

National Parks (Scotland) Bill

[AS INTRODUCED]

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ACCOMPANYING DOCUMENTS

Explanatory Notes, together with other accompanying documents, are printed separately as SP Bill 12-EN. A Policy Memorandum is printed separately as SP Bill 12-PM.

National Parks (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision for National Parks.

National Park proposals

1 National Park proposals

- 5 (1) The Scottish Ministers may, if it appears to them that the conditions in subsection (2) are or may be satisfied in relation to an area, propose—
- (a) the designation of the area as a National Park, and
 - (b) the establishment of an authority (to be known as a “National Park authority”) to exercise, in relation to that Park, the functions conferred on the authority by virtue of this Act.
- 10 (2) Those conditions are—
- (a) that the area is of outstanding national importance because of its natural heritage or the combination of its natural and cultural heritage,
 - (b) that the natural resources of the area have a distinctive character and a coherent identity,
 - 15 (c) that designating the area as a National Park would meet the special needs of the area and would be the best means of ensuring that the aims set out in subsection (3) are collectively achieved in relation to the area in a co-ordinated way.
- (3) Those aims are—
- (a) to conserve and enhance the natural and cultural heritage of the area,
 - 20 (b) to promote sustainable use of the natural resources of the area,
 - (c) to promote understanding and enjoyment of the special qualities of the area by the public,
 - (d) to promote economic and social development of the area.
- (4) A proposal under subsection (1) must be in writing and must set out (in general terms)—
- 25 (a) the area which it is proposed should be designated as a National Park, and
 - (b) the functions which it is proposed the National Park authority should exercise.
- (5) Such a proposal is referred to in this Act as a “National Park proposal”.

2 Reports on National Park proposals

(1) The Scottish Ministers may require—

- (a) Scottish Natural Heritage, or
- (b) any other public body appearing to them to have expertise relevant to the aims set out in section 1(3),

to consider a National Park proposal and, after complying with subsection (5) of this section, to report to them, by such date as they may specify, on such of the matters set out in subsection (2) of this section as the requirement may specify.

(2) Those matters are—

- (a) the area which it is proposed should be designated as a National Park,
- (b) the desirability of designating the area in question (with or without modifications) as a National Park,
- (c) the functions which it is proposed the National Park authority for the Park should exercise,
- (d) such other matters relating to the proposal as the requirement may specify.

(3) Where the Scottish Ministers impose a requirement under subsection (1) they must send a copy of the National Park proposal to the person who is to provide the report (the “reporter”).

(4) A requirement under subsection (1) may be addressed to two or more persons and, if so—

- (a) may impose different obligations on different persons,
- (b) may contain provision modifying the application of subsection (5) in relation to those persons or any of them,
- (c) must require those persons to provide their reports in a single document.

(5) The reporter must, on receipt of the National Park proposal—

- (a) send a copy of it and of the requirement to every local authority any part of whose area is within the area to which the proposal relates,
- (b) determine the period for which the copy proposal and requirement are to be made available for public inspection under subsection (6) and notify every such authority of that period,
- (c) publicise the proposal in such manner as the reporter thinks fit, and
- (d) consult—
 - (i) every such authority,
 - (ii) every community council any part of whose area is within the area to which the proposal relates,
 - (iii) such persons as appear to the reporter to be representative of the interests of those who live, work or carry on business in the area to which the proposal relates, and
 - (iv) such other persons as the reporter thinks fit,

on the proposal.

- (6) A local authority receiving a copy proposal and requirement under subsection (5) must make them available for public inspection for the period referred to in subsection (5)(b).
- (7) In preparing a report under this section the reporter—
- (a) must consider whether the conditions in section 1(2) are satisfied in relation to the area which it is proposed should be designated as a National Park,
 - (b) must have regard to the aims set out in section 1(3),
 - (c) must take into account—
 - (i) any views on the National Park proposal expressed by those consulted under subsection (5)(d), and
 - (ii) any comments on the proposal received within the period referred to in subsection (5)(b), and
 - (d) may have regard to such other matters as the reporter considers relevant including, in particular, administrative boundaries and geographical considerations.
- (8) A report under this section—
- (a) must include the views of the reporter on the matters specified in the requirement,
 - (b) may include such other matters as the reporter considers relevant.
- (9) The Scottish Ministers must publish a report made to them under this section.

3 Statements by the Scottish Ministers

- (1) Where the Scottish Ministers do not require a report under section 2(1) in relation to a National Park proposal they must—
- (a) comply with subsection (3) of this section, and
 - (b) prepare and publish a statement on the proposal dealing with the matters specified in subsection (2) of this section.
- (2) Those matters are—
- (a) the area which it is proposed should be designated as a National Park,
 - (b) the desirability of designating the area in question (with or without modifications) as a National Park,
 - (c) the functions which it is proposed the National Park authority for the Park should exercise,
 - (d) such other matters relating to the proposal as the Scottish Ministers think fit.
- (3) Before preparing the statement the Scottish Ministers must—
- (a) send a copy of the National Park proposal to every local authority any part of whose area is within the area to which the proposal relates,
 - (b) determine the period for which the copy proposal is to be made available for public inspection under subsection (4) and notify every such authority of that period,
 - (c) publicise the proposal in such manner as they think fit, and
 - (d) consult—
 - (i) every such authority,

- (ii) every community council any part of whose area is within the area to which the proposal relates,
- (iii) such persons as appear to them to be representative of the interests of those who live, work or carry on business in the area to which the proposal relates, and
- (iv) such other persons as they think fit,
- on the proposal.
- (4) A local authority receiving a copy proposal under subsection (3) must make it available for public inspection for the period referred to in subsection (3)(b).
- (5) In preparing the statement the Scottish Ministers—
- (a) must consider whether the conditions in section 1(2) are satisfied in relation to the area which it is proposed should be designated as a National Park,
- (b) must have regard to the aims set out in section 1(3),
- (c) must take into account—
- (i) any views on the National Park proposal expressed by those consulted under subsection (3)(d), and
- (ii) any comments on the proposal received within the period referred to in subsection (3)(b), and
- (d) may have regard to such other matters as they consider relevant including, in particular, administrative boundaries and geographical considerations.

4 Local inquiries

- (1) After publication of a report under section 2 or, as the case may be, a statement under section 3 the Scottish Ministers may, if they think fit, cause a local inquiry to be held in relation to any matter arising from the National Park proposal or the report or statement.
- (2) Subsections (2) to (8) of section 210 (local inquiries) of the Local Government (Scotland) Act 1973 (c.65) apply in relation to such an inquiry.
- (3) The Scottish Ministers must publish the report of the person appointed to hold such an inquiry.

Creation of National Parks

5 Making of designation orders

- (1) Following the publication of—
- (a) a report under section 2 or, as the case may be, a statement under section 3, and
- (b) where an inquiry is held in pursuance of section 4, the report of the person appointed to hold the inquiry,
- the Scottish Ministers may (but need not) make an order under this section (a “designation order”), either in terms of the National Park proposal or with such modifications as they think fit.
- (2) In considering whether to make a designation order, and what the terms of any order should be, the Scottish Ministers must have regard to—
- (a) the report or statement mentioned in subsection (1)(a), and

- (b) any such report as is mentioned in subsection (1)(b).
- (3) The Scottish Ministers must not lay a draft of a designation order before the Parliament in pursuance of section 32(5)—
- (a) until the expiry of the period of 6 weeks following the date of publication of the report or statement mentioned in subsection (1)(a) of this section,
- (b) where an inquiry is held in pursuance of section 4, until the expiry of the period of 6 weeks following the date of publication of the report mentioned in subsection (1)(b) of this section.

