibited and interpreted to aid understanding and enjoyment of Scotland's national record. NLS's collections will contribute to our understanding of Scotland's national culture.
  - Access: which recognises the duty NLS has to make the collections available and accessible to all users whether this is by physical or on-line access. Access is ensured in a number of ways. Users can physically visit NLS sites or use NLS's on-line technology to access catalogues of items held or view works that have been digitised. The use of NLS on-line materials increased by 35% from the previous year in 2010-11. The new visitor centre that was opened in 2009 promotes public access

with three exhibition spaces, events space and PC terminals along with a shop and café. Exhibitions offer the opportunity to showcase key items from the collections. NLS will promote the diversity of those who access the collections and make its collections as accessible and relevant as possible to all users. NLS supports a number of education initiatives and works closely with universities. In addition to visits by school groups, NLS recently launched the Learning Zone website to teachers and pupils which offers bespoke learning resources to support the Curriculum for Excellence. NLS is also part of Glow, the national intranet for education which allow practitioners and schools to interact, using familiar social networking tools.

- **Research:** The Scottish Government recognises that NLS is a major research library for students and lifelong learners that has built up a strong reputation over many years. The Government is keen that this continues and enshrining this feature in legislation will ensure that this happens. Research is vital to the continued improvement of our society and helps us to understand our historical, social and political contexts. Research supports improvements in social and intellectual capital, community identity, learning skills, technological evolution and the quality of life of the nation. Indeed in terms of research impacts Scotland is ranked second in the world<sup>3</sup>.
- **Collaboration:** NLS has a key role in sharing good practice and expertise amongst library communities. NLS has partnerships with the Scottish library community which facilitate how NLS can share its expertise and knowledge with public libraries. NLS shares best practice and innovation in areas such as collections development, preservation and conservation and it promotes collaboration between Scottish libraries, UK bodies and the international library community. NLS also collaborates with and supports the work of Scottish universities, the education sector and business. NLS's Scottish Business Information Service is one of the largest collections of company and market data in the UK and is a key resource for the Scottish business community.

## **Governance changes**

20. The governance reforms will ensure that NLS has the appropriate structures in place to further develop its corporate strategy and fulfil its functions. A more modern board structure will allow for input by those who meet the required skills and will allow flexibility to revisit the skills required as NLS moves its business ambitions forward.

21. The Bill will provide for a modern board structure. The 1925 Act allows for a board of 32 members which is too big and unwieldy when compared to the size of more modern public bodies. The Bill requires a board of between 7 and 14 members, including a chair.

22. There will be a fair and transparent process of selection based on merit. The NLS board will be appointed by Scottish Ministers and comply with public appointments procedures as regulated by the Public Appointments Commissioner for Scotland. Currently Scottish Ministers

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<sup>3</sup> From the website of the Scottish Funding Council. See <http://www.sfc.ac.uk/research/research.aspx>

are only involved in the process for appointing the Chair and 4 other members. Scottish Ministers nominate these members for approval by Her Majesty the Queen.

23. The Bill will remove the ex-officio and reserved places provided for in NLS's founding legislation. Such appointments are not made on open and transparent methods and this goes against modern public appointment procedures. The current NLS board contains 11 ex-officio members (for example the Lord President of the Court of Session, the Dean of the Faculty of Advocates, the Lord Provosts of Edinburgh, Glasgow, Dundee and Aberdeen and the MSP for Edinburgh Central). Places are also reserved on the NLS board for particular organisations and people. At present the following groups are able to appoint members to the NLS board: the Faculty of Advocates (5), Scottish universities (4) and local authorities (4).

24. The Scottish Government recognises the historical and current operational links between NLS and the Faculty of Advocates. The Faculty will be able to put forward nominations to Scottish Ministers for selection. Multiple nominees, who meet the selection specification as part of the selection process, must be put forward to allow choice. Faculty nominees will be subject to selection by short listing and interview. One Faculty nominee will be selected for appointment to the NLS board. Separately, the Government recognises that it is sensible to allow for a representative from the Faculty to attend relevant NLS meetings to speak on behalf of the Faculty on operational library matters, whilst distinguishing this role from that of the Faculty's board member. This Faculty representative would not be a member of the NLS board and would have no voting rights.

