

THE CHURCH OF SCOTLAND GENERAL TRUSTEES
HISTORIC SCOTLAND AND/OR LOTTERY APPLICATION CASE

This form should be completed by the Session Clerk and the Presbytery Clerk in all cases in which financial assistance is being sought from Historic Scotland and/or the Heritage Lottery Fund or a buildings-related application is being made for assistance from the Community Fund.

Section A must be completed and signed by the Session Clerk and forwarded to the Presbytery Clerk along with the completed Application for Lottery Funding and supporting papers.

Section B must be completed by the Presbytery Clerk and sent along with the other papers to the Secretary of the General Trustees at 121 George Street, Edinburgh, EH2 4YR.

Congregation of..... Presbytery.....

SECTION A: TO BE COMPLETED AND SIGNED BY SESSION CLERK

1. The Kirk Session is aware of the terms of Act IX 1998, a copy of which is printed in the appendix to this form and has resolved to proceed with an application for Lottery Funding.

2. The Kirk Session is aware of what is said in the appendix to this form with regard to the conditions which are likely to be attached to any grant and considers that the circumstances of the case justify the seeking of assistance.

Submitted to and approved by the Kirk Session on (date of Session Meeting)

Signature

Name

Address

.....

.....

Postcode

Daytime Telephone No

SECTION B: TO BE COMPLETED BY PRESBYTERY CLERK

1. Please comment on the financial position of the Congregation and on its previous record of maintenance of its buildings.

2. Are there any proposals under consideration which could result in the building involved being taken out of its present use or used for some additional purpose? In particular the Presbytery's views as to possible appraisal of Congregations in the area would be welcome.

3. Is it considered **likely** that the building will be in use for its present purpose:-

In ten years' time: Yes/No/Doubtful

In fifteen years' time: Yes/No/Doubtful

In eighty years' time: Yes/No/Doubtful (to be answered only in Community Fund applications)

4. Any other comments?

Date

..... Presbytery Clerk

APPENDIX

1. The Decision to Apply – What Does the General Assembly Say?

Ever since 1978 when Government policy allowed Historic Scotland grants to be given for the repair and restoration of listed church buildings Congregations have generally been very keen to access this source of funding and many have benefited considerably.

Lottery funding for similar purposes has always been a more contentious issue and on a number of occasions, the General Assembly voted against accepting financial help from this source. However in 1998 the Assembly by Act IX laid down the circumstances in which agencies of the Church might apply for Lottery Funding. The text of the Act is as follows:-

“The General Assembly enact and ordain as follows:-

Whereas the Church has in the past benefited from public funding and such funding is increasingly financed by the National Lottery Revenues, all agencies of the Church are hereby authorised to determine for themselves whether or not to make application for or use of Lottery Funding; provided that such agencies are nevertheless hereby

- (a) discouraged from making such application or use, or both, of Lottery Funding unless they are satisfied that no suitable alternative funding resources are available;
- (b) directed that the areas where such application or use, or both, may be made are the following:
 - (i) Community work and cultural activities.
 - (ii) Partnership ventures.
 - (iii) Work in relation to buildings, the General Trustees being hereby authorised, where appropriate, to approve such applications.”

2. Assembly Procedures for Applications

- Historic Scotland

In 1978 the General Assembly appointed the General Trustees as the central body to which **all** applications must be sent, via Presbytery, for onward transmission and directed them to take into consideration the views of Presbytery and the then Advisory Committee on Artistic Matters (now the Committee on Advisory Matters) and any other body as deemed necessary. In practice the Trustees have consulted in all cases with the Committee on Parish Appraisal or its predecessors.

- Lottery Funds

The General Assembly of 2001 directed that all applications for financial assistance from the Heritage Lottery Fund and buildings-related applications to the National Lottery Charities Board (now the Community Fund) made on behalf of congregations should be sent in the first instance to the Presbytery of the bounds which should transmit the same to the General Trustees with its comments on the future of the building concerned. The General Trustees are required to consult in all cases with the Committee on Parish Appraisal and in relevant cases with the Committee on Artistic Matters. If after such consultation, the General Trustees consider that it is appropriate to do so, they are authorised and empowered to transmit the application for consideration.

3. Why We Need to be Careful/

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Congregations which receive grant aid from Historic Scotland or the Heritage Lottery Fund or the Community Fund will have to sign up to formal, legally binding Contracts which contain potentially onerous conditions, the breach of any of which could trigger repayment of the grant.

The General Trustees sought Counsel's Opinion on whether these conditions were ones which could readily be accepted. Council pointed out that all trustees must exercise that degree of diligence which a person of ordinary prudence would exercise in managing his or her own affairs. Applying this test to Lottery Funding conditions, Counsel advised that in **each** case it would be necessary to balance the obvious advantages of receiving grants against the disadvantages of accepting conditions which restrict owners' rights. He indicated that there might well be situations where the acceptance of onerous conditions would be justified by necessity of circumstances and would satisfy the test of prudent and diligent management.

Before proceeding with applications Kirk Sessions must give careful consideration to the balancing exercise referred to by Counsel. The terms of individual contracts vary as do the periods for which the conditions apply – ten years, fifteen years or eighty years. They all contain a number of common features:-

1. There are circumstances in which the grant giving body can require the grantee to pay money to it. These can arise in the event of a disposal of the property or a breach of any of the conditions on which the grant has been given. It has been indicated that the grant giving bodies will act reasonably but under the formula which can be applied, the amount payable by the grantee is not limited to the amount of the grant given. It can be the sum which bears the same proportion to the proceeds of sale or other disposal as the grant given bears to the total sum expended on the approved work. In theory, therefore, if a grant of , say, £100,000 had been given towards the cost of work costing £200,000 and the property was sold within the grant period for £750,000 the grant giving body **could** claim £375,000.
2. There is likely to be an embargo against any change of use of the property concerned thereby making it more difficult to sell in the event that it becomes redundant.
3. Under ecclesiastical law congregations are, of course, expected to maintain and insure their properties properly and there will be specific obligations to do this within the contract relating to the grant. This means that these obligations will be enforceable by the grant giving body and failure to comply could trigger a claw-back provision.
4. The public must be afforded reasonable and appropriate access to the property.
5. Charges levied with respect to lets of the property for one-off events such as concerts may well have to be applied solely towards the maintenance and running costs of the property.