



PE 875

The Scottish Parliament

Public Petitions Committee – a template for e-petitions

Should you wish to submit an e-petition allowing signatures to be gathered on-line on the Public Petitions Committee e-petitioner web pages please complete the template below. Before submitting your e-petition please consult the Guidance on submission of public petitions for advice on what is and is not admissible. You may also seek advice from the Clerk to the Committee whose contact details can be found at the end of this form.

Details of principal petitioner:

Please enter the name of person and organisation raising the petition, including a contact address where correspondence should be sent to.

Miss Mary E Mackenzie
Braxholme
Springhill Road
Peebles
EH45 9ER

Text of petition:

The petition should clearly state what action the petitioner wishes the Parliament to take in no more than 5 lines of text, e.g.

The petitioner requests that the Scottish Parliament considers and debates the implications of the proposed Agenda for Change legislation for Speech and Language Therapy Services and service users within the NHS

Petition by Mary E Mackenzie calling for the Scottish Parliament to urge the Scottish Executive to ensure that all moveable and all heritable common good assets throughout Scotland are properly recorded, audited and insured and to introduce legislation to ensure such assets are properly safeguarded.

Period for gathering signatures:

Please enter the closing date for gathering signatures on your petition, which we would usually recommend is a period of between 4-6 weeks

Closing date: 2 September 2005

27839

Additional information:

Please enter any other information relating to the issues raised in your e-petition, including the reasons why the action requested is necessary. The text entered in this field should not exceed 2 pages. However, you may wish to provide further sources/links to background information.

See attached documents

Additional information (continued...)

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Action taken to resolve issues of concern before submitting an e-petition:

Before submitting a petition to the Parliament, petitioners are expected to have made an attempt to resolve their issues of concern, by for example, making representations to the Scottish Executive or seeking the assistance of locally elected representatives, such as councillors, MSPs and MSPs. Details of those approached should be entered.

Provided separately

Comments to stimulate on-line discussion:

Please provide at least one comment to set the scene for an on-line discussion on the petition, not exceeding 10 lines of text.

Common Good Assets are gifts through centuries from e.g. – the Scottish Crown, nobles, commoners, and include land, fishing rights, farms, buildings, museums, galleries, monuments, money, all of which may bring in annual rents and income; these are HERITABLE ASSETS. In addition items like furnishings, books, paintings, provosts' regalia, artefacts, weaponry are MOVEABLE ASSETS. Scottish burghs (including royal burghs) enjoy many rights and privileges for all time coming. Duly listed, maintained, audited, publicly accessible records of all Common Good Assets, within each Scottish Council, should statutorily exist.

Petitioners appearing before the Committee

The Convener of the Committee may invite petitioners to appear before the Public Petitions Committee to speak in support of their petition. Such an invitation will only be made if the Convener considers this would be useful in facilitating the Committee's consideration of the petition. It should be noted that due to the large volume of petitions it has to consider, the Committee is not able to invite all petitioners to appear before the Committee to speak in support of their petition.

*Please indicate below if you do **NOT** wish to make a brief statement before the Committee when it comes to consider your petition.*

I do NOT wish to make a brief statement before the Committee

Signature of principal petitioner:

When satisfied that your petition meets all the criteria outlined in the Guidance on submission of public petitions, the principal petitioner should sign and date the form in the box below. Other signatures gathered should be appended to this form.

Signature .. Mary E. Klockenzie ..

Date .. 11 July 2005 ..

For advice on the content and wording of your e-petition please contact:

The Clerk to the Public Petitions Committee
The Scottish Parliament
Edinburgh
EH99 1SP
Tel: 0131 348 5186 Fax: 0131 348 5088
e-mail: petitions@scottish.parliament.uk

Note

Completed e-petition forms should also be sent to
petitions@scottish.parliament.uk

PETITION TO THE SCOTTISH PARLIAMENT

COMMON GOOD ASSETS, HERITABLE AND MOVEABLE

PREAMBLE

For some eleven centuries within Scotland there have been gifts of land, property, artefacts, along with stated privileges, to Royal Burghs, Burghs of Barony and to communities. In addition, there have been gifts of moveables, including books, jewellery, paintings and other valuables, such as monuments and weaponry. Many of these gifts are listed in Royal and other charters, as well as in individual wills. All these records are now in the keeping of National Records or Council Records within Scotland, presently in the care of designated archivists of these Councils.

STATEMENT

Over a period of years, particularly since living in Peebles, I have become aware that there has been laxness in maintaining records of Common Good assets, particularly in the case of moveables, where Audit Scotland has recently confirmed this in its report of November 2004. **Submitted in evidence.**

It is therefore safe to assume that, throughout Scotland, there will be little, or no record extant of moveable assets in their entirety, no insurance cover to compensate for their disappearance and loss to the community. In fact this is almost the equivalent of a Thieves' Charter, by omission.

Recently the individual Scottish Borders Councillor, Alasdair Hutton, stated he wished a chain or office to indicate his representative capacity, when 'on duty' with other similar Scottish representatives, and, to this end suggested the possible use of existing Provosts' chains, which should be available from formerly independent Royal Burghs, now all part of the Scottish Borders Council. (i.e. moveable assets of Common Good "property"). It has transpired that, to date, there appears to be no clear record of these items i.e. where they are kept and if they are insured. Collectively the chains of office, together with other valuable assets of former burghs, must have a considerable monetary value. Their existence, **on record**, should have been maintained, together with their place of safety, and updated insurance values, all available for annual audit, and for public inspection.