25. The Bill provides that Scottish Ministers will determine the terms and conditions of board members. This will include the period of appointment. At present there is no time limit set for NLS Crown appointees. This revision will ensure that the Library board is refreshed on a regular basis and contains members with the skills required to meet its business needs. A specified term is also a feature of the Code of Practice from the Public Appointments Commissioner for Scotland.

26. Generally, the Government expects that NLS will be led by a diverse group of people who between them have a broad knowledge of the areas in which the NLS operates – for example, local authorities and universities who also operate library and information services – as well as others who use the NLS, in addition to the wider mix of skills required for a public body such as corporate governance, business and finance. The Bill does not itself, however, set out these skills, in order that Scottish Ministers and NLS can consider the range and balance of skills required for the board as a whole at each recruitment round and as NLS continues to evolve over time.

### **Acquisitions, deposits, disposals and loans**

27. This legislation will provide clarity about the legal powers NLS has in relation to acquisitions, deposits, disposals and loans of objects. NLS has the discretion to add objects to its collections whether this is by purchase, exchange, gift or deposit. NLS is able to loan items from its collections to bodies within the UK or beyond and the legislation requires that NLS have regard to various factors when determining whether to loan an item or not.

28. It should be noted that deposits are not treated in the same way as ordinary acquisitions for the purposes of loans and disposal. Deposit is an arrangement where the depositor charges NLS with the safe-keeping of an object or collection for a fixed or indefinite period of time. Ownership of an object on deposit rests with the depositor. The Bill provides protection to those who transfer or deposit objects which are subject to trusts or conditions. NLS will only be able to dispose or loan such objects contrary to a prohibition or restriction on disposal or lending in very narrow circumstances. For instance disposal is only permitted if NLS obtains the consent of the donor or depositor to do so or if the object is damaged, has deteriorated, is infested or is hazardous. On every occasion that NLS proposes to loan an object NLS must either obtain the consent of the depositor (where a name and contact details exist) or failing this take all reasonable steps to ascertain the name and contact details of the depositor prior to the loan.

29. The Bill sets out in more detail NLS's general powers of disposal. The Scottish Government's aim is to provide a framework within which the board can continue to develop its collections efficiently, and effectively.

30. The Bill's provisions allow NLS to dispose of items in the collections by sale, exchange, gift, return or destruction if:

- The item is a duplicate of (or similar to) another item held
- The item is not required
- The object is damaged/has deteriorated and is no longer of use
- The object is hazardous
- Scottish Ministers provide approval for disposal in any other circumstances. This could allow approaches in cases of moral claims.

31. The exercise of these powers will need to be considered by NLS at all times against its function to preserve, conserve and develop the collections and the duty of board members as charity trustees to act in the best interests of the charity. The Scottish Ministers already have a role in consenting to disposals under the Holocaust (Return of Cultural Objects) Act 2009.

32. In keeping with the curatorial independence afforded to NLS, it will be for NLS to determine how it deploys the proceeds of any sales realised.

### **Legal publications received through legal deposit**

33. Provisions are included for the arrangements that have evolved since the transfer of non-legal books from the Faculty of Advocates to NLS. There is no alteration to how legal deposit or the transfer of legal material to the Faculty will operate although the Government has updated the provisions contained in the 1925 Act.

34. The Legal Deposit Libraries Act 2003 governs legal deposit arrangements across the UK. Publishers must deliver any print publication to NLS on request, without charge. NLS ensures that all legal publications are passed to the Faculty of Advocates' Law Library and this will continue. The Bill reflects the pre-existing statutory position and the operational procedure that has developed between NLS and the Faculty over many years.

