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## SCHEDULE 1

(introduced by section 8)

### CONSTITUTION ETC. OF NATIONAL PARK AUTHORITIES

#### *Status*

- 1 A National Park authority is a body corporate.
- 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,
  - (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 25, as is specified in the designation order which establishes the authority.
  - (2) The designation order must specify—
    - (a) the number of members, being at least one fifth of the total number of members, who are to be elected in a poll of all those who, on the day of the poll—
      - (i) would be entitled to vote as electors at a local government election in an electoral area falling wholly or partly within the National Park, and
      - (ii) are registered in the register of local government electors at an address within the National Park, and
    - (b) the day on which the poll at the first election under this paragraph is to be held.
  - (3) The remaining members are to be appointed by the Scottish Ministers, with half of these members being 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).
  - (4) 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.
  - (5) The designation order must specify—
    - (a) the number of members, being at least one fifth of the total number of members, who are to be appointed as local members,
    - (b) the number of such members to be appointed on the nomination of the local authorities referred to in sub-paragraph (3), and
    - (c) where there is more than one such local authority, the number of such members (if any) to be nominated by each.
  - (6) The Scottish Ministers may appoint a person as a local member only if—
    - (a) the person's sole or main residence is within the National Park, or
    - (b) the person is a councillor for an electoral ward, or a member of a community council, any part of whose area is within the National Park.

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- (7) In this schedule—
- “nominated member” means a member appointed on the nomination of a local authority,
  - “elected member” means a member elected in accordance with sub-paragraph (2),
  - “directly appointed member” means any other member.
- 4 (1) The Scottish Ministers may by order make provision as to—
- (a) the election of persons as elected members,
  - (b) the matters mentioned in paragraph 8(a) and (b),
  - (c) the circumstances in which a person is disqualified from being an elected member and the effect of such disqualification.
- (2) The provision which may be made under sub-paragraph (1)(a) includes, in particular, provision—
- (a) about the conduct of elections for elected members,
  - (b) about the registration of electors and disregarding alterations in a register of electors,
  - (c) for the combination of polls at elections for elected members with polls at other elections,
  - (d) for determining the dates of the polls at elections for elected members (other than the first such election in relation to a National Park),
  - (e) for questioning the result of an election for elected members,
  - (f) applying, with or without modifications or exceptions, any provision made by or under any enactment relating to local government elections.
- 5 The Scottish Ministers must, before appointing any directly appointed member, consult—
- (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
  - (c) any other person they think fit.
- 6 (1) No person may be appointed as 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—
- (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.
- (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.

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- (5) Sub-paragraph (4) does not apply in relation to an elected member.
- 7 For the purposes of paragraphs 3(6) and 6(4), the Scottish Ministers may, at any reasonable time, require from the persons referred to in those provisions such information as they consider necessary.
- 8 Each member—
- (a) is to be appointed or elected for such period, not exceeding 5 years, as is specified in the appointment or, as the case may be, in an order under paragraph 4,
  - (b) is to hold and vacate office in accordance with the terms of appointment or, in the case of an elected member, in accordance with an order under paragraph 4,
  - (c) may, by written notice to the Scottish Ministers, resign membership,
  - (d) after ceasing to hold office is eligible to be appointed or elected to hold office again.
- 9 The Scottish Ministers may remove a member (other than an elected member) from office if they are satisfied that—
- (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,
    - (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.
- 10 (1) Where there is a vacancy in membership—
- (a) in the case of an elected member, an election shall be held to fill the vacancy, and
  - (b) in the case of an appointed member, 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.
- (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.
- (3) Where the vacancy is of a local member, the new member is to be a local member.

#### *Convener and deputy convener*

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

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- (4) Where a member (other than an elected 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*

- 12 (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.
- (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—
- (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*

- 13 (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.
- 14 A National Park authority may appoint such other employees on such terms and conditions as it may determine.
- 15 (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,
  - (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.

#### *Committees*

- 16 (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.
- (2) The authority must pay to a committee member so appointed such remuneration and allowances (if any) as the Scottish Ministers may determine.

