



# National Parks (Scotland) Act 2000

## 2000 asp 10

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 5th July 2000 and received Royal Assent on 9th August 2000**

An Act of the Scottish Parliament to make provision for National Parks.

VALID FROM 08/09/2000

### *The National Park aims*

#### **1 The National Park aims**

In this Act, references to the National Park aims are to the following aims in relation to an area—

- (a) to conserve and enhance the natural and cultural heritage of the area,
- (b) to promote sustainable use of the natural resources of the area,
- (c) to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public, and
- (d) to promote sustainable economic and social development of the area's communities.

VALID FROM 08/09/2000

### *National Park proposals*

#### **2 National Park proposals**

(1) The Scottish Ministers may, if it appears to them that the conditions in subsection (2) are or may be satisfied in relation to an area, propose—

- (a) the designation of the area as a National Park, and
- (b) the establishment of an authority (to be known as a “National Park authority”) to exercise, in relation to that Park, the functions conferred on the authority by virtue of this Act.

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- (2) Those conditions are—
  - (a) that the area is of outstanding national importance because of its natural heritage or the combination of its natural and cultural heritage,
  - (b) that the area has a distinctive character and a coherent identity, and
  - (c) that designating the area as a National Park would meet the special needs of the area and would be the best means of ensuring that the National Park aims are collectively achieved in relation to the area in a co-ordinated way.
- (3) A proposal under subsection (1) must be in writing and must set out (in general terms)—
  - (a) the area which it is proposed should be designated as a National Park, and
  - (b) the functions which it is proposed the National Park authority should exercise.
- (4) Such a proposal is referred to in this Act as a “National Park proposal”.

### **3 Reports on National Park proposals**

- (1) The Scottish Ministers may require—
  - (a) Scottish Natural Heritage, or
  - (b) any other public body appearing to them to have expertise relevant to the National Park aims,
 to consider a National Park proposal and, after complying with subsection (5), to report to them, by such date as they may specify, on such of the matters set out in subsection (2) as the requirement may specify.
- (2) Those matters are—
  - (a) the area which it is proposed should be designated as a National Park,
  - (b) the desirability of designating the area in question (with or without modifications) as a National Park,
  - (c) the functions which it is proposed the National Park authority for the Park should exercise,
  - (d) the likely annual costs and capital expenses of the authority in exercising its functions,
  - (e) such other matters relating to the proposal as the requirement may specify.
- (3) Where the Scottish Ministers impose a requirement under subsection (1) they must send a copy of the National Park proposal to the person who is to provide the report (the “reporter”).
- (4) A requirement under subsection (1) may be addressed to two or more persons and, if so—
  - (a) may impose different obligations on different persons,
  - (b) may contain provision modifying the application of subsection (5) in relation to those persons or any of them,
  - (c) must require those persons to provide their reports in a single document.
- (5) The reporter must, on receipt of the National Park proposal—
  - (a) send a copy of it and of the requirement to every local authority any part of whose area is within the area to which the proposal relates,

- (b) determine the period (which must be at least 12 weeks) for which the copy proposal and requirement are to be made available for public inspection under subsection (7) and notify every such authority of that period,
  - (c) publicise the proposal in such manner as the reporter thinks fit, and
  - (d) consult—
    - (i) every such authority,
    - (ii) every community council any part of whose area is within the area to which the proposal relates,
    - (iii) such persons as appear to the reporter to be representative of the interests of those who live, work or carry on business in the area to which the proposal relates, and
    - (iv) such other persons as the reporter thinks fit,on the proposal.
- (6) The Scottish Ministers may give the reporter directions as to how the consultation under subsection (5)(d) is to be carried out; and the reporter must comply with those directions.
- (7) A local authority receiving a copy proposal and requirement under subsection (5)
  - (a) must make them available for public inspection for the period referred to in subsection (5)(b).
- (8) In preparing a report under this section the reporter—
  - (a) must consider whether the conditions in section 2(2) are satisfied in relation to the area which it is proposed should be designated as a National Park,
  - (b) must have regard to the National Park aims,
  - (c) must take into account—
    - (i) any views on the National Park proposal expressed by those consulted under subsection (5)(d), and
    - (ii) any comments on the proposal received within the period referred to in subsection (5)(b), and
  - (d) may have regard to such other matters as the reporter considers relevant including, in particular, administrative boundaries and geographical considerations.
- (9) A report under this section—
  - (a) must include the views of the reporter on the matters specified in the requirement,
  - (b) may include such other matters as the reporter considers relevant.
- (10) The Scottish Ministers must publish and lay before the Parliament a report made to them under this section.