35. The Bill commits NLS and the Faculty to enter into co-operative arrangements around access by the public to their respective collections and care of items held. Both organisations are in the process of finalising formal operational agreements to recognise existing and future practice in support of the Bill's provisions.

36. The UK Government has consulted on draft regulations<sup>4</sup> governing the arrangements for legal deposit in relation to non-print works<sup>5</sup>. The Bill cannot anticipate the outcome of the final regulations. Under the Bill, NLS will continue to be required to deliver off line non-print publications to the Faculty of Advocates and must also make available on line non-print material to the Faculty. There will be joint arrangements to support that.

### **General powers**

37. The Bill will ensure that NLS has the powers associated with a modern public body. Measures are also provided for future development and maximum flexibility.

38. It will be for NLS to determine if it wishes to use the powers provided in the Bill. The powers largely relate to how NLS could manage its business operations. The Bill also sets criteria for powers relating to managing the collections. NLS will, for instance be permitted to enter into contracts, create and own companies, make monetary loans and grants, charge for the provision of goods and services and borrow money from Ministers (and from other persons with Ministerial consent). This gives NLS scope to enhance its business operations and consider measures that will ensure that it is as efficient and financially viable as possible. Similar powers feature in the Public Services Reform (Scotland) Act 2010 in relation to Creative Scotland.

39. The list of powers is designed to give maximum flexibility to NLS should it wish to use these and allows too for any shifts in current finance policy. For instance the Government has provided a power to borrow money with Ministers' consent. Current finance policy does not allow for loans to public bodies although generally the potential for converting grants to loans has been looked at in the spending review. The Bill allows for NLS to borrow from Scottish Ministers at some point in the future if the policy changes.

### **Power of direction**

40. An express statutory power for Ministers to issue public bodies with directions of a general or specific nature is a standard feature of modern public body enabling legislation. Together with the existing non-statutory requirement for Ministers to approve corporate and business plans, and levels of funding, this is a key part of the accountability and governance framework and the terms of engagement between Ministers and public bodies.

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<sup>4</sup> [DCMS consultation on the Draft Legal Deposit Libraries \(Non-print Publications\) Regulations 2011](#)

<sup>5</sup> [The Legal Deposit Libraries Act 2003](#) created a framework that makes it possible for secondary legislation to be introduced to allow for e-deposit. Non-print works relates to off-line publications (work which is not accessed or delivered by means of the internet and is recorded in a physical form such as a CD Rom, DVD or microform (film and fiche)) and on-line publications (non-print works which are accessed or delivered by means of the internet).

41. The Bill includes a qualified Ministerial power of direction. The power is essentially restricted in order to respect NLS's curatorial and cultural judgement. Scottish Ministers will be unable to give directions on NLS's particular functions of preserving and developing its collections; making the collections accessible and exhibiting and interpreting objects. Furthermore, no directions may be given as regards the acquisition, disposal or lending of objects, legal deposit or in relation to NLS's exercise of its powers to make grants and loans. This restricted power of direction will not interfere with the cultural and curatorial functions of NLS.

42. NLS has charitable status. One element of the charity test set out in the Charities and Trustee Investment (Scotland) Act 2005 is a requirement that a body's constitution is not directed or controlled by Scottish Ministers. In the case of NLS and the other National Collections this requirement was disapplied by the Charity Test (Specified Bodies) (Scotland) Order 2006. This recognises the unique role played by these bodies and the importance of Scottish Ministers retaining a degree of control over the collections they hold. Thus, the inclusion of a power of direction is compatible with charitable status. NLS board members will be able to comply with directions without breaching their duties as charity trustees.

43. The Government has deliberately restricted the power of direction to prevent any interference with the cultural and curatorial functions of NLS which are the unique features of NLS's charitable constitution and where Ministerial direction is not appropriate. This clear and specific approach is intended to provide reassurance to NLS and donors that NLS will continue to enjoy significant cultural and curatorial judgement as befitting a charitable body and to provide sufficient safeguards to respect the important general principle that charities be free from Ministerial interference.

