
Changes to legislation: There are currently no known outstanding effects for the National Parks (Scotland) Act 2000, SCHEDULE 4. (See end of Document for details)

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.
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- (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.
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- (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.
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- 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

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- (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.

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