#### **4 Statements by the Scottish Ministers**

- (1) Where the Scottish Ministers do not require a report under section 3(1) in relation to a National Park proposal they must—
  - (a) comply with subsection (3) of this section, and
  - (b) prepare, publish and lay before the Parliament a statement on the proposal dealing with the matters specified in subsection (2) of this section.
- (2) Those matters are—

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- (a) the area which it is proposed should be designated as a National Park,
  - (b) the desirability of designating the area in question (with or without modifications) as a National Park,
  - (c) the functions which it is proposed the National Park authority for the Park should exercise,
  - (d) the likely annual costs and capital expenses of the authority in exercising its functions,
  - (e) such other matters relating to the proposal as the Scottish Ministers think fit.
- (3) Before preparing the statement the Scottish Ministers must—
- (a) send a copy of the National Park proposal to every local authority any part of whose area is within the area to which the proposal relates,
  - (b) determine the period (which must be at least 12 weeks) for which the copy proposal is to be made available for public inspection under subsection (4) and notify every such authority of that period,
  - (c) publicise the proposal in such manner as they think fit, and
  - (d) consult—
    - (i) every such authority,
    - (ii) every community council any part of whose area is within the area to which the proposal relates,
    - (iii) such persons as appear to them to be representative of the interests of those who live, work or carry on business in the area to which the proposal relates, and
    - (iv) such other persons as they think fit,
 on the proposal.
- (4) A local authority receiving a copy proposal under subsection (3)(a) must make it available for public inspection for the period referred to in subsection (3)(b).
- (5) In preparing the statement the Scottish Ministers—
- (a) must consider whether the conditions in section 2(2) are satisfied in relation to the area which it is proposed should be designated as a National Park,
  - (b) must have regard to the National Park aims,
  - (c) must take into account—
    - (i) any views on the National Park proposal expressed by those consulted under subsection (3)(d), and
    - (ii) any comments on the proposal received within the period referred to in subsection (3)(b), and
  - (d) may have regard to such other matters as they consider relevant including, in particular, administrative boundaries and geographical considerations.

## 5 Local inquiries

- (1) After publication of a report under section 3 or, as the case may be, a statement under section 4 the Scottish Ministers may, if they think fit, cause a local inquiry to be held in relation to any matter arising from the National Park proposal or the report or statement.
- (2) Subsections (2) to (8) of section 210 (local inquiries) of the Local Government (Scotland) Act 1973 (c.65) apply in relation to such an inquiry.

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- (3) The Scottish Ministers must publish and lay before the Parliament the report of the person appointed to hold such an inquiry.

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### *Creation of National Parks*

## **6 Making of designation orders**

- (1) Following the publication of—
- (a) a report under section 3 or, as the case may be, a statement under section 4, and
  - (b) where an inquiry is held in pursuance of section 5, the report of the person appointed to hold the inquiry,
- the Scottish Ministers may (but need not) make an order under this section (a “designation order”), either in terms of the National Park proposal or with such modifications as they think fit.
- (2) In considering whether to make a designation order, and what the terms of any order should be, the Scottish Ministers must have regard to—
- (a) the report or statement mentioned in subsection (1)(a), and
  - (b) any such report as is mentioned in subsection (1)(b).
- (3) Before laying a draft of a designation order before the Parliament in pursuance of section 34(5), the Scottish Ministers must—
- (a) send a copy of the proposed draft order to every local authority any part of whose area is within the area identified in the order for designation as a National Park (“the proposed National Park area”),
  - (b) determine the period (which must be at least 12 weeks) for which it is to be made available for public inspection under subsection (4) and notify every such local authority of that period,
  - (c) publicise it in such manner as they think fit,
  - (d) lay it before the Parliament, and
  - (e) consult—
    - (i) every such local authority,
    - (ii) every community council any part of whose area is within the proposed National Park area,
    - (iii) such persons as appear to them to be representative of the interests of those who live, work or carry on business in the proposed National Park area, and
    - (iv) such other persons as they think fit,on the proposed draft order.
- (4) A local authority receiving a copy of a proposed draft order under subsection (3)
- (a) must make it available for public inspection for the period referred to in subsection (3)(b).
- (5) The Scottish Ministers must take into account—