I am now certain that much of Scotland's communities' heritage has been allowed to disappear through indifference, carelessness and possible veniality. However, I believe that it is now time to **legislate** unambiguously to safeguard all the existing moveable assets of Common Good property throughout Scotland.

In addition it is abundantly clear that heritable assets, namely land and property which should exist in proper records, regularly checked and insured and audited, are not being accurately maintained. Land measurements must be carefully recorded on O.S. maps along with the owners' details and names, also all properties must be clearly delineated on O.S. maps together with their names and addresses and extent; known Common Good heritable properties are frequently let on either long-term leases e.g. 99 years for a golf course, or short term leases for the use of property, or farmland and buildings. These leases bring in annual revenues to each council, and are subject to annual audit.

It seems, however, that when a Council chooses to occupy heritable assets, the Council is ambiguous about paying annual rent to the "Common Good Funds", probably because of the "troublesome work" (as the Council sees it); so not **all** assets are credited to the Funds in annual rents.

It is also evident that there is no distinct and clear Common Good heritable assets **rent** fund, as accounts are all over the place, and become hidden within existing revenue accounts, with no clear statement of the **source** as a Common Good heritable asset. By "moving" an asset e.g. a park designated in its original gift charter to be "for behoof of the community in all time coming as a Public Park and Recreation Ground" into a different "Account" the park then slips away from being **listed** as a Common Good (heritable) asset, with all the potential for legal mistakes, including change of use or even sale.

Many Councils dispose of their housing stock to some new set up which involves not only the Regional Council losing houses, garages, sheds and gardens, but may well include Common Good heritable assets (i.e. land) on which these properties sit.

Because of poor record-keeping, there may be no clear immediate evidence of this mistake, so no court proceedings are likely to test the matter.

In addition, Councils are prone to dispose of heritable properties like leisure centres, swimming pools, which may well include the **land** on which they rest; yet again, because of poor record keeping, the land could well be Common Good (heritable) assets, not properly recorded, which disappear into the charitable trust responsible for running the various activity centres. The legal documents may not make absolutely clear as to who is the former (or the new) owner of the **land** and if the land was part of the Common Good heritable assets and continues to be so or not, and why not.

There are also, in the Scottish Borders, small areas of community woodlands, sometimes administered through the community councils, and which are potentially part of the Common Good heritable assets with devolved management responsibilities.

It is possible that any Common Good asset may be investigated through Court(s) to ascertain if it is legal or communally approved to “dispose” of the asset in any way; but the essential difficulty for those wishing to legally test this matter is the prevailing problem of continuous good, accurate and up-to-date Council Records, publicly available for scrutiny. By the time assets have gone, the public may not have been alerted to their potential “disposal” in time to legally investigate.

There have been several notable press reports of large properties, with land or grounds left to communities by benevolent benefactors in the fond belief that the community will have forever benefits from this generosity. Due to a mixture of disjointed attitudes of various bodies such as Historic Scotland (with an interest in listed properties), Regional authorities (anxious to make a quick buck by selling land to developers), Council officials (who do not want the work involved in maintaining the

property and organising its community uses), Councillors (totally ignorant of Common Good assets), and the public (unclear of their ownership rights), valuable heritable and moveable assets are both mismanaged and eventually disposed of to the long-term financial disadvantage of communities.

For these and many other less obvious reasons, I request this Committee to consider the need for clear, unambiguous legislation to ensure the following: -

LEGISLATION

A complete record of Common Good assets, heritable and moveable, to be held by each Council.

Assets to include all gifts to communities by Royal Charter, historically as well as recently; by feu charters; by means of wills or lifetime gifts; by acquisitions of heritable or moveable assets including artefacts; other.

The record must include a full description of each asset; an address where applicable or place of safe keeping; the date(s) of acquisition and acceptance; an acquisition number applicable solely to each item for identification; a current insurance valuation; a statement of annual rental where applicable (duly updated); the name and address of each/any leasee, together with a time agreement for each lease, and any agreed conditions, including maintenance.

The appointment of a qualified archivist and provision of appropriate premises to maintain all records within each Council, together with provision for reasonable public access to check the Records are essential.

To protect all heritable assets from inadvertent omission in discussions of planning or development proposals there must be recording on O.S maps in the following categories 1) land maps 2) property maps; and in the case of moveables, on written records only.

All proposed disposals, including sales of both heritable and moveable assets must be duly notified/advertised, including in the Press, to allow objectors to test the disposal or sale publicly in the Courts.

It is possible that local museums, galleries or other properties may be housing what should be recorded as Common Good moveable property or artefacts.

It is obvious that the total value, throughout Scotland, of existing (but possibly unrecognised) Common Good assets amounts of many millions of £s, which is part of the nation's valuable inheritance, and which must be legally protected.

To this end I respectfully invite the consideration and support of the Petitions Committee to recommend legislation, within the Scottish Parliament, on these matters.

Adequate central funding will have to be available to ensure all Councils will comply with new regulations in addition to their present duties, including under The Local Government (Scotland) Act 1973.

Mary E Mackenzie

Mary E Mackenzie (Miss)

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28 June 2005