6 Designation orders: further provisions

- (1) A designation order must—
- (a) designate as a National Park the area identified in the order,
- (b) provide for the establishment of a National Park authority for the Park to exercise the functions conferred on the authority by virtue of this Act, and
- (c) specify the number of members of the authority and, in relation to the members to be appointed on the nomination of local authorities, the authorities which are to nominate them and the number of members to be nominated by each authority.
- (2) The order may identify the area to be designated by reference to a deposited map.
- (3) In subsection (2), “deposited map” means a map prepared for the purposes of the order and laid before the Parliament.
- (4) A designation order must provide for the functions exercisable by the National Park authority by virtue of the order to be so exercisable from such dates as the order may specify; and different dates may be specified for different functions or for different purposes.
- (5) The Scottish Ministers must send a copy of the designation order and any deposited map to every local authority any part of whose area is within the area designated as a National Park, and every such local authority must keep the order and any such map available for public inspection.

7 National Park authorities: constitution etc.

Schedule 1, which makes provision about the constitution etc. of National Park authorities, has effect.

Purpose and functions of National Park authorities

8 General purpose and functions

- (1) The general purpose of a National Park authority is to ensure that the aims set out in section 1(3) are collectively achieved in relation to the National Park in a co-ordinated way.
- (2) A National Park authority has, in relation to the National Park—
- (a) the general powers conferred by virtue of schedule 2,
- (b) the functions conferred by virtue of schedule 3,
- (c) such planning functions as may be conferred under section 9,

- (d) such additional functions as the designation order may specify, and
 - (e) such other functions as are conferred by virtue of this Act.
- (3) A National Park authority may do anything which it considers is calculated to facilitate, or is conducive or incidental to—
- (a) accomplishing the purpose set out in subsection (1),
 - (b) carrying out any function conferred on it by virtue of any other enactment.
- (4) Subsection (3) is without prejudice to any powers exercisable apart from that subsection but does not confer power—
- (a) to do anything in contravention of any restriction imposed by virtue of this Act in relation to any express power of the authority,
 - (b) to raise money in a manner which is not authorised apart from that subsection.
- (5) A thing is not, however, excluded from being done under subsection (3) merely because it involves expenditure, borrowing or lending of money or acquiring or disposing of property.
- (6) In exercising its functions a National Park authority must act with a view to accomplishing the purpose set out in subsection (1); but if, in relation to any matter, it appears to the authority that there is a conflict between the aim set out in subsection (3)(a) of section 1 and other aims in that subsection, the authority must give greater weight to the aim set out in subsection (3)(a).

9 Planning functions

- (1) A designation order may make provision for a National Park authority—
- (a) to be the planning authority for the National Park for the purposes of the planning Acts,
 - (b) to be treated as the planning authority for the National Park, but only for such purposes of Part II (development plans) of the Town and Country Planning (Scotland) Act 1997 (c.8) as are specified in the order, or
 - (c) to have, in relation to the National Park, such functions in relation to planning as the order may specify.
- (2) In this section, “the planning Acts” has the same meaning as in that Act of 1997.

10 National Park Plans

A National Park authority must, by such time as the Scottish Ministers may direct, prepare and submit to the Scottish Ministers a plan (a “National Park Plan”) setting out its policy for—

- (a) managing the National Park, and
- (b) co-ordinating the exercise of—
 - (i) the authority’s functions in relation to the National Park, and
 - (ii) the functions of other public bodies and office-holders so far as affecting the National Park,

with a view to accomplishing the purpose set out in section 8(1).

11 National Park Plans: procedure

- (1) When a National Park authority has prepared a National Park Plan it must—
- (a) send a copy of the Plan to every local authority any part of whose area is within the National Park,
 - 5 (b) determine the period for which it is to be made available for public inspection under subsection (2) and notify every such local authority of that period,
 - (c) publicise it in such manner as it thinks fit, and
 - (d) consult—
 - (i) every such local authority,
 - 10 (ii) every community council any part of whose area is within the National Park,
 - (iii) such persons as appear to it to be representative of the interests of those who live, work or carry on business in the National Park, and
 - (iv) such other persons as it thinks fit,
 - 15 on the Plan.
- (2) A local authority receiving a copy Plan under subsection (1) must make it available for public inspection for the period referred to in subsection (1)(b).
- (3) The National Park authority must take into account—
- (a) any views on the Plan expressed by those consulted under subsection (1)(d), and
 - 20 (b) any comments on it received within the period referred to in subsection (1)(b),
- and may adjust it in light of such views and comments.
- (4) On receipt of the Plan from the National Park authority the Scottish Ministers may—
- (a) approve it (with or without modifications), or
 - (b) reject it.
- 25 (5) The Scottish Ministers must not approve a Plan with modifications unless they have—
- (a) sent a copy of the proposed modifications to the National Park authority, and
 - (b) taken into account any comments on the proposed modifications made to them by the authority.
- (6) Where the Scottish Ministers approve a Plan with modifications or reject it they must
- 30 give their reasons for doing so.
- (7) Where a Plan is approved under subsection (4)(a), the National Park authority must—
- (a) adopt the Plan (as approved) as its National Park Plan,
 - (b) send a copy of it to the Scottish Ministers and every local authority any part of whose area is within the National Park,
 - 35 (c) keep a copy of it for inspection by any person at any reasonable time and keep copies for sale at a reasonable price, and
 - (d) publicise it in such manner as it thinks fit.
- (8) Where a Plan is rejected under subsection (4)(b), the National Park authority must prepare a revised Plan and submit it to the Scottish Ministers by such time as they may
- 40 direct.

12 Duty to have regard to National Park Plans

The Scottish Ministers, a National Park authority, a local authority and any other public body or office-holder must, in exercising functions so far as affecting a National Park, have regard to the National Park Plan as adopted under section 11(7)(a).

13 Management agreements

- (1) A National Park authority may enter into an agreement (a “management agreement”) with any person having an interest in land to do, or secure the doing of, whatever the parties to the agreement consider necessary to achieve in relation to the National Park the aims set out in section 1(3).
- (2) A management agreement may include such incidental and consequential provisions (including financial ones) as the authority considers necessary or expedient for the purposes of the agreement.
- (3) A liferenter or an heir of entail in possession of any land has power to enter into management agreements under this section relating to the land.
- (4) The Trusts (Scotland) Act 1921 (c.58) has effect as if the powers conferred on trustees by section 4 of that Act (general powers of trustees) included a power to enter into management agreements relating to the trust estate.
- (5) A management agreement which affects a registrable interest in land may—
 - (a) where that interest is registered in the Land Register of Scotland, be registered in that Register,
 - (b) in any other case, be recorded in the appropriate Division of the General Register of Sasines.
- (6) An agreement so registered or recorded is enforceable at the instance of the National Park authority against any person deriving title to the land from the other party to the agreement.
- (7) But it is not enforceable against a third party who has acquired right to the land (whether or not completed by infestment) in good faith and for value prior to the agreement being so registered or recorded, or against any person deriving title from such third party.
- (8) Despite the terms of a management agreement, the parties to the agreement and any person deriving title from a party may agree to terminate the agreement at any time.
- (9) Where the agreement has been registered or recorded under subsection (5), an agreement to terminate it must be registered or, as the case may be, recorded in the same way.
- (10) In this section “registrable interest in land” means an interest in land within the meaning of section 28 of the Land Registration (Scotland) Act 1979 (c.33) which is not an overriding interest within the meaning of that section.

