

NATIONAL PARKS (SCOTLAND) ACT 2000

EXPLANATORY NOTES

INTRODUCTION

Schedule 1: Constitution etc. of National Park authorities

86. *Paragraphs 1* and 2 explain the status of National Park authorities. They are to be bodies corporate; they will not be Crown bodies and will therefore not have Crown immunity or be exempt from taxation, their staff will not be Crown servants (and therefore not civil servants), and their property will not belong to the Crown.
87. *Paragraphs 3 to 10* set out how membership of a National Park authority is to be determined. *Paragraph 3(1)* sets a maximum of 25 members with the exact number to be set in the designation order for the Park.
88. *Paragraph 3(2)* requires the designation order to specify the number of members, which must be at least one fifth of the total, to be directly elected by poll of those entitled to vote as electors in a local government election. These are people in an electoral ward which is wholly or partly in the area of the National Park, and are registered in the register of local government electors at an address within the Park.
89. *Paragraph 3(3)* specifies that the remaining members are to be appointed by the Scottish Ministers, with half of those members being appointed on the nomination of relevant local authorities whose areas are wholly or partly within the Park. The number of members to be appointed on the nomination of each local authority is to be specified in the designation order (*paragraph 3(4)*).
90. *Paragraph 3(5)* requires the designation order to state the number of members who are to be appointed as local members, and how many of these will come from nominations of each local authority.
91. *Paragraph 3(6)* defines “local members” as follows: that the person’s sole or main residence is within the National Park or the person is a councillor for an electoral ward, or member of a community council, whose area is wholly or partly within the National Park.
92. *Paragraph 4* enables the Scottish Ministers to make an order to make provisions for matters associated with the elections, under *paragraph 3(2)*, the period of office (as mentioned in mentioned in *paragraphs 8(a) and (b)*), and rules of disqualification and the procedure for holding the elections.
93. *Paragraph 5* requires the Scottish Ministers, before making appointments of directly appointed members, to consult with those who are representative of people living and working in the Park, the local authorities, community councils and anyone else they think appropriate.
94. *Paragraph 6* requires all appointments to be made on the basis of the individuals having knowledge or experience relevant to what the National Park authority does or to the area of the Park (including particular interests as the designation order may specify). It also requires local authorities to nominate only people with relevant experience or

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knowledge. It requires the Scottish Ministers to satisfy themselves that those to be appointed have no financial or other interests which might compromise their ability to act as a member of the National Park authority (although this does not apply in respect of elected members).

95. *Paragraph 7* enables the Scottish Ministers to seek information from people in order to satisfy themselves in relation to the criteria for “local” appointments, or in relation to a person’s financial or other interests which might compromise their ability to act as a member.
96. *Paragraphs 8 to 10* deal with the holding and vacating of membership. The basis of appointments will be set out in the terms of appointment issued when a member is appointed, but shall not exceed five years (for a single term). For elected members, the terms of their office are determined under paragraph 4 (which provides for these matters to be covered in an election order). A member may resign by writing to the Scottish Ministers. A member who ceases to hold office (whether by resignation or through expiry of their term of office) will be eligible to be re-appointed or re-elected. The Scottish Ministers may remove an appointed member from office if they are satisfied that any of the conditions set out in *paragraph 9* is met. Where a vacancy arises, the appointment of a replacement will be in accordance with the provisions set out in *paragraph 10*.
97. *Paragraph 11* deals with the appointment of convener and deputy convener. Both positions are to be filled by election by members of one of their number. As with a term of membership, at the end of a term of appointment, a convener or deputy convener may be re-elected to that position. However, a convener or deputy convener who ceases to be member, for whatever reason, will also cease to hold the position of convener or deputy convener. When a member (other than an elected member) either takes up or ceases to hold the position of convener or deputy convener, the Scottish Ministers may vary the terms of that member’s appointment in order to alter the date on which his or her membership comes to an end.
98. *Paragraph 12* deals with payment of members. The Scottish Ministers will determine the amounts which a National Park may pay its members (either as remuneration or as allowances), and they can direct a National Park authority, in special circumstances, to pay compensation when someone ceases membership other than on the normal expiry of their term. The Scottish Ministers may also direct an authority to pay a member, in respect of an office held (as convener, deputy convener, or other office) a pension, allowance or gratuity.
99. *Paragraphs 13 to 15* set out a National Park authority’s powers and duties in respect of their staff. *Paragraph 11* requires an authority to appoint a chief executive, and the Scottish Ministers to approve the appointment and its terms and conditions. Approval of the Scottish Ministers is similarly required for any variation of those terms and conditions. *Paragraph 14* makes clear that the authority may decide, without the need for approval, all other appointments of staff and their terms and conditions. *Paragraph 15* requires an authority to make arrangements for paying pensions, allowances and gratuities to its staff (including compensation for loss of office or employment) and to obtain approval from the Scottish Ministers for these arrangements.
100. *Paragraphs 16 and 17* cover an authority’s ability to set up committees to deal with business. *Paragraph 16* enables an authority to appoint people to a committee who are not members of the authority, provided a majority of members of the committee are authority members. This provision is subject to further specification in the designation order about particular committees. This would allow, for example, a requirement that a committee dealing with planning matters must include a sufficient proportion of local authority councillors. Committee members can be paid remuneration or allowances as determined by the Scottish Ministers. Committees set up by an authority require to act in accordance with directions given by the authority. *Paragraph 17* allows an authority

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to authorise a committee, employee or member to act on its behalf (although this does not prevent the authority acting itself on the same matter).

101. *Paragraph 18* deals with members' interests. Under *sub-paragraph (1)* a member must declare any interest in a matter which is considered by a meeting of the National Park authority, and shall not take part in discussion or decision on the matter. The declaration of interest shall be recorded in the minutes of the meeting. *Sub-paragraph (2)* sets out the terms in which a notification of interest will be considered sufficient. *Sub-paragraph (3)* makes clear that provided a member has taken reasonable steps to ensure that his or her disclosure is notified in writing to the meeting, he or she need not attend in person.
102. *Sub-paragraphs (4) and (5)* enable the Scottish Ministers to decide to override the effects of the provisions of this paragraph. Under *sub-paragraph (4)* this can happen if the provisions lead to so many of the members being prevented from taking part in discussion that the authority's ability to transact its business is severely impaired. *Sub-paragraph (5)* makes clear that the Scottish Ministers may also more generally override the effects of this paragraph, either indefinitely or for a period for reasons they specify. However, under *sub-paragraph (6)* nothing in this paragraph prevents a member from taking part in the authority's consideration and discussion of whether to ask the Scottish Ministers to use their override powers. The provisions of this paragraph apply to meetings of committees as well as authorities, and to members of committees as well as members of the authority (*sub-paragraph (7)*).
103. *Paragraph 19* deals with procedures of meetings. Each National Park authority is able to determine its own procedures. A vacancy on the authority or on a committee of the authority, or the fact of a defect in the appointment or election of a member, will not make proceedings invalid.