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- (a) any views on the proposed draft order expressed by those consulted under subsection (3)(e), and
  - (b) any comments on it received within the period referred to in subsection (3)(b),
- and may adjust it in light of such views and comments.

- (6) When laying a draft of a designation order before the Parliament in pursuance of section 34(5), the Scottish Ministers must also lay a statement giving details of—
- (a) the views and comments mentioned in subsection (5), and
  - (b) the changes (if any) which, in light of such views and comments, the Scottish Ministers have made to the proposed draft order.

## **7 Designation orders: further provisions**

- (1) A designation order must—
- (a) designate as a National Park the area identified in the order,
  - (b) provide for the establishment of a National Park authority for the Park to exercise the functions conferred on the authority by virtue of this Act,
  - (c) specify the number of members of the authority and, in relation to the members to be appointed on the nomination of local authorities, the authorities which are to nominate them and the number of members to be nominated by each authority, and
  - (d) specify the matters mentioned in paragraph 3(2) and (5) of schedule 1.
- (2) The order may identify the area to be designated by reference to a deposited map.
- (3) In subsection (2), “deposited map” means a map prepared for the purposes of the order and laid before the Parliament.
- (4) A designation order must provide for the functions exercisable by the National Park authority by virtue of the order to be so exercisable from such dates as the order may specify; and different dates may be specified for different functions or for different purposes.
- (5) The Scottish Ministers must send a copy of the designation order and any deposited map to every local authority any part of whose area is within the area designated as a National Park; and every such local authority must keep the order and any such map available for public inspection.

## **8 National Park authorities: constitution etc.**

Schedule 1, which makes provision about the constitution etc. of National Park authorities, has effect.

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### *Purpose and functions of National Park authorities*

## **9 General purpose and functions**

- (1) The general purpose of a National Park authority is to ensure that the National Park aims are collectively achieved in relation to the National Park in a co-ordinated way.
- (2) A National Park authority has, in relation to the National Park—
  - (a) the general powers conferred by virtue of schedule 2,
  - (b) the functions conferred by virtue of schedule 3,
  - (c) such planning functions as may be conferred under section 10,
  - (d) such additional functions as the designation order may specify, and
  - (e) such other functions as are conferred by virtue of this Act.
- (3) A National Park authority may do anything which it considers is calculated to facilitate, or is conducive or incidental to—
  - (a) accomplishing the purpose set out in subsection (1),
  - (b) carrying out any function conferred on it by virtue of any other enactment.
- (4) Subsection (3) is without prejudice to any powers exercisable apart from that subsection but does not confer power—
  - (a) to do anything in contravention of any restriction imposed by virtue of this Act in relation to any express power of the authority,
  - (b) to raise money in a manner which is not authorised apart from that subsection.
- (5) A thing is not, however, excluded from being done under subsection (3) merely because it involves expenditure, borrowing or lending of money or acquiring or disposing of property.
- (6) In exercising its functions a National Park authority must act with a view to accomplishing the purpose set out in subsection (1); but if, in relation to any matter, it appears to the authority that there is a conflict between the National Park aim set out in section 1(a) and other National Park aims, the authority must give greater weight to the aim set out in section 1(a).