General

14 Directions and guidance

- (1) The Scottish Ministers may give a National Park authority directions of a general or specific character as to the exercise of the authority’s functions, and the authority must comply with those directions.

- (2) Before giving an authority directions under subsection (1) the Scottish Ministers must consult the authority.
- (3) The Scottish Ministers may give guidance in relation to the exercise of functions by National Park authorities.
- 5 (4) Guidance under subsection (3) may be given in respect of authorities generally or a particular authority, and in exercising its functions an authority must have regard to any guidance applicable to it.
- (5) Before giving guidance under subsection (3) the Scottish Ministers must consult each authority to which the guidance is to apply.
- 10 (6) A draft of any guidance proposed to be given under subsection (3) is to be laid before the Parliament and the guidance must not be given until after the period of 40 days beginning with the day on which the draft was so laid.
- (7) If within that period the Parliament resolves that the proposed guidance should not be given, the Scottish Ministers must not give the guidance.
- 15 (8) In calculating any period of 40 days for the purposes of subsection (6) or (7), no account is to be taken of any time during which the Parliament is in recess for more than 4 days.
- (9) The Scottish Ministers must publish any guidance given under subsection (3).

15 Agency arrangements and joint operations

- (1) A National Park authority may arrange for any of its functions to be exercised on its behalf by a local authority or another National Park authority; and the local authority or other National Park authority may exercise those functions accordingly.
- 20 (2) A local authority may arrange for any of its functions, so far as exercisable in relation to a National Park, to be exercised on its behalf by a National Park authority; and the National Park authority may exercise those functions accordingly.
- 25 (3) Two or more National Park authorities may arrange to exercise any of their functions jointly.
- (4) An arrangement under subsection (3) may provide for the exercise of the functions in question by a joint committee of the authorities or by an officer of one of them.
- 30 (5) An arrangement under this section does not affect the responsibility of the authority making the arrangement for the exercise of its functions.

16 Delegation of functions by the Scottish Ministers

- (1) The Scottish Ministers may make arrangements for any of their functions, so far as exercisable in relation to a National Park, to be exercised on their behalf by the National Park authority.
- 35 (2) An arrangement under subsection (1) does not affect the responsibility of the Scottish Ministers for the exercise of their functions.
- (3) In this section, “functions” does not include—
- (a) a function of making, confirming or approving subordinate legislation,
 - (b) any function conferred by this Act.

17 Use of resources

A National Park authority must make proper arrangements to ensure that it uses resources economically, efficiently and effectively.

18 Advisory groups

- 5 (1) Each National Park is to have one or more National Park Advisory Groups, with the function of advising the National Park authority on any matter relating to the functions of the authority.
- (2) The membership and procedure of an Advisory Group are to be such as the National Park authority determines.
- 10 (3) The National Park authority may pay to members of an Advisory Group such expenses and allowances as the authority may determine.

*Finances***19 General financial duties**

- 15 (1) The Scottish Ministers may, after consultation with a National Park authority, determine the financial duties of the authority; and different determinations may be made for different functions and activities of the authority.
- (2) The Scottish Ministers must give an authority notice of every determination under subsection (1), and such a determination may—
- 20 (a) relate to a period beginning before, on or after the date on which it is made,
- (b) contain supplemental provisions,
- (c) be varied by a subsequent determination.
- (3) The Scottish Ministers may, after consultation with an authority, give a direction to the authority requiring it to pay to them an amount specified in, or calculated in accordance with, the direction in respect of—
- 25 (a) any sum, or
- (b) a sum of any description,
- so specified which is received by the authority.
- (4) Where it appears to the Scottish Ministers that an authority has a surplus, whether on capital or revenue account, they may, after consultation with the authority, direct the
- 30 authority to pay to them such amount not exceeding the amount of that surplus as may be specified in the direction.

20 Grants and loans by the Scottish Ministers

- (1) The Scottish Ministers may make grants to a National Park authority for such purposes, of such amounts and on such terms as they think fit.
- 35 (2) The Scottish Ministers may lend to a National Park authority any sums which it has power to borrow under section 21(1)(a).
- (3) A loan made under subsection (2) is to be repaid to the Scottish Ministers at such times and by such methods, and interest on the loan is to be paid to them at such rates and at such times, as the Scottish Ministers may from time to time determine.

21 Borrowing powers

- (1) A National Park authority may—
- (a) borrow from the Scottish Ministers, by way of temporary loan or otherwise,
 - (b) with the consent of the Scottish Ministers, borrow temporarily, by way of overdraft or otherwise, from persons other than the Scottish Ministers,
- such sums as it may require for meeting its obligations and carrying out its functions.
- (2) A consent under subsection (1)(b) may be granted subject to conditions.
- (3) In any financial year the net amount of sums borrowed by an authority under this section must not exceed the amount specified for that year for the purposes of this section in a Budget Act.
- (4) In subsection (3), “net amount” means the amount of sums borrowed in the financial year less any repayments made during that year (otherwise than by way of interest) in respect of sums borrowed in that or any other year.
- (5) An authority may borrow money only under this section.

22 Guarantees

- (1) The Scottish Ministers may guarantee, in such manner and on such conditions as they think fit, the discharge of any financial obligation in connection with any sum which a National Park authority borrows from any person.
- (2) Where the Scottish Ministers give a guarantee under this section they must forthwith lay a statement of the guarantee before the Parliament.
- (3) Where any sum is paid out in fulfilment of a guarantee under this section, the Scottish Ministers must, as soon as reasonably practicable after the end of each financial year (beginning with that in which the sum is paid out and ending with that in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged), lay before the Parliament a statement relating to that sum.
- (4) Where any sum is paid out in fulfilment of a guarantee under this section, the authority which borrowed the sum by reference to which the guarantee was given must make to the Scottish Ministers, at such times and in such manner as they may from time to time direct—
- (a) payments of such amounts as they may so direct in or towards repayment of the sum so paid out, and
 - (b) payments of interest, at such rate as they may so direct, on what is outstanding for the time being in respect of the sum so paid out.

23 Accounts

- (1) A National Park authority must—
- (a) keep proper accounts and accounting records,
 - (b) prepare for each financial year an account of the authority’s expenditure and receipts in accordance with directions issued by the Scottish Ministers, and
 - (c) send the account to the Scottish Ministers by such time as they may direct.

- (2) The Scottish Ministers must send the account to the Auditor General for Scotland for auditing.

Information and annual reports

24 Information and annual reports

- 5 (1) A National Park authority must provide the Scottish Ministers with such information as they may reasonably require relating to the exercise of the authority's functions.
- (2) For that purpose the authority must—
- 10 (a) permit any person authorised to do so by the Scottish Ministers to inspect and make copies of the accounts and other records of the authority, and
- (b) provide the person with such explanations of those accounts and records as that person or the Scottish Ministers may reasonably require.
- (3) As soon as practicable after the end of each financial year, a National Park authority must prepare a report on its activities during that year and send a copy of the report to the Scottish Ministers.
- 15 (4) The report must set out any directions under section 14 which have been given to the authority during the year to which the report relates.
- (5) The Scottish Ministers must lay a copy of the report before the Parliament and publish the report.

