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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.

**Modifications etc. (not altering text)**

- C1** Sch. 1 para. 16(1) excluded (7.1.2003) by The Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003 (S.S.I. 2003/1), arts. 1, 7(18)

*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.

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- (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—
- (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.

**Modifications etc. (not altering text)**

- C2** Sch. 1 para. 18 restricted (2.11.2004) by [Ethical Standards in Public Life etc. \(Scotland\) Act 2000](#) (Modification of National Parks (Scotland) Act 2000) Order 2004 (S.S.I. 2004/473), arts. 1, 2

*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.

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