## **10 Planning functions**

- (1) A designation order may make provision for a National Park authority—
  - (a) to be the planning authority for the National Park for the purposes of the planning Acts,
  - (b) to be treated as the planning authority for the National Park, but only for such purposes of Part II (development plans) of the Town and Country Planning (Scotland) Act 1997 (c.8) as are specified in the order, or
  - (c) to have, in relation to the National Park, such functions in relation to planning as the order may specify.
- (2) In this section, “the planning Acts” has the same meaning as in that Act of 1997.



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## **11 National Park Plans**

A National Park authority must, by such time as the Scottish Ministers may direct, prepare and submit to the Scottish Ministers a plan (a “National Park Plan”) setting out its policy for—

- (a) managing the National Park, and
  - (b) co-ordinating the exercise of—
    - (i) the authority’s functions in relation to the National Park, and
    - (ii) the functions of other public bodies and office-holders so far as affecting the National Park,
- with a view to accomplishing the purpose set out in section 9(1).

## **12 National Park Plans: procedure**

- (1) When a National Park authority has prepared a National Park Plan it must—
  - (a) send a copy of the Plan to every local authority any part of whose area is within the National Park,
  - (b) determine the period, which must be a minimum of 12 weeks, for which it is to be made available for public inspection under subsection (2) and notify every such local authority of that period,
  - (c) publicise it in such manner as it thinks fit, and
  - (d) consult—
    - (i) every such local authority,
    - (ii) every community council any part of whose area is within the National Park,
    - (iii) such persons as appear to it to be representative of the interests of those who live, work or carry on business in the National Park, and
    - (iv) such other persons as it thinks fit,

on the Plan.
- (2) A local authority receiving a copy Plan under subsection (1)(a) must make it available for public inspection for the period referred to in subsection (1)(b).
- (3) The National Park authority must take into account—
  - (a) any views on the Plan expressed by those consulted under subsection (1)(d), and
  - (b) any comments on it received within the period referred to in subsection (1)(b),

and may adjust it in light of such views and comments.
- (4) On receipt of the Plan from the National Park authority the Scottish Ministers may—
  - (a) approve it (with or without modifications), or
  - (b) reject it.
- (5) The Scottish Ministers must not approve a Plan with modifications unless they have—
  - (a) sent a copy of the proposed modifications to the National Park authority, and
  - (b) taken into account any comments on the proposed modifications made to them by the authority.



- (6) Where the Scottish Ministers approve a Plan with modifications or reject it they must give their reasons for doing so.
- (7) Where a Plan is approved under subsection (4)(a), the National Park authority must—
  - (a) adopt the Plan (as approved) as its National Park Plan,
  - (b) send a copy of it to the Scottish Ministers and every local authority any part of whose area is within the National Park,
  - (c) keep a copy of it for inspection by any person at any reasonable time and keep copies for sale at a reasonable price, and
  - (d) publicise it in such manner as it thinks fit.
- (8) Where a Plan is rejected under subsection (4)(b), the National Park authority must prepare a revised Plan and submit it to the Scottish Ministers by such time as they may direct.

### **13 National Park Plans: review**

- (1) A National Park authority must from time to time review its National Park Plan and, if it thinks fit, prepare and submit to the Scottish Ministers an amended National Park Plan.
- (2) A review under subsection (1) is to take place not more than 5 years (or such lesser period as the Scottish Ministers may direct) from the adoption of the National Park Plan or, as the case may be, the previous review.
- (3) Section 12 applies in relation to an amended National Park Plan as it applies to a National Park Plan prepared in pursuance of section 11.

### **14 Duty to have regard to National Park Plans**

The Scottish Ministers, a National Park authority, a local authority and any other public body or office-holder must, in exercising functions so far as affecting a National Park, have regard to the National Park Plan as adopted under section 12(7) (a).

