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Writers to the Signet Dependants' Annuity Fund Amendment (Scotland) Bill

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The Writers to the Signet Dependants' Annuity Fund Amendment (Scotland) Bill is a private bill, promoted by the Trustees of the Fund which is aimed at amending two aspects of the legislation which governs the Fund.



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Executive Summary

The Writers to the Signet Dependents' Annuity Fund Amendment (Scotland) Bill deals with a fund for dependants of members of the WS Society (an independent association of solicitors).

The legislative regime governing the fund is based on primary legislation. The trustees to the Fund consider that two aspects of this legislation needs updating.

The Bill therefore proposes removing the requirement that the 'collector' (i.e. administrator) of the Fund is a also contributor to the Fund. The aim being to widen the pool of persons eligible to be a collector

In addition, the Bill proposes amending the definition of 'actuary' in the legislation to reflect the merger of the Faculty of Actuaries in Scotland and the Institute of Actuaries in 2011.

The Bill - relevant dates and documents

The [Writers to the Signet Dependants' Annuity Fund Amendment \(Scotland\) Bill](#) ¹ (the Bill) was introduced in the Scottish Parliament on 18 May 2017, under private bill procedures. It is being promoted by the trustees of the Writers to the Signet Dependants' Annuity Fund. The Bill is accompanied by [Explanatory Notes](#) ² and a [Promoter's Memorandum](#). ³

A [Promoter's Statement](#) ⁴ also accompanies the Bill which includes information required under the Scottish Parliament's Standing Orders. It notes that copies of the Bill and accompanying documents can be viewed in various libraries around Edinburgh.

The period for lodging an [objection](#) to the Bill ended at 5pm on 18 July 2017. No objections were lodged.

Who are Writers to the Signet

Writers to the Signet are Scottish lawyers who are members of the [Writers to the Signet Society](#) (WS Society).

The WS Society is an independent association of solicitors structured as a not for profit corporation. It has existed for more than 500 years and was originally associated with the historic seal of Scotland's kings and queens, known as the Signet. Writers to the Signet were those officers of the court permitted to use the Signet to prepare and sign writs in the Court of Session.⁵

In the past, various privileges were connected to being a Writer to the Signet. However, these no longer apply. According to the website of the WS Society, the current benefits of being a Writer to the Signet include having access to comment, networking and culture and

“ a range of support services ... including research, analysis, writing and learning”

The WS Society also owns and occupies the Signet Library in Parliament Square in Edinburgh, where Scotland's Supreme Courts are situated. Writers to the Signet are granted access to the Signet Library on preferential rates.⁶

Admission as a Writer to the Signet is open to Scottish solicitors who have worked as a lawyer for at least three years (although associate membership is also open to non Scottish lawyers and to Advocates). Writers to the Signet also have to take a special oath before an officer of state, the Keeper of the Signet. Upon admission, they belong to Scotland's College of Justice along with senior judges and advocates. The current admission fee for full membership of the WS Society is £100. The annual subscription for year 1 is currently £125, for year 2 £250 and thereafter £415 per annum.⁷

What the Bill does

The Writers to the Signet Dependants' Annuity Fund (the Fund) was originally established by an Act of Parliament in 1803 with the aim of making provision for widows of members of the WS Society (specifically the payment of annuities).⁸

The legislative regime governing the Fund has been updated by private Act of Parliament from time to time, in particular by the Writers to the Signet Widows' Fund Order Confirmation Acts 1955 and 1965 and the Writers to the Signet Dependants' Annuity Fund Order Confirmation Act 1982 (1982 Act). As at 5 April 2016, the value of the Fund was £55,505,185.⁹ At that date there were 572 contributors to the Fund and the number of dependants paid an annuity was 141.

The Bill has two objectives - both linked to amending aspects of the 1982 Act.

The first objective relates to the so-called 'collector' of the Fund - i.e the person appointed to administer the Fund under the rules provided for in the 1982 Act.

Under these rules the collector has to be a contributor to the Fund. According to the Promoter's Memorandum, this requirement threatens the administration of the Fund as the Fund is now closed to new contributors (as of 1989) and all existing contributors are over 50 years old. Consequently the pool of contributors from which a new collector can be elected is diminishing and there is a risk that the pool of persons eligible to be a collector will be reduced to zero.¹⁰

The Bill would therefore remove the requirement that the collector is a contributor to the Fund. This would be replaced with a requirement that the collector is an individual elected each year at the Fund's annual general meeting. According to the Promoter's Memorandum, the change does not affect the provisions on election of the collector contained in the 1982 Act and does not otherwise affect the role or functions of the collector (para. 14).

The Promoter's Memorandum notes that these proposed changes have been agreed on by the Trustees to the Fund and the contributors to the Fund. It also indicates that there was agreement that the definition of collector should not be expanded to include non-natural persons such as companies, limited liability partnerships or unincorporated associations.¹¹ Further information on the consultation process carried out by the Trustees can be found at paragraphs 21 to 23 of the Promoter's Memorandum.

The Promoter's Memorandum (para. 15) indicates that the proposed change will also widen the pool of eligible individuals, noting that it will give

“ the members of the Fund the opportunity to elect an individual with relevant experience and expertise notwithstanding that individual is not a contributor to the Fund”

The Promoter's Memorandum also explains at the same paragraph that it will be highly desirable that the collector is a person who remains in professional practice, has access to professional services and access to professional indemnity insurance.

The second objective relates to the definition of 'actuary' in the 1982 Act which does not reflect the merger of the Faculty of Actuaries in Scotland and the Institute of Actuaries in 2011. The Bill would amend this definition to define an actuary as a Fellow of the Faculty of Actuaries or of the Institute of Actuaries (both part of the new body the [Institute and Faculty of Actuaries](#) (IFoA)).

Private Bill Procedure

The Writers to the Signet Dependants' Annuity Fund Amendment (Scotland) Bill is a private bill. It falls under different procedures to the public bills the Scottish Parliament normally deals with.

Chapter 9A of the [Standing Orders of the Scottish Parliament](#)¹² 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](#)" ¹³ 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, para. 19 of the Promoter's Memorandum indicates that, as the rules on the collector are contained in legislation (the 1982 Act), there is no alternative to primary legislation in order to remove the requirement that the collector is a contributor to the Fund.

The Promoter's Memorandum indicates that it would be possible not to amend the definition of actuary in the 1982 Act since there is a principle of statutory interpretation which allows legislation to be construed in a way which takes into account changes since that legislation came into force. However, the Promoter's Memorandum indicates that the amendment is proposed for the avoidance of doubt (see para. 20).

The provisions in the Bill

The Bill does two things:

- It amends definition of 'actuary' in the 1982 Act to reflect the merger of the Faculty of Actuaries in Scotland and the Institute of Actuaries in 2011 (section 1(1) of the Bill)
- It removes the requirement in the 1982 Act that the collector is a contributor to the Fund and substitutes a new requirement that the collector shall be an individual (section 1(2) of the Bill).

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