Miscellaneous

25 Records

- 20 (1) This section applies to all records (in whatever form or medium)—
- (a) transferred to and vested in a National Park authority by virtue of this Act,
- (b) created or acquired by the authority in the exercise of its functions, or
- (c) otherwise in its keeping.
- 25 (2) The authority must, after consulting the Keeper of the Records of Scotland, make arrangements for the preservation and management of the records and must ensure that the records are preserved and managed in accordance with those arrangements.
- (3) The authority may from time to time revise those arrangements but before making any material change must consult the Keeper.
- 30 (4) Despite subsection (2) the authority may dispose of records which in its opinion are not worthy of preservation.
- (5) The authority—
- (a) must ensure that the Keeper has, at all reasonable hours, unrestricted access to the records preserved by it,
- 35 (b) may afford facilities for any person to inspect and, on payment of a reasonable fee, to obtain copies of or extracts from those records.
- (6) If any enactment makes provision relating to records of a specific kind which is inconsistent with subsections (1) to (5), those subsections are subject to that enactment.

26 Inquiries and other hearings

- (1) The Scottish Ministers may cause an inquiry or other hearing to be held if it appears to them expedient to do so in connection with—
- (a) any of the functions of a National Park authority,
 - (b) any of their functions in relation to a National Park authority.
- (2) Subsections (2) to (8) of section 210 (local inquiries) of the Local Government (Scotland) Act 1973 (c.65) apply in relation to such inquiries or other hearings as they apply to inquiries held under that section.
- (3) Subsection (1) is without prejudice to any other provision of this Act or any other enactment by virtue of which an inquiry or other hearing is authorised or required to be held.

27 Transfer of staff, property and liabilities

Schedule 4, which makes provision about transfer of staff, property and liabilities in connection with the establishment of a National Park authority or the exercise of its functions, has effect.

28 Modification and revocation of designation orders

- (1) The Scottish Ministers may by order modify or revoke a designation order.
- (2) Subsections (3) and (4) apply where the Scottish Ministers propose to make an order under subsection (1)—
- (a) modifying—
 - (i) the area of a National Park identified in a designation order,
 - (ii) the functions conferred on a National Park authority by virtue of section 8(2)(d) or under section 9,
 - (iii) the matters specified in a designation order by virtue of section 6(1)(c), or
 - (b) revoking a designation order.
- (3) In such a case the Scottish Ministers must set out in writing—
- (a) the proposed modifications, or
 - (b) as the case may be, that they propose that the designation order should be revoked,
- and, in either case, their reasons for the proposal.
- (4) A proposal under subsection (3) is to be treated as a National Park proposal; and—
- (a) sections 2 to 4 apply in relation to such a proposal, and
 - (b) sections 5 and 6 apply in relation to an order under subsection (1) of this section made in pursuance of such a proposal,
- with such modifications as the Scottish Ministers may by order specify.
- (5) Sections 1 to 6 do not otherwise apply in relation to an order under subsection (1) of this section.

*Marine areas***29 Application in relation to marine areas**

In relation to an area comprised wholly or mainly of sea, this Act applies with such modifications as the Scottish Ministers may by order prescribe.

5

*Supplementary***30 Crown application**

This Act binds the Crown, but nothing in this Act is to be taken as in any way affecting Her Majesty in her private capacity.

31 Ancillary provision

10

The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they think necessary or expedient for the purposes or in consequence of this Act.

32 Orders

15

- (1) Any power to make orders under this Act is exercisable by statutory instrument.
- (2) Without prejudice to section 31, any such power includes power to make such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers think necessary or expedient.
- (3) A power referred to in subsection (1) includes power to make different provision for different purposes.
- (4) An order under section 5(1), 28(1) or 31 may modify any enactment or prerogative instrument or any other instrument or document.
- (5) No order is to be made under section 5(1), 28(1) or 29 unless a draft has been laid before, and approved by resolution of, the Parliament.
- (6) No order containing provisions which add to, replace or omit any part of the text of an Act is to be made under section 31 unless a draft has been laid before, and approved by resolution of, the Parliament.
- (7) A statutory instrument containing an order under—
 - (a) section 28(4), or
 - (b) section 31 (except where subsection (6) of this section applies),
 is subject to annulment in pursuance of a resolution of the Parliament.

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33 Interpretation

- (1) In this Act—

“community council” has the same meaning as in Part IV of the Local Government (Scotland) Act 1973 (c.65),

“designation order” means an order made under section 5(1),

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39),

35

“National Park” means the area designated as such by a designation order,

“National Park authority” is to be construed in accordance with section 1(1)(b),

“National Park Plan” has the meaning given in section 10,

“National Park proposal” has the meaning given in section 1(5),

5 “natural heritage” includes the flora and fauna of a National Park or a proposed National Park, its geological and physiographical features and its natural beauty and amenity,

“the Parliament” means the Scottish Parliament.

(2) References in this Act to—

10 (a) a National Park, in relation to a National Park authority, are to the National Park in relation to which the authority is established,

(b) a National Park authority, in relation to a National Park, are to the authority for that National Park.

34 Modification of enactments

15 Schedule 5, which makes modifications of enactments, has effect.

35 Commencement and short title

(1) The preceding provisions of this Act (including the schedules) are to come into force on such day as the Scottish Ministers may by order appoint.

(2) Different days may be appointed under this section for different purposes.

20 (3) This Act may be cited as the National Parks (Scotland) Act 2000.

SCHEDULE 1
(introduced by section 7)

CONSTITUTION ETC. OF NATIONAL PARK AUTHORITIES

Status

- 5 1 A National Park authority is a body corporate.
- 2 2 A National Park authority—
- (a) is not to be regarded as a servant or agent of the Crown,
- (b) does not have any status, immunity or privilege of the Crown,
- 10 (c) is not exempt from any tax, duty, rate, levy or any other charge whatsoever
 whether general or local,
- and its property is not to be regarded as property of, or held on behalf of, the Crown.

Membership

- 3 (1) A National Park authority is to consist of such number of members, not exceeding 20, as
 is specified in the designation order which establishes the authority.
- 15 (2) The members are to be appointed by the Scottish Ministers, but half of the members are
 to be appointed on the nomination of such local authorities as the designation order may
 specify (being local authorities any part of whose area is within the National Park).
- (3) Where there is more than one such local authority, the number of members to be
 nominated by each is to be specified in the designation order.
- 20 (4) In this schedule—
- “nominated member” means a member appointed on the nomination of a local
 authority,
- “directly appointed member” means any other member.
- 4 4 The Scottish Ministers must, before appointing any directly appointed member,
 consult—
- 25 (a) every local authority and community council any part of whose area is within the
 National Park,
- (b) such persons as appear to them to be representative of the interests of those who
 live, work or carry on business in the National Park, and
- 30 (c) any other person they think fit.
- 5 (1) No person may be appointed a directly appointed member unless the person appears to
 the Scottish Ministers to have knowledge or experience relevant to the functions of the
 National Park authority or the National Park.
- (2) In appointing directly appointed members the Scottish Ministers must seek to ensure
 that those members include—
- 35 (a) persons appearing to them to have knowledge or experience in any particular
 matters, and
- (b) persons appearing to them to be representative of any particular interests,

specified in the designation order for the purposes of this sub-paragraph.

(3) A local authority must not nominate a person for appointment as a nominated member unless the person appears to the authority to have knowledge or experience relevant to the functions of the National Park authority or the National Park.

5 (4) No person may be appointed, or hold office as, a member unless the Scottish Ministers are satisfied that the person has no financial or other interest likely to affect prejudicially the person's performance as a member.

10 (5) For the purposes of sub-paragraph (4) the Scottish Ministers may, at any reasonable time, require from the person such information as they consider necessary to be so satisfied.