### **15 Management agreements**

- (1) A National Park authority may enter into an agreement (a “management agreement”) with any person having an interest in land to do, or secure the doing of, whatever the parties to the agreement consider necessary to achieve, in relation to the National Park, the National Park aims.
- (2) A management agreement may include such incidental and consequential provisions (including financial ones) as the authority considers necessary or expedient for the purposes of the agreement.
- (3) A liferenter or an heir of entail in possession of any land has power to enter into management agreements under this section relating to the land.
- (4) The Trusts (Scotland) Act 1921 (c.58) has effect as if the powers conferred on trustees by section 4 of that Act (general powers of trustees) included a power to enter into management agreements relating to the trust estate.
- (5) A management agreement which affects a registrable interest in land may—

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- (a) where that interest is registered in the Land Register of Scotland, be registered in that Register,
  - (b) in any other case, be recorded in the appropriate Division of the General Register of Sasines.
- (6) An agreement so registered or recorded is enforceable at the instance of the National Park authority against any person deriving title to the land from the other party to the agreement.
- (7) But it is not enforceable against a third party who has acquired right to the land (whether or not completed by infestment) in good faith and for value prior to the agreement being so registered or recorded, or against any person deriving title from such third party.
- (8) Despite the terms of a management agreement, the parties to the agreement and any person deriving title from a party may agree to terminate the agreement at any time.
- (9) Where the agreement has been registered or recorded under subsection (5), an agreement to terminate it must be registered or, as the case may be, recorded in the same way.
- (10) In this section “registrable interest in land” means an interest in land within the meaning of section 28 of the Land Registration (Scotland) Act 1979 (c.33) which is not an overriding interest within the meaning of that section.

VALID FROM 08/09/2000

### *General*

#### **16 Directions and guidance**

- (1) The Scottish Ministers may give a National Park authority directions of a general or specific character as to the exercise of the authority’s functions; and the authority must comply with those directions.
- (2) Before giving an authority directions under subsection (1) the Scottish Ministers must consult the authority.
- (3) The Scottish Ministers may give guidance in relation to the exercise of functions by National Park authorities.
- (4) Guidance under subsection (3) may be given in respect of authorities generally or a particular authority; and in exercising its functions an authority must have regard to any guidance applicable to it.
- (5) Before giving guidance under subsection (3) the Scottish Ministers must consult each authority to which the guidance is to apply.
- (6) A draft of any guidance proposed to be given under subsection (3) is to be laid before the Parliament and the guidance must not be given until after the period of 40 days beginning with the day on which the draft was so laid.
- (7) If within that period the Parliament resolves that the proposed guidance should not be given, the Scottish Ministers must not give the guidance.

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(8) In calculating any period of 40 days for the purposes of subsection (6) or (7), no account is to be taken of any time during which the Parliament is in recess for more than 4 days.

(9) The Scottish Ministers must publish any guidance given under subsection (3).

## **17 Agency arrangements and joint operations**

(1) A National Park authority may arrange for any of its functions to be exercised on its behalf by a local authority or another National Park authority; and the local authority or other National Park authority may exercise those functions accordingly.

(2) A local authority or other public body may arrange for any of its functions, so far as exercisable in relation to a National Park, to be exercised on its behalf by a National Park authority; and the National Park authority may exercise those functions accordingly.

(3) In subsection (2), “functions” does not include—

- (a) a function of making subordinate legislation,
- (b) any function conferred by this Act.

(4) Two or more National Park authorities may arrange to exercise any of their functions jointly.

(5) An arrangement under subsection (4) may provide for the exercise of the functions in question by a joint committee of the authorities or by an officer of one of them.

(6) An arrangement under subsection (4) providing for the exercise of functions by a joint committee may provide for persons who are not members of any of the authorities making the arrangement to be members of the committee, but a majority of the members of the committee must be members of such an authority.

(7) The authorities making the arrangement must pay to a member of a joint committee appointed by virtue of subsection (6) such remuneration and allowances (if any) as the Scottish Ministers may determine.

(8) Such a joint committee must comply with directions given to it by the authorities making the arrangement.

(9) An arrangement under this section does not affect the responsibility of the authority or body making the arrangement for the exercise of its functions.

## **18 Delegation of functions by the Scottish Ministers**

(1) The Scottish Ministers may make arrangements for any of their functions, so far as exercisable in relation to a National Park, to be exercised on their behalf by the National Park authority; and the National Park authority may exercise those functions accordingly.

(2) An arrangement under subsection (1) does not affect the responsibility of the Scottish Ministers for the exercise of their functions.