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- (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*

- 17 (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.
- (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*

- 18 (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.
- (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.
- (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.
- (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.
- (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).
- (7) In this paragraph—

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- (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.

#### *Proceedings and minutes*

- 19 (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 or election of any such member.

## SCHEDULE 2

*(introduced by section 9)*

### 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.

#### *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.
- (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.

#### *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 9(1).
- (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—

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- (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)—
- (a) does not apply in relation to Crown land within the meaning of section 242 of the Town and Country Planning (Scotland) Act 1997 (c.8), and
  - (b) is subject to any other enactment conferring on the authority power to acquire land compulsorily.
- (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.
- (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*

- 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.
- (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)),
  - (e) to regulate the exercise of recreational activities.
- 9 (1) Where a National Park authority proposes to make byelaws under paragraph 8(1) it must—

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- (a) publicise the proposed byelaws in such manner as it thinks fit,
  - (b) make copies of the proposed byelaws available for public inspection for such period (which must be at least 12 weeks) as it may determine, and
  - (c) consult—
    - (i) every local authority and community council any part of whose area is within the area to which the proposed byelaws would apply (“the byelaw area”),
    - (ii) such persons as appear to them to be representative of the interests of those who live, work, carry on business or engage in recreational activities in the byelaw area, and
    - (iii) such other persons as they think fit,
 on the proposed byelaws.
- (2) The National Park authority must, when making the byelaws, take into account—
- (a) any views on the proposed byelaws expressed by those consulted under subparagraph (1)(c), and
  - (b) any comments on them received within the period referred to in subparagraph (1)(b).
- (3) 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*

- 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—
- (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*

- 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.



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### *Access to meetings and documents*

- 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 17(5) of the National Parks (Scotland) Act 2000 (asp 10)”,
  - (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 17(5) of the National Parks (Scotland) Act 2000 (asp 10)”,
  - (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.

### *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*

- 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)),
  - (d) form partnerships with other persons,
  - (e) accept gifts or contributions,
  - (f) invest sums not immediately required in relation to the exercise of its functions.

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### SCHEDULE 3

(introduced by section 9)

#### 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),
  - (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.

##### *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.

##### *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.

##### *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, 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.
- (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*

- 6 (1) Sections 15(2), 16 and 17 (local authority powers in relation to recreational, sporting, cultural and social facilities and activities) of the Local Government and Planning

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(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—
- (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.
- (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)—
- (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)—
- (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 ”.

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- (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 ”.
- (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 ”.

#### *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.

*Status: Point in time view as at 23/10/2002.*

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## SCHEDULE 4

(introduced by section 29)

### TRANSFER OF STAFF, PROPERTY AND LIABILITIES

#### *Requirement to make staff or property transfer scheme*

- 1 (1) If the Scottish Ministers consider that it is necessary or expedient in connection with the making of an order under section 6 or 30(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—
    - (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—
    - (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—
- “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,
  - “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—
- (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—
- (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—
- (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.

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

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- (a) for the purposes of any scheme or regulations by virtue of the Superannuation Act 1972 (c.11) as having been retired on redundancy,
- (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
  - (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 36)*

MODIFICATION OF ENACTMENTS

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

- 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)*

- 2 (1) In section 46 (protection and maintenance of rights of way) of the Countryside (Scotland) Act 1967, subsections (1) and (2) 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.
- (2) In the application of subsection (1) of that section to a National Park authority, for the words from the beginning to “to” there is substituted “ A National Park authority may ”.
- (3) Sections 48 and 48A (country and regional parks) of that Act cease to have effect in respect of any land in a National Park.
- (4) Sub-paragraph (3) 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.
- (5) 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.
- (6) Sub-paragraph 5 does not affect any byelaw made under that section prior to the date when the designation of the National Park takes effect.

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(7) 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—

- (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)*

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)*

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 ”.

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

5 <sup>F1</sup> .....