6 Each member—

(a) is to be appointed for such period, not exceeding 5 years, as is specified in the appointment,

(b) is to hold and vacate office in accordance with the terms of appointment,

15 (c) may, by written notice to the Scottish Ministers, resign membership,

(d) after ceasing to hold office is eligible for reappointment.

7 The Scottish Ministers may remove a member from office if they are satisfied that—

20 (a) the member's estate has been sequestrated or the member has been adjudged bankrupt, has made an arrangement with creditors or has granted a trust deed for creditors or a composition contract; or

(b) the member—

(i) is incapacitated by physical or mental illness,

25 (ii) has been absent from meetings of the National Park authority for a period longer than three consecutive months without the permission of the authority, or

(iii) is otherwise unable or unfit to discharge the member's functions as a member or is unsuitable to continue as a member.

8 (1) Where there is a vacancy in membership, a new member is to be appointed in accordance with the preceding provisions of this schedule, according to whether the vacancy is of a directly appointed member or a nominated member.

30 (2) Where the vacancy is of a nominated member, the new member is to be appointed on the nomination of the local authority which nominated the previous member.

Convener and deputy convener

9 (1) The members must elect, from among their number, a convener and a deputy convener.

35 (2) A person who ceases to hold office as convener or deputy convener is eligible for re-election.

(3) A convener or deputy convener who ceases to be a member ceases to be convener or, as the case may be, deputy convener.

40 (4) Where a member becomes, or ceases to be, the convener or deputy convener, the Scottish Ministers may vary the terms of the member's appointment so as to alter the date on which office as a member is to be vacated.

Remuneration, allowances and pensions

- 10 (1) A National Park authority must pay to its convener, deputy convener and other members such remuneration and allowances as the Scottish Ministers may determine.
- 5 (2) Where a person ceases to be a member otherwise than on the expiry of the member's term of office the Scottish Ministers may, in special circumstances, direct the authority to pay to the person such amount of compensation as they may determine.
- (3) The Scottish Ministers may direct an authority to pay, in respect of any office held by a person as convener, deputy convener or member—
- 10 (a) such pension, allowance or gratuity to or in respect of the person, and
- (b) such contribution or other payment towards provision of such pension, allowance or gratuity,
- as they consider appropriate.

Staff

- 15 11 (1) A National Park authority is to have a chief executive to be appointed by the authority with the approval of the Scottish Ministers on such terms and conditions as the authority may with such approval determine.
- (2) Any variation of those terms and conditions requires the approval of the Scottish Ministers.
- 12 A National Park authority may appoint such other employees on such terms and conditions as it may determine.
- 20 13 (1) A National Park authority must—
- (a) pay such pensions, allowances and gratuities to or in respect of its employees or former employees,
- (b) make such payment towards provision of such pensions, allowances or gratuities,
- 25 (c) provide and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities,
- as it may, with the approval of the Scottish Ministers, determine.
- (2) References in sub-paragraph (1) to pensions, allowances or gratuities include their provision by way of compensation for loss of office or employment.

30 *Committees*

- 14 (1) A National Park authority may appoint persons who are not members of the authority to be members of any committee established by it, but a majority of the members of any committee must be members of the authority.
- 35 (2) The authority must pay to a committee member so appointed such remuneration and allowances (if any) as the Scottish Ministers may determine.
- (3) Sub-paragraph (1) is subject to any provision of the designation order in relation to the composition of particular committees.
- (4) Committees of an authority must comply with directions given to them by the authority.

Delegation of powers

15 (1) Anything authorised or required by or under any enactment to be done by the National Park authority may be done by any of its committees which, or by any of its members or employees who, is authorised (generally or specifically) for the purpose by the authority.

5 (2) Nothing in sub-paragraph (1) prevents the authority from doing anything that a committee, member or employee has been authorised or required to do.

Members' interests

10 16 (1) A member who is in any way directly or indirectly interested in any matter which is brought up for consideration at a meeting of a National Park authority must disclose the nature of the interest to the meeting; and, where such a disclosure is made—

(a) the disclosure must be recorded in the minutes of the meeting, and

(b) the member must not take any part in any deliberation or decision of the authority or of any of its committees with respect to that matter.

15 (2) For the purposes of sub-paragraph (1), a general notification given at a meeting of the authority by a member to the effect that the member—

(a) is a member of a specified company or firm, and

(b) is to be regarded as interested in any matter involving that company or firm,

is to be regarded as a sufficient disclosure of the member's interest in relation to any such matter.

20 (3) A member need not attend in person at a meeting of the authority in order to make a disclosure required to be made under this paragraph if the member takes reasonable steps to secure that the disclosure is made by a notice which is read and considered at the meeting.

25 (4) The Scottish Ministers may, subject to such conditions as they consider appropriate, remove any disability imposed by virtue of this paragraph in any case where the number of members of an authority disabled by virtue of this paragraph at any one time would be so great a proportion of the whole as to impede the transaction of business.

30 (5) The power of the Scottish Ministers under sub-paragraph (4) includes power to remove, either indefinitely or for any period, a disability which would otherwise attach to any member, or members of any description, by reason of such interests, and in respect of such matters, as may be specified or described by the Scottish Ministers.

(6) Nothing in this paragraph precludes any member from taking part in the consideration or discussion of, or voting on, any question whether an application should be made to the Scottish Ministers for the exercise of the power conferred by sub-paragraph (4).

35 (7) In this paragraph—

(a) any reference to a meeting of an authority includes a reference to a meeting of any of its committees,

(b) any reference to a member includes a reference to a person who is not a member of the authority but who is a member of any such committee.

40 *Proceedings and minutes*

17 (1) Each National Park authority may determine its own procedure.

- (2) The validity of any proceedings of an authority and of any committee established by it is not affected by any vacancy among its members or the members of the committee or by any defect in the appointment of any such member.

SCHEDULE 2
(introduced by section 8)

GENERAL POWERS OF NATIONAL PARK AUTHORITIES

Charges

- 1 A National Park authority may fix and recover charges for goods, services and facilities provided in the course of carrying out its functions.

10 *Advice and assistance*

- 2 (1) An authority may provide for any person, whether in Scotland or elsewhere, advice or assistance, including training facilities, as respects any matter in which the authority has skill or experience.
- 15 (2) Where the person to whom the advice or assistance is provided is outwith Scotland, the advice and assistance may be provided only with the consent of the Scottish Ministers and subject to any conditions which they may impose.

Research

- 3 An authority may make arrangements for the carrying out of research and related activities (whether by itself or others) in respect of matters to which its functions relate.

20 *Grants*

- 4 (1) An authority may, with the consent of the Scottish Ministers, give financial assistance by way of grant or loan to any person in respect of expenditure incurred or to be incurred by that person in doing anything which, in the authority's opinion, is conducive to the attainment of the purpose set out in section 8(1).
- 25 (2) Such financial assistance may be given subject to such conditions as the authority thinks fit, including conditions for repayment in specified circumstances.

Land

- 5 (1) For the purposes of its functions, an authority may—
- 30 (a) acquire by agreement,
- (b) if authorised by the Scottish Ministers, purchase compulsorily, any land situated within the National Park.
- (2) Sub-paragraph (1)(b) is subject to any other enactment conferring on the authority power to acquire land compulsorily.
- 35 (3) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c.42) applies in relation to the compulsory purchase of land under sub-paragraph (1)(b) as if—

- (a) that provision were contained in an Act in force immediately before the commencement of that Act, and
- (b) the authority were a local authority.

5 (4) The power to purchase land compulsorily under sub-paragraph (1)(b) includes power to acquire a servitude or other right in or over land by the creation of a new right.