(3) In this section, “functions” does not include—

- (a) a function of making, confirming or approving subordinate legislation,
- (b) any function conferred by this Act.

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## **19 Use of resources**

A National Park authority must make proper arrangements to ensure that it uses resources economically, efficiently and effectively.

## **20 Advisory groups**

- (1) Each National Park is to have one or more National Park Advisory Groups, with the function of advising the National Park authority on any matter relating to the functions of the authority.
- (2) The membership and procedure of an Advisory Group are to be such as the National Park authority determines.
- (3) The National Park authority may pay to members of an Advisory Group such expenses and allowances as the authority may determine.

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## *Finances*

## **21 General financial duties**

- (1) The Scottish Ministers may, after consultation with a National Park authority, determine the financial duties of the authority; and different determinations may be made for different functions and activities of the authority.
- (2) The Scottish Ministers must give an authority notice of every determination under subsection (1), and such a determination may—
  - (a) relate to a period beginning before, on or after the date on which it is made,
  - (b) contain supplemental provisions,
  - (c) be varied by a subsequent determination.
- (3) The Scottish Ministers may, after consultation with an authority, give a direction to the authority requiring it to pay to them an amount specified in, or calculated in accordance with, the direction in respect of—
  - (a) any sum, or
  - (b) a sum of any description,
 so specified which is received by the authority.
- (4) Where it appears to the Scottish Ministers that an authority has a surplus, whether on capital or revenue account, they may, after consultation with the authority, direct the authority to pay to them such amount not exceeding the amount of that surplus as may be specified in the direction.

## **22 Grants and loans by the Scottish Ministers**

- (1) The Scottish Ministers may make grants to a National Park authority for such purposes, of such amounts and on such terms as they think fit.

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- (2) The Scottish Ministers may lend to a National Park authority any sums which it has power to borrow under section 23(1)(a).
- (3) A loan made under subsection (2) is to be repaid to the Scottish Ministers at such times and by such methods, and interest on the loan is to be paid to them at such rates and at such times, as the Scottish Ministers may from time to time determine.

## **23 Borrowing powers**

- (1) A National Park authority may—
  - (a) borrow from the Scottish Ministers, by way of temporary loan or otherwise,
  - (b) with the consent of the Scottish Ministers, borrow temporarily, by way of overdraft or otherwise, from persons other than the Scottish Ministers,such sums as it may require for meeting its obligations and carrying out its functions.
- (2) A consent under subsection (1)(b) may be granted subject to conditions.
- (3) In any financial year the net amount of sums borrowed by an authority under this section must not exceed the amount specified for that year for the purposes of this section in a Budget Act.
- (4) In subsection (3), “net amount” means the amount of sums borrowed in the financial year less any repayments made during that year (otherwise than by way of interest) in respect of sums borrowed in that or any other year.
- (5) An authority may borrow money only under this section.

## **24 Guarantees**

- (1) The Scottish Ministers may guarantee, in such manner and on such conditions as they think fit, the discharge of any financial obligation in connection with any sum which a National Park authority borrows from any person.
- (2) Where the Scottish Ministers give a guarantee under this section they must forthwith lay a statement of the guarantee before the Parliament.
- (3) Where any sum is paid out in fulfilment of a guarantee under this section, the Scottish Ministers must, as soon as reasonably practicable after the end of each financial year (beginning with that in which the sum is paid out and ending with that in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged), lay before the Parliament a statement relating to that sum.
- (4) Where any sum is paid out in fulfilment of a guarantee under this section, the authority which borrowed the sum by reference to which the guarantee was given must make to the Scottish Ministers, at such times and in such manner as they may from time to time direct—
  - (a) payments of such amounts as they may so direct in or towards repayment of the sum so paid out, and
  - (b) payments of interest, at such rate as they may so direct, on what is outstanding for the time being in respect of the sum so paid out.