44. The Bill's provisions do not compromise the other elements of the charity test. NLS's functions express the organisation's charitable purposes (namely the advancement of education and the advancement of arts, heritage, culture or science) and NLS is expected to continue to provide public benefit.

## **ALTERNATIVE APPROACHES**

45. One option the Scottish Government considered would be to maintain the status quo and do nothing. Without legislative change the NLS board would be able to continue as it does at present. However, the current appointment arrangements are considerably out of date and, with the exception of the 5 members appointed by Her Majesty the Queen, go against modern practices which ensure independent regulation. Under the Bill NLS will have a board which is refreshed on a regular basis with the skills required to meet the business needs of the organisation. NLS will have a clear set of functions which will provide focus for the appointment process and will underpin the ambitions that NLS has for its future development. The Bill will provide a greater statement of NLS's powers in a number of areas of its operations.

46. Another option would be to make changes to NLS under Part 2 of the Public Services Reform (Scotland) Act 2010. Scottish Ministers have powers under that Act, by order, to improve the functions of, or remove burdens from, bodies such as the National Library of Scotland. Although scrutinised by Parliament, the order-making power would avoid the need for

primary legislation and may be a quicker means of achieving changes. The Scottish Government nevertheless concluded that the wholesale updating of NLS's governance, including its powers and the introduction of a new Ministerial power of direction, should be subject to the full scrutiny that primary legislation allows and for this reason the option of the order-making power has been rejected.

## **CONSULTATION**

47. In developing the policy aims for this Bill the Scottish Government considered carefully the response to consultation on a draft Culture Bill, published in December 2006 which included reform of the National Collections bodies, including the National Library of Scotland<sup>6</sup>.

48. The Scottish Government published a consultation paper on governance reforms to NLS on 31 March 2010 and sought comments from interested parties. Copies of the consultation were made available on request and the document was published on the Scottish Government's website at <http://www.scotland.gov.uk/Publications/2010/03/31102621/4>

49. The consultation period ran for 12 weeks, closing on 23 June 2010. In total 31 responses were received.<sup>7</sup> A factual report of the responses to the consultation is available on the Scottish Government's website at <http://www.scotland.gov.uk/Publications/2011/03/Publications>

50. There was broad support for the Scottish Government's proposals around reducing the size of the NLS board, the removal of ex-officio and reserved membership of the board and the proposal to specify the term of appointment for board members. Within that general support some issues were raised. The main concern was about proposals to provide Scottish Ministers with a power of direction over NLS. There were fears that power could interfere with NLS's independence from Scottish Ministers and might discourage potential donors if the "arms length" principle from Scottish Ministers was at risk. While a Ministerial power of direction over public bodies is a common feature of governance arrangements and accountability to the Scottish Government, Ministers accept that it is essential that NLS enjoys cultural and curatorial independence in carrying out its functions. Accordingly section 8 of the Bill will have the effect of preventing Ministers from giving directions relating to NLS's particular functions and powers requiring curatorial or cultural judgement.

51. There was concern about whether a Ministerial power of direction was compatible with NLS's charitable status. Scottish Ministers have given careful consideration to this point and the fundamental aim is not to introduce a power of direction that would mean that NLS fail the charity test. Such a power would also be consistent with the policy intention behind the 2006 order exempting NLS from aspects of the "charity test" provided for in the Charities and Trustee Investment (Scotland) Act 2005, on the basis that it was important for Ministers to retain certain powers over the National Collections. The Government believes that the charitable status of NLS

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<sup>6</sup> The Scottish Executive published a draft Culture (Scotland) Bill for consultation on 14 December 2006, seeking comments from interested parties. In addition to a wide distribution, copies of the consultation documents were made available on request and the consultation paper was published on the Scottish Executive's website: <http://scotland.gov.uk/Publications/2006/12/14095224/0>.