6 An authority must not, without the consent of the Scottish Ministers, dispose of land for a consideration less than the best that could reasonably be expected to be obtained on the open market.

Private legislation

10 7 (1) An authority may, if it thinks fit—

- (a) with the consent of the Scottish Ministers, promote private legislation,
 - (b) oppose private legislation,
- in the Parliament.

15 (2) An application for such consent must be accompanied by a concise summary of the purposes of the proposed legislation.

Byelaws etc.

8 (1) A National Park authority may make byelaws for the National Park for the purposes of—

- (a) protecting the natural and cultural heritage of the National Park,
- (b) preventing damage to the land or anything in, on or under it,
- (c) securing the public's enjoyment of, and safety in, the National Park.

(2) In particular, a National Park authority may make byelaws under sub-paragraph (1)—

- (a) to regulate or prohibit the lighting of fires,
- (b) to prohibit the depositing of rubbish and the leaving of litter,
- (c) for the prevention or suppression of nuisances,
- (d) to regulate the use of vehicles (other than the use of vehicles on a road within the meaning of the Roads (Scotland) Act 1984 (c.50)).

(3) Section 121 (control of the seashore, adjacent waters and inland waters) of the Civic Government (Scotland) Act 1982 (c.45) applies to a National Park authority as it applies to a local authority.

(4) The power in sub-paragraph (1) does not include power to make byelaws in relation to any matter if such byelaws could be made by virtue of sub-paragraph (3).

9 Sections 202 to 204 (byelaws) of the Local Government (Scotland) Act 1973 (c.65) apply to a National Park authority as they apply to a local authority, with the following modifications—

- (a) in subsection (3) of section 202, the reference to byelaws being authenticated with the common seal of the local authority is omitted,
- (b) for subsection (13) of that section there is substituted—

“(13) A National Park authority shall send a copy of any byelaws made by it to the proper officer of the local authority for any area to the whole or any part of which the byelaws will apply.”

Management rules

- 5 10 (1) Sections 112 to 118 (management rules) of the Civic Government (Scotland) Act 1982 (c.45) have effect as if references to a local authority and to the authority’s area included references to a National Park authority and the National Park.
- (2) In the application of those sections to a National Park authority—
- 10 (a) the reference in section 112(9) to management rules being sealed with the common seal of an authority, and
- (b) section 117(6) (disapplication of section 56(1) of Local Government (Scotland) Act 1973 (c.65)),
- are omitted.

Goods and services

- 15 11 The Local Authorities (Goods and Services) Act 1970 (c.39) has effect as if a National Park authority were both a local authority and a public body for the purposes of that Act.

Access to meetings and documents

- 20 12 (1) Part IIIA (access to meetings and documents of local authorities) of the Local Government (Scotland) Act 1973 (c.65) has effect as if a National Park authority were a local authority for the purposes of that Part.
- (2) In the application of that Part to a National Park authority—
- (a) in section 50E(1)(b) (application of sections 50A to 50D to committees etc.), for “an enactment specified in section 56(9) below” there is substituted “section 15(4) of the National Parks (Scotland) Act 2000 (asp 00)”,
- 25 (b) in section 50F(1)(b) (additional rights of access for members of authorities), for “statutory committee appointed by the authority” there is substituted “committee appointed under section 15(4) of the National Parks (Scotland) Act 2000 (asp 00)”,
- 30 (c) in section 50G(1) (publication of information), the references to the address of a member and the electoral division or ward which the member represents are omitted,
- (d) section 50K(2) is omitted.
- (3) A National Park authority must appoint a member of its staff as its proper officer for the purposes of Part IIIA of that Act.

35 *Tenants’ rights*

- 13 Part III (change of landlord: secure tenants) of the Housing (Scotland) Act 1988 (c.43) has effect as if a National Park authority were a public sector landlord for the purposes of that Part.

Contracting out

14 Part II (contracting out) of the Deregulation and Contracting Out Act 1994 (c.40) has effect as if a National Park authority were a local authority for the purposes of that Part.

Other powers

- 5 15 An authority may—
- (a) enter into contracts,
 - (b) carry on any business or undertaking,
 - (c) form or promote (whether alone or with others) companies (within the meaning of the Companies Act 1985 (c.6)),
 - 10 (d) form partnerships with other persons,
 - (e) accept gifts,
 - (f) invest sums not immediately required in relation to the exercise of its functions.

SCHEDULE 3
(introduced by section 8)

15 MISCELLANEOUS FUNCTIONS

Open spaces and recreation

- 1 The provisions in—
- (a) sections 1 and 2 (power to develop land) of the Local Government (Development and Finance) (Scotland) Act 1964 (c.67),
 - 20 (b) section 13 (membership of rights of way societies) of that Act, and
 - (c) section 3 (power to acquire or maintain certain open spaces) of the Local Government (Footpaths and Open Spaces) (Scotland) Act 1970 (c.28),
- have effect as if references to a local authority included references to a National Park authority.

25 *Nature reserves*

- 2 Sections 21 and 22 (establishment of nature reserves and application of enactments to local authority reserves) of the National Parks and Access to the Countryside Act 1949 (c.97) have effect as if references to a local authority and the authority's area included references to a National Park authority and the National Park.

30 *Information and education*

- 3 A National Park authority may provide, or arrange for the provision of—
- (a) information,
 - (b) educational services and facilities,
- for the purpose of promoting understanding and enjoyment of the special qualities of the National Park by the public.
- 35

Tourism and leisure

4 A National Park authority may—

- (a) provide, or encourage other persons to provide, facilities in the National Park, and
- (b) encourage persons, by advertisement or otherwise, to visit the National Park,

5 for purposes relating to leisure.

5 (1) Sections 49 (provision of camp sites) and 50 (provision of accommodation, meals and refreshments) of the Countryside (Scotland) Act 1967 (c.86) have effect as if references to a local authority and the authority's area included references to a National Park authority and the National Park.

10 (2) In the application of section 49 of that Act to a National Park authority, for the words "whether for the benefit of the inhabitants of their own area or otherwise" there is substituted "in the National Park".

Recreational, sporting, cultural and social facilities and activities

15 6 (1) Sections 15(2), 16 and 17 (local authority powers in relation to recreational, sporting, cultural and social activities) of the Local Government and Planning (Scotland) Act 1982 (c. 43) have effect as if references to a local authority and the authority's area included references to a National Park authority and the National Park.

(2) In the application of those provisions to a National Park authority—

- 20 (a) in section 15(2), for the words "whether inside or outside their area" there is substituted "in the National Park",
- (b) in section 17(1), for the words "whether inside or outside the area of the local authority concerned" there is substituted "in the National Park".

Access to open country

7 (1) The Countryside (Scotland) Act 1967 (c.86) is amended as follows.

25 (2) In section 12 (consultation on access requirements)—

- (a) in subsection (1), after "authorities" insert ", with National Park authorities",
- (b) in subsection (2), after "Heritage" insert ", the National Park authority".

(3) In section 13 (access agreements)—

- 30 (a) in subsection (1), after paragraph (b), insert—
" (c) by a National Park authority with any person having an interest in land situated in the National Park ,",
- (b) in subsections (2) and (7), after "Heritage" insert ", the National Park authority".

(4) In section 14 (access orders)—

- 35 (a) in subsection (1), after paragraph (b), insert—
" (c) by the National Park authority for a National Park , as regards any land in the National Park ,",
- (b) in subsection (8), after "by" in the first place where it appears insert "a National Park authority or".