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## 25 Accounts

- (1) A National Park authority must—
  - (a) keep proper accounts and accounting records,
  - (b) prepare for each financial year an account of the authority's expenditure and receipts in accordance with directions issued by the Scottish Ministers, and
  - (c) send the account to the Scottish Ministers by such time as they may direct.
- (2) The Scottish Ministers must send the account to the Auditor General for Scotland for auditing.

VALID FROM 08/09/2000

### *Information and annual reports*

## 26 Information and annual reports

- (1) A National Park authority must provide the Scottish Ministers with such information as they may reasonably require relating to the exercise of the authority's functions.
- (2) For that purpose the authority must—
  - (a) permit any person authorised to do so by the Scottish Ministers to inspect and make copies of the accounts and other records of the authority, and
  - (b) provide the person with such explanations of those accounts and records as that person or the Scottish Ministers may reasonably require.
- (3) As soon as practicable after the end of each financial year, a National Park authority must prepare a report on its activities during that year and send a copy of the report to the Scottish Ministers.
- (4) The report must set out any directions under section 16 which have been given to the authority during the year to which the report relates.
- (5) The Scottish Ministers must lay a copy of the report before the Parliament and publish the report.

VALID FROM 08/09/2000

### *Miscellaneous*

## 27 Records

- (1) This section applies to all records (in whatever form or medium)—
  - (a) transferred to and vested in a National Park authority by virtue of this Act,
  - (b) created or acquired by the authority in the exercise of its functions, or
  - (c) otherwise in its keeping.

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- (2) The authority must, after consulting the Keeper of the Records of Scotland, make arrangements for the preservation and management of the records and must ensure that the records are preserved and managed in accordance with those arrangements.
- (3) The authority may from time to time revise those arrangements but before making any material change must consult the Keeper.
- (4) Despite subsection (2) the authority may dispose of records which in its opinion are not worthy of preservation.
- (5) The authority—
  - (a) must ensure that the Keeper has, at all reasonable hours, unrestricted access to the records preserved by it,
  - (b) may afford facilities for any person to inspect and, on payment of a reasonable fee, to obtain copies of or extracts from those records.
- (6) If any enactment makes provision relating to records of a specific kind which is inconsistent with subsections (1) to (5), those subsections are subject to that enactment.

## **28 Inquiries and other hearings**

- (1) The Scottish Ministers may cause an inquiry or other hearing to be held if it appears to them expedient to do so in connection with—
  - (a) any of the functions of a National Park authority,
  - (b) any of their functions in relation to a National Park authority.
- (2) Subsections (2) to (8) of section 210 (local inquiries) of the Local Government (Scotland) Act 1973 (c.65) apply in relation to such inquiries or other hearings as they apply to inquiries held under that section.
- (3) Subsection (1) is without prejudice to any other provision of this Act or any other enactment by virtue of which an inquiry or other hearing is authorised or required to be held.

## **29 Transfer of staff, property and liabilities**

Schedule 4, which makes provision about transfer of staff, property and liabilities in connection with the establishment of a National Park authority or the exercise of its functions, has effect.

## **30 Modification and revocation of designation orders**

- (1) The Scottish Ministers may by order modify or revoke a designation order.
- (2) Subsections (3) and (4) apply where the Scottish Ministers propose to make an order under subsection (1)—
  - (a) modifying—
    - (i) the area of a National Park identified in a designation order,
    - (ii) the functions conferred on a National Park authority by virtue of section 9(2)(d) or under section 10,
    - (iii) the matters specified in a designation order by virtue of section 7(1)(c) or (d), or



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- (b) revoking a designation order.
- (3) In such a case the Scottish Ministers must set out in writing—
  - (a) the proposed modifications, or
  - (b) as the case may be, that they propose that the designation order should be revoked,
 and, in either case, their reasons for the proposal.
- (4) A proposal under subsection (3) is to be treated as a National Park proposal; and—
  - (a) sections 3 to 5 apply in relation to such a proposal, and
  - (b) sections 6 and 7 apply in relation to an order under subsection (1) of this section made in pursuance of such a proposal,
 with such modifications as the Scottish Ministers may by order specify.
- (5) Sections 2 to 7 do not otherwise apply in relation to an order under subsection (1) of this section.