**Textual Amendments**

**F1** Sch. 5 para. 5 repealed (23.10.2002) by [Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), s. 25, [Sch. 6 para. 22](#); S.S.I. 2002/467, art. 2

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

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

- (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,

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 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,



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- (b) in subsection (2), for the words from “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)*

- 7 The Ancient Monuments and Archaeological Areas Act 1979 (except Part II) has effect as if references to a local authority and the authority’s area included references to a National Park authority and the National Park.

*Wildlife and Countryside Act 1981 (c.69)*

- 8 (1) In section 28 (areas of special scientific interest) of the Wildlife and Countryside Act 1981, after paragraph (a) of subsection (1) insert—
- “(aa) where the land is situated in a National Park in Scotland, the National Park authority for the National Park;”.
- (2) In section 41 (duties of agriculture Ministers with respect to the countryside) of that Act, in subsection (3), after “Park” insert “ (including a National Park in Scotland) ”.

*Civic Government (Scotland) Act 1982 (c.45)*

- 9 (1) In section 62 (notification of processions) of the Civic Government (Scotland) Act 1982—
- (a) in subsection (1), after paragraph (a) insert—
    - “(aa) if the procession is to be held to any extent in a National Park, to the National Park authority for the National Park;”,
  - (b) in subsection (2)(a), after “authority” insert “ and (where subsection (1)(aa) above applies) of the National Park authority ”,
  - (c) in subsection (4), after paragraph (a) insert—
    - “(aa) if the procession is to be held to any extent in a National Park, intimated to the National Park authority for the National Park;”.
- (2) In section 63 (functions of local authorities in relation to processions) of that Act—
- (a) in subsection (1), after “constable” insert “ and (where section 62(1)(aa) of this Act applies) the National Park authority ”,
  - (b) in subsection (1A), after “constable” in both places where it appears insert “ and (where subsection (1)(aa) of that section applies) the National Park authority ”.

*Litter Act 1983 (c.35)*

- 10 In section 4 (consultation and proposals for abatement of litter) of the Litter Act 1983—
- (a) after subsection (4) insert—
    - “(4ZA) In preparing or revising a statement under subsection (4)(a) above, the local authority shall consult with the National Park authority for any National Park in which any of the steps are to be taken.”,

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- (b) in subsection (4A), for “subsection (4)” there is substituted “ subsections (4) and (4ZA) ”.

*Road Traffic Regulation Act 1984 (c.27)*

- 11 (1) In section 14 (temporary prohibition or restriction on roads) of the Road Traffic Regulation Act 1984, after subsection (1) insert—

“(1A) Before making an order under subsection (1) above, the authority shall consult the National Park authority for any National Park which would be affected by the order.”

- (2) In section 17 (traffic regulation on special roads) of that Act, after subsection (3) insert—

“(3A) Before making regulations under subsection (2) above, the Scottish Ministers shall consult the National Park authority for any National Park which would be affected by the regulations.”

- (3) In section 22 (traffic regulation for special areas in the countryside) of that Act—

- (a) in subsection (1)(b), after sub-paragraph (i) insert—

“(ia) a National Park;”,

- (b) after subsection (3) insert—

“(3A) A National Park authority for a National Park in Scotland may make submissions to the Scottish Ministers as to the desirability of a road traffic regulation order being made in relation to a road in, forming part of, adjacent to or contiguous with the National Park whether or not it is a road for which the Scottish Ministers are the traffic authority.”

*Roads (Scotland) Act 1984 (c.54)*

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

“(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)*

- 13 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”

*Electricity Act 1989 (c.29)*

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

- (a) the word “and” at the end of paragraph (i) is omitted,

- (b) after paragraph (ii) insert

“; and

(iia) any National Park authority”.

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

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

- 16 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, ”.

*Environment Act 1995 (c.25)*

- 17 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—  

“(5) In the application of this paragraph to Scotland “National Park authority” means a National Park authority established by virtue of section 7(1)(b) of the National Parks (Scotland) Act 2000 (asp 10).”

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

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

*“ National Parks*

**264A National Parks**

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 desirability of exercising the power consistently with the National Park Plan as adopted under section 12(7)(a) of the National Parks (Scotland) Act 2000 (asp 10).”

**Status:**

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