- (5) In section 16 (effect of access agreement or order)—
- (a) in subsection (6), after “Heritage” in the first place where it appears insert “or a National Park authority”,
 - (b) in that subsection, after “Heritage” in the second place where it appears insert “or, as the case may be, the National Park authority”,
 - (c) in subsection (8), after “Heritage” insert “, the National Park authority”.
- (6) In section 17 (provisions for securing safe and sufficient access)—
- (a) in subsection (4), after “Heritage” in the first place where it appears insert “, a National Park authority”,
 - (b) in that subsection, after “Heritage” in the second place where it appears insert “, the National Park authority”,
 - (c) in subsection (5), after “Heritage” in the first and second places where it appears insert “, the National Park authority”.
- (7) In section 18 (power to enforce access)—
- (a) in subsection (1)(a), after “Heritage” insert “or a National Park authority”,
 - (b) in subsection (2), after “Heritage” insert “, the National Park authority”.
- (8) In section 20 (compensation for access orders), in subsection (1)(a), after “Heritage” insert “or a National Park authority”.
- (9) In section 24 (acquisition of land for public access)—
- (a) in subsection (1), after “Scotland” insert “, to the National Park authority for any National Park, as respects any land in the National Park”,
 - (b) in paragraph (b) of that subsection, after “Heritage” insert “, the National Park authority”,
 - (c) in subsection (2), after “Heritage” insert “, a National Park authority”,
 - (d) in subsection (3), after “Heritage” in the first place where it appears insert “, a National Park authority”.
- (10) In section 26 (maps of land subject to public access)—
- (a) in subsection (3), after “situated” insert “and to the National Park authority for any National Park in which that land is situated”,
 - (b) after that subsection insert—
 - “(4) A National Park authority shall, within 14 days of—
 - (a) an access agreement having been made by it; or
 - (b) an access order made by it having been confirmed,send to Scottish Natural Heritage and to the planning authority in whose area the land to which the agreement or order applies is situated a copy of such agreement or order.
- (11) In section 27 (provisions as to danger areas)—
- (a) in subsection (4), after “Heritage” in the first place where it appears insert “, a National Park authority”,
 - (b) in subsection (5), after “Heritage” insert “, a National Park authority”.

- (12) In section 28 (boundary notices), after “Heritage” insert “, a National Park authority”.
- (13) In section 29 (power of local planning authority to contribute to work carried out by others), after “Heritage” insert “, a National Park authority”.
- 5 (14) In Schedule 2 (general restrictions on access to land), in paragraph (e), after “Heritage” insert “, the National Park authority”.
- (15) In Schedule 4 (consideration in respect of the making of access agreements), in paragraph (2)—
- (a) in sub-paragraph (a), after “Heritage” insert “or the National Park authority”,
- (b) after “Heritage” in the second place where it appears insert “, the National Park authority”.
- 10

Improvement of waterways for recreation

- 8 Sections 61 and 62 (powers to improve waterways for purposes of open-air recreation) of the Countryside (Scotland) Act 1967 (c.86) have effect as if references to a planning authority and the authority’s area included references to a National Park authority and the National Park.
- 15

SCHEDULE 4
(introduced by section 27)

TRANSFER OF STAFF, PROPERTY AND LIABILITIES

Requirement to make staff or property transfer scheme

- 20 1 (1) If the Scottish Ministers consider that it is necessary or expedient in connection with the making of an order under section 5 or 28(1) or the exercise by a National Park authority of its functions, they may—
- (a) require a local authority any part of whose area is within the National Park to make—
- 25 style="padding-left: 80px;">(i) a scheme for the transfer of employees of the local authority to a National Park authority or another local authority,
- (ii) a scheme for the transfer of property and liabilities of the local authority to a National Park authority or another local authority,
- (b) require a National Park authority to make—
- 30 style="padding-left: 80px;">(i) a scheme for the transfer of employees of the National Park authority to a local authority or another National Park authority,
- (ii) a scheme for the transfer of property and liabilities of the National Park authority to a local authority or another National Park authority.
- (2) In this schedule—
- 35 “property transfer scheme” means a scheme under sub-paragraph (1)(a)(ii) or (b)(ii),
- “staff transfer scheme” means a scheme under sub-paragraph (1)(a)(i) or (b)(i),
- “transferee authority” means the authority to which staff or, as the case may be, property and liabilities are transferred, or proposed to be transferred, by a transfer scheme,
- 40

“transferor authority” means the authority required (or to be required) to make a transfer scheme.

(3) Before making a requirement under sub-paragraph (1) the Scottish Ministers must consult—

- 5
- (a) the transferor authority,
 - (b) the transferee authority,
 - (c) every local authority any part of whose area is within the National Park.

Transfer schemes

2 (1) Where required to do so under paragraph 1(1), the transferor authority must—

- 10
- (a) make a staff transfer scheme or, as the case may be, a property transfer scheme, and
 - (b) submit the scheme to the Scottish Ministers for approval,
- by such date as the requirement may specify.

(2) Before making the scheme the transferor authority must consult—

- 15
- (a) the transferee authority,
 - (b) every local authority any part of whose area is within the National Park, and
 - (c) in the case of a staff transfer scheme, such associations of employees of the transferor authority as the authority considers appropriate.

(3) The scheme must specify a date (“the transfer date”) on which the transfer is to take effect.

20 (4) In making the scheme the transferor authority must take into account any guidance given by the Scottish Ministers as to—

- (a) the provisions which they consider appropriate for inclusion in the scheme,
 - (b) in the case of a staff transfer scheme, the criteria to be used in determining the employees to whom the scheme is to apply.
- 25

3 (1) The Scottish Ministers may, on receipt of the scheme—

- (a) approve the scheme (with or without modifications), or
- (b) reject the scheme.

(2) The Scottish Ministers must not approve the scheme with modifications unless they have—

- (a) sent a copy of the proposed modifications to the transferor authority and the persons mentioned in paragraph 2(2)(a) and (b), and
 - (b) taken into account any comments on the proposed modifications made to them by the transferor authority or any of those persons.
- 30

4 (1) If—

- (a) a transferor authority fails to make and submit a scheme to the Scottish Ministers in accordance with paragraph 2(1), or
- (b) the Scottish Ministers reject a scheme in pursuance of paragraph 3(1)(b),

the Scottish Ministers may themselves make a staff transfer scheme or, as the case may be, a property transfer scheme.

40

- (2) Sub-paragraph (1) does not prevent the Scottish Ministers approving a scheme submitted to them after the due date.

5 At any time before the transfer date the Scottish Ministers may modify a scheme made
5 or approved by them under this schedule, but only after consultation with the transferee
authority and, in the case of a scheme approved by them, with the transferor authority
and the local authorities mentioned in paragraph 2(2)(b).

Effect of transfers of staff

6 (1) On the transfer date each employee to whom a staff transfer scheme approved or made
10 by the Scottish Ministers under this schedule applies transfers to and becomes a member
of the staff of the transferee authority.

(2) The terms and conditions of appointment of such a person are to be determined by the
transferee authority but, taken as a whole, must be not less favourable to the person
transferred than the terms on which that person was employed immediately before the
transfer.

15 (3) Where a person becomes a member of the staff of the transferee authority under sub-
paragraph (1), then, for the purposes of the Employment Rights Act 1996 (c.18), that
person's period of employment by the transferor authority counts as a period of
employment by the transferee authority and the change of employment does not break
the continuity of the period of employment.