<sup>7</sup> There were 8 responses from library bodies, 9 responses from Scottish local authorities and 2 individuals. Other responses came from stakeholders such as the Faculty of Advocates and Scottish public bodies.

is not compromised by the provisions in the Bill. The proposed functions will enable NLS to retain its charitable purposes as these support the advancement of education and advancement of the arts, heritage and culture<sup>8</sup>. The inclusion of a power of direction does not affect charitable status by virtue of the disapplication of the independence requirement by the 2006 order. The Office of the Scottish Charity Regulator (OSCR) has confirmed that this is the case and that were the Bill to be passed these provisions would not prevent NLS from continuing to have charitable status.

52. There were calls for the Bill to ensure that the Faculty of Advocates were represented on the NLS board. The Bill will indeed recognise the on-going links between these two organisations.

53. There were suggestions made in relation to NLS's functions. One of the suggestions advocated the need to improve the scope and operation of current Legal Deposit legislation, particularly around the need to capture non-print publications, for example e-books. Regulations are being drafted by the Department for Culture, Media and Sport which will allow for non-print publications to be delivered to or deposited electronically with NLS. This Bill does not anticipate the final shape of these regulations. The provisions seek to ensure that there is consistent policy in relation to legal deposit across the UK in this respect.

54. It was suggested that there was potential for NLS to strengthen its links and partnerships with other public resource libraries in Scotland. Comments pointed out that NLS should have a role in widening access to national and local collections. Furthermore the functions should be more strategic, reflect the wider social contribution made by NLS and its contribution to lifelong learning. The Government has reflected on these comments and is satisfied that the functions stated in the Bill recognise the collaborative role of NLS and its remit in relation to library and information services.

## **EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT ETC.**

### **Equal opportunities**

55. The Government considers that the Bill does not have an adverse impact on the basis of age, gender, race, disability, marital or civil partnership status, religion or belief or sexual orientation. On the contrary, the Bill creates new opportunities for those with the relevant skills and experience to be appointed to the NLS board.

56. The Government has recently completed an Equality Impact Assessment for this Bill which considers the users of NLS and the board profile against the likely impact of the functions and governance changes proposed. The Government anticipates that the Bill will have a positive effect on equalities particularly in relation to the make-up of board members. The proposals will help to address the current gender imbalance and increase opportunities for younger, qualified persons to be appointed to the new board on merit. In relation to its functions, NLS

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<sup>8</sup> The charity test requires that bodies must have only charitable purposes, as set out in the 2005 Act. NLS's functions can be reasonably linked to the advancement of education (section 7(2)(b)) and the advancement of the arts, heritage, culture or science (section 7(2)(g)).

must have regard to promoting the diversity of its users which, amongst other things, supports equalities.

57. NLS offers free access to its collections for those living, working and visiting Scotland as well as broader communities through its online resources. It will continue to work with those in cultural and academic communities and other interested bodies.

### **Human rights**

58. The Bill does not give rise to any issues under the European Convention on Human Rights.

### **Island communities**

59. The functions of NLS in relation to access will encompass the island communities. NLS's modernisation and digitisation agenda will allow increased remote access to the collections.

### **Local government**

60. The Bill does not impose any new burdens or responsibilities on local authorities. There is recognition of the collaborative role NLS will continue to play in relation to other libraries, including local authority libraries.

### **Sustainable development**

61. NLS will continue to contribute positive social and educational impacts and is committed to minimising adverse environmental impacts.

62. A pre-screening report has been completed and was published on the Scottish Government website for comment on 8 September 2011.<sup>9</sup> In the absence of any comments the proposals are deemed to be exempt from strategic environmental assessment under section 7(1) of the Environmental Assessment (Scotland) Act 2005.

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<sup>9</sup> The pre-screening report can be found at: [www.scotland.gov.uk/seag/seagDocs/PRE-00375/11296.pdf](http://www.scotland.gov.uk/seag/seagDocs/PRE-00375/11296.pdf)



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