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SCOTTISH STATUTORY INSTRUMENTS

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**2003 No. 1**

**The Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003**

**Planning functions**

7.—(1) The functions exercisable by a planning authority under—

- (a) Part II (but only in respect of functions in relation to local plans) of the 1997 Act shall, in relation to the area of the National Park, transfer to and be exercisable by the Authority and not by any local authority; and
- (b) Parts VI (except sections 150 to 155) and VII of the 1997 Act shall, in relation to the area of the National Park, be exercisable by the Authority as well as by the planning authority.

(2) So far as may be necessary or expedient for the purpose or in consequence of the exercise of a function by the Authority by virtue of paragraph (1) above, any enactment and any other instrument or document shall be read as if references to a planning authority (however described) were or included references to the Authority.

(3) The functions conferred by—

- (a) subsections (1) to (4) of section 46 of the Town and Country Planning (Scotland) Act 1997(1);
- (b) subsections (1) to (3) of section 11 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997(2); and
- (c) subsections (1) to (3) of section 18 of the Planning (Hazardous Substances) (Scotland) Act 1997(3),

shall (subject to paragraphs (4), (5) and (6) below) be exercisable by the Authority but only where the Authority so directs in relation to a particular application for a proposed development in the National Park which, in the opinion of the Authority, raises a planning issue of general significance to the National Park aims under section 1 of the 2000 Act.

(4) The Authority may only issue a direction in exercise of its functions under paragraph (3) above within the period of three weeks beginning with the date on which it receives notification of the proposed development from the planning authority.

(5) The Authority shall, not later than five days from the date on which it is issued, notify the applicant of any direction issued in exercise of its functions under paragraph (3) above.

(6) The Authority may not exercise its functions under paragraph (3) above where the application has been, or should be, referred to the Scottish Ministers under the following provisions:—

- (a) section 46 of the 1997 Act;

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(1) The functions of the Secretary of State in the 1997 Act were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).  
(2) 1997 c. 9. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).  
(3) 1997 c. 10. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(b) section 11 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997;  
or

(c) section 18 of the Planning (Hazardous Substances) (Scotland) Act 1997.

(7) The following provisions shall apply to applications referred to the Authority by virtue of paragraph (3) above as they apply to applications made to planning authorities:–

(a) section 46 of the 1997 Act;

(b) section 11 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997;  
and

(c) section 18 of the Planning (Hazardous Substances) (Scotland) Act 1997.

(8) In relation to any application referred to the Authority under paragraph (3) above, the functions which the planning authority would have had in relation to that application but for that referral, shall be exercisable by the Authority (except insofar as such functions have already been exercised by the planning authority) and for the purposes of this provision any enactment and any other instrument or document shall be read as if references to a planning authority (however described) were or included references to the Authority.

(9) Without prejudice to paragraph (2) above, the Town and Country Planning (General Development Procedure) (Scotland) Order 1992<sup>(4)</sup> shall be amended in accordance with the following three paragraphs.

(10) After paragraph (9) of article 12 there shall be inserted–

“(10) The planning authority shall, within the period of five days beginning with the date on which it receives the application, notify the Cairngorms National Park Authority of any application made under any of articles 3 to 6 of this Order in respect of development situated in the area of that Authority.”.

(11) After paragraph (3)(a) of article 14 there shall be inserted–

“(aa) in a case where the Cairngorms National Park Authority has issued a direction in exercise of its powers under article 7(3) of the Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003, the date on which that direction was issued; or”.

(12) After paragraph (1)(a) of article 15 there shall be inserted–

“(aa) the Cairngorms National Park Authority, where it appears to the planning authority that the development is likely to affect land in the area of that Authority;”.

(13) The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993<sup>(5)</sup> shall be amended in accordance with the following paragraph.

(14) After paragraph (1)(n) of regulation 11 there shall be inserted–

“(o) the Cairngorms National Park Authority, where it appears to the planning authority that the development is likely to affect land in the area of the Cairngorms National Park Authority.”.

(15) Without prejudice to paragraph (2) above, the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983<sup>(6)</sup> shall be amended in accordance with the following two paragraphs.

(16) After paragraph (4) of regulation 4 there shall be inserted–

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(4) S.I.1992/224 as relevantly amended by S.I. 1992/2083, 1993/1039, 1994/2585, 1994/3293, 1996/467 and 1997/749 and S.S.I. 2000/179.

(5) S.I. 1993/323 as relevantly amended by S.I. 1994/2567 and 1996/252 and S.S.I. 2000/179.

(6) S.I. 1983/1590 (S.149) as relevantly amended by S.S.I. 2002/201.

“(5) In the case of a planning authority preparing a structure plan in respect of an area which comprises the whole or part of the area of the Cairngorms National Park Authority the planning authority shall also consult the Cairngorms National Park Authority.

(6) Where paragraph (2) above applies in relation to the preparation of a local plan by the Cairngorms National Park Authority, the word “other” where it occurs at subparagraph (a) (i) shall be deleted.”.

(17) In regulation 12(d) after “regulation 4(2)” there shall be inserted–  
“and (5)”.

(18) Notwithstanding the provisions of paragraph 16(1) of Schedule 1 to the 2000 Act, the Authority shall establish a committee for the purposes of exercising the planning functions conferred on it by this Order and a majority of the members of that committee shall consist of members of the Authority who are–

- (a) elected by virtue of an election held under paragraph 3(2) of Schedule 1 to the 2000 Act; or
- (b) members of a local authority.