VALID FROM 08/09/2000

### *Marine areas*

#### **31 Application in relation to marine areas**

- (1) For the purposes of the application of this Act in relation to an area that includes the sea, the Scottish Ministers may by order modify the following provisions—
  - section 1(d),
  - section 2(2)(b),
  - section 3(5)(a), (b) and (d) and (7),
  - section 4(3)(a), (b) and (d) and (4),
  - section 6(3)(a), (b) and (e) and (4),
  - section 7(1)(c) and (5),
  - section 12(1)(a), (b) and (d), (2) and (7)(b),
  - section 17,
  - schedule 1, paragraphs 3(2) to (7), 5, 6(3) and 10,
  - schedule 2, paragraphs 8(2) and 9(1)(c),
  - schedules 3 and 5.
- (2) Subsection (3) applies where an order under subsection (1) modifies any provision relating to consultation with persons representative of the interests of those who live, work or carry on business in an area.
- (3) The modification must secure that such consultation includes consultation with persons representative of the interests of those who carry on commercial fishing operations in the part of the area consisting of the sea.

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## Supplementary

VALID FROM 08/09/2000

### 32 Crown application

This Act binds the Crown, but nothing in this Act is to be taken as in any way affecting Her Majesty in her private capacity.

VALID FROM 08/09/2000

### 33 Ancillary provision

The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they think necessary or expedient for the purposes or in consequence of this Act.

VALID FROM 08/09/2000

### 34 Orders

- (1) Any power to make orders under this Act is exercisable by statutory instrument.
- (2) Without prejudice to section 33, any such power includes power to make such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers think necessary or expedient.
- (3) A power referred to in subsection (1) includes power to make different provision for different purposes.
- (4) An order under section 6(1), 30(1) or 33 or paragraph 4 of schedule 1 may modify any enactment or prerogative instrument or any other instrument or document.
- (5) No order is to be made under section 6(1), 30(1) or 31 or paragraph 4 of schedule 1 unless a draft has been laid before, and approved by resolution of, the Parliament.
- (6) No order containing provisions which add to, replace or omit any part of the text of an Act is to be made under section 33 unless a draft has been laid before, and approved by resolution of, the Parliament.
- (7) A statutory instrument containing an order under—
  - (a) section 30(4), or
  - (b) section 33 (except where subsection (6) of this section applies),is subject to annulment in pursuance of a resolution of the Parliament.

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VALID FROM 08/09/2000

### 35 Interpretation

(1) In this Act—

“community council” has the same meaning as in Part IV of the Local Government (Scotland) Act 1973 (c.65),

“cultural heritage” includes structures and other remains resulting from human activity of all periods, language, traditions, ways of life and the historic, artistic and literary associations of people, places and landscapes,

“designation order” means an order made under section 6(1),

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39),

“National Park” means the area designated as such by a designation order,

“National Park aims” has the meaning given in section 1,

“National Park authority” is to be construed in accordance with section 2(1)(b),

“National Park Plan” has the meaning given in section 11,

“National Park proposal” has the meaning given in section 2(4),

“natural heritage” includes the flora and fauna of a National Park or a proposed National Park, its geological and physiographical features and its natural beauty and amenity,

“the Parliament” means the Scottish Parliament.

(2) References in this Act to—

(a) a National Park, in relation to a National Park authority, are to the National Park in relation to which the authority is established,

(b) a National Park authority, in relation to a National Park, are to the authority for that National Park.

VALID FROM 08/09/2000

### 36 Modification of enactments

Schedule 5, which makes modifications of enactments, has effect.

### 37 Commencement and short title

(1) The preceding provisions of this Act (including the schedules) are to come into force on such day as the Scottish Ministers may by order appoint.

(2) Different days may be appointed under this section for different purposes.

(3) This Act may be cited as the National Parks (Scotland) Act 2000.

#### Subordinate Legislation Made

**P1** [S. 37\(1\)](#) power fully exercised (7.9.2000): 8.9.2000 appointed by [S.S.I. 2000/312](#), [art. 2](#)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the National Parks (Scotland) Act 2000.