20 (4) Where a person ceases to be employed by a transferor authority by virtue of sub-
paragraph (1) that person is not, on ceasing to be so employed, to be treated—

(a) for the purposes of any scheme or regulations by virtue of the Superannuation Act
1972 (c.11) as having been retired on redundancy,

25 (b) for the purposes of Part XI (redundancy payments etc.) of the Employment Rights
Act 1996 (c.18) as having been dismissed by reason of redundancy.

Effect of transfers of property and liabilities

7 (1) On the transfer date—

(a) property to which a property transfer scheme approved or made by the Scottish
Ministers under this schedule applies transfers to and vests in, and

30 (b) liabilities to which such a scheme applies become liabilities of,

the transferee authority.

(2) A certificate issued by the Scottish Ministers that any property or liability has, or has
not, been transferred by virtue of sub-paragraph (1) is conclusive evidence of the
transfer or the fact that there has not been a transfer.

SCHEDULE 5
(introduced by section 34)

MODIFICATION OF ENACTMENTS

Local Government (Scotland) Act 1966 (c.51)

- 5 1 Section 35 (agreements for secondment of local authority staff) of the Local Government (Scotland) Act 1966 has effect as if references to a local authority included references to a National Park authority.

Countryside (Scotland) Act 1967 (c.86)

- 10 2 (1) Sections 48 and 48A (country and regional parks) of the Countryside (Scotland) Act 1967 cease to have effect in respect of any land in a National Park.
- (2) Sub-paragraph (1) does not affect the continued operation of those sections in relation to any country park or regional park in existence on the date when the designation of the National Park takes effect.
- 15 (3) Section 54(1)(d) (byelaws) of that Act ceases to have effect in respect of any part of a country park which is in a National Park.
- (4) Sub-paragraph (3) does not affect any byelaw made under that section prior to the date when the designation of the National Park takes effect.
- (5) In section 54(3) and in the proviso to section 55(1) (byelaws and default powers of Scottish Ministers as to byelaws) of that Act—
- 20 (a) after “with” insert “(a)”, and
- (b) at the end insert “and
- (b) where a byelaw is to apply in any part of a National Park, the National Park authority.”

Local Government (Scotland) Act 1973 (c.65)

- 25 3 Section 65 (agreements for secondment of local authority staff) of the Local Government (Scotland) Act 1973 has effect as if references to a local authority included references to a National Park authority.

Control of Pollution Act 1974 (c.40)

- 30 4 In paragraph 3 of Schedule 1A (orders designating nitrate sensitive areas) to the Control of Pollution Act 1974—
- (a) after sub-paragraph (2)(b)(ii) insert—
- “(iia) the National Park authority for any National Park which includes the whole or any part of that locality;”,
- (b) in sub-paragraph (2)(c)(i), after “authority” insert “and National Park authority”.

35 *Local Government (Scotland) Act 1975 (c.30)*

- 5 (1) The Local Government (Scotland) Act 1975 is amended as follows.

- (2) In section 23(1) (authorities subject to investigation under Part II of that Act), after paragraph (j) insert—

“(k) a National Park authority”.

- (3) In section 24 (matters subject to investigation), after subsection (7) insert—

“(7A) Where the complaint relates to a National Park authority, the reference in subsection (7) above to the area of the authority is a reference to the National Park.”

Refuse Disposal (Amenity) Act 1978 (c.3)

- 6 (1) In the Refuse Disposal (Amenity) Act 1978—

10 (a) sections 3 to 5 (abandoned and removed vehicles) and 8 (powers of entry etc.), and

(b) sections 10 and 11 (orders and regulations and interpretation) so far as they apply to those sections,

15 have effect as if a National Park authority were a local authority for the purposes of the application of those sections to Scotland.

- (2) In the application of section 3 to a National Park authority—

(a) in subsection (1), for the words “it shall be the duty of the authority” there is substituted “the authority may”, and the word “to” in the third place where it appears is omitted,

20 (b) in subsection (2), for the words “the authority” to “above” there is substituted “and they propose to remove the vehicle in pursuance of subsection (1) above, they shall give him notice of their proposal”,

(c) subsections (3) and (4) are omitted.

Ancient Monuments and Archaeological Areas Act 1979 (c.46)

- 25 7 The Ancient Monuments and Archaeological Areas Act 1979 has effect as if references to a local authority included references to a National Park authority.

Wildlife and Countryside Act 1981 (c.69)

- 8 In section 28 (areas of special scientific interest) of the Wildlife and Countryside Act 1981, after paragraph (a) of subsection (1) insert—

30 “(aa) where the land is situated in a National Park, the National Park authority for the National Park;”.

Roads (Scotland) Act 1984 (c.54)

- 9 In section 151 (interpretation) of the Roads (Scotland) Act 1984, in the definition of “consultation bodies”, after paragraph (a) insert—

35 “(aa) the National Park authority for any National Park where the proposed project is likely to affect land in the National Park;”.

Local Government Act 1988 (c.9)

10 In Schedule 2 (bodies to which Part II of the Act applies) to the Local Government Act 1988, after the entry for the Strathclyde Passenger Transport Authority insert—

“A National Park authority in Scotland”.

5 *Electricity Act 1989 (c.29)*

11 (1) In sub-paragraph (a) of paragraph 8 of Schedule 5 (water rights for hydro-electric generating stations) to the Electricity Act 1989—

(a) omit the word “and” at the end of paragraph (i),

(b) after paragraph (ii) insert “; and

10 (iia) any National Park authority”.

(2) In paragraph 4(2) of Schedule 9 (preservation of amenities and fisheries) to that Act, at the end insert “and with the National Park authority for any National Park which would be affected by the relevant proposals”.

Local Government and Housing Act 1989 (c.42)

15 12 (1) Section 5 (designation and reports of monitoring officer) of the Local Government and Housing Act 1989 has effect as if a National Park authority were a relevant authority for the purposes of that section.

(2) In the application of that section to a National Park authority—

(a) in subsection (1), the words after “performed” are omitted,

20 (b) in subsection (3)(a), for the words from “head” to “officer” there is substituted “authority’s chief executive (except where the monitoring officer is the chief executive)”,

(c) in subsection (5), the words from “without” to “otherwise” and from “and nothing” to the end are omitted,

25 (d) in subsection (8), the definition of “chief finance officer” is omitted.

Enterprise and New Towns (Scotland) Act 1990 (c.35)

13 In sections 5(1)(b) and 6(1) (consultation by Scottish Enterprise and Highlands and Islands Enterprise in relation to certain functions) of the Enterprise and New Towns (Scotland) Act 1990, after “authorities” insert “, National Park authorities,”.

30 *Environment Act 1995 (c.25)*

14 In paragraph 1 of Schedule 11 (air quality) to the Environment Act 1995—

(a) in sub-paragraph (3), at the beginning insert “Except in its application to Scotland,”,

(b) after sub-paragraph (4) insert—

35 “(5) In the application of this paragraph to Scotland “National Park authority” means a National Park authority established by virtue of section 6(1)(b) of the National Parks (Scotland) Act 2000 (asp 00).”

Town and Country Planning (Scotland) Act 1997 (c.8)

15 After section 264 of the Town and Country Planning (Scotland) Act 1997 insert—

“National Parks

264A National Parks

5

In the exercise, with respect to any land in a National Park, of any power under the planning Acts, special attention shall be paid to the National Park Plan as adopted under section 11(7)(a) of the National Parks (Scotland) Act 2000 (asp 00).”

National Parks (Scotland) Bill

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision for National Parks.

Introduced by: Sarah Boyack
On: 27 March 2000
Supported by: Ross Finnie, Jackie Baillie, Mr Alasdair Morrison
Bill type: Executive Bill

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