

THE NATIONAL TRUST FOR SCOTLAND (GOVERNANCE ETC.) ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1 – president and vice-presidents

8. [Section 1](#) of the Act repeals any reference to the president within section 18 of the 1935 Order (which is concerned with the establishment of the council). It thus formally removes the president from the council and puts an end to the president's status as a charity trustee so that the president has no liability as a charity trustee.
9. [Section 1](#) of the Act also repeals any reference to the vice-presidents within section 18 (establishment of the council) and thereby similarly removes the status of charity trustee from the vice-presidents.
10. The repeals made in subsection (1) would result in the 1935 Order being silent on the status of the president and vice-presidents. Subsection (2) is, therefore, necessary in order to allow proper definition of the roles of president and vice-presidents (including their relationship with the council) once these office bearers have been removed from the council. A new section 18A is inserted into the 1935 Order to address this.
11. Section 18A(1), (2)(a), (3) and (4) mirror the existing provisions of the 1935 Order. However, the relevant provisions are repealed and then inserted anew as the existing provisions are contained within a section which is no longer appropriate and which is potentially misleading (section 18 - establishment of council). Inclusion of these provisions within the new section 18A allows the provisions relating to the president and vice-presidents to be consolidated in one place for clarity.
12. Section 18A(2)(b) and (c) are new provisions which supplement the repeals in section 1 and further implement recommendations 16 and 17 of the Reid review. They ensure that the president and vice-presidents are not members of the council and that a clear distinction is drawn between these different roles.
13. Section 18A(5) imposes an obligation upon the council to prescribe the duties and responsibilities of these office bearers to ensure that the roles of these office bearers are clearly defined.

Section 2 – Co-opted members of council

14. [Section 2](#) of the Act addresses the issue of co-opted members of the council (co-opted trustees) and substitutes a new section 20 of the 1935 Order.
15. [Section 20\(1\)](#) and (3) are restatements of the existing position but the opportunity has been taken to clarify and update the drafting in the 1935 Order. No change is made to the maximum permitted number of co-opted trustees.
16. [Section 20\(2\)](#) extends the maximum permitted period of office to four years, which is in alignment with the term that elected members of council serve at present.

These notes relate to the The National Trust for Scotland (Governance etc.) Act 2013 (asp 9) which received Royal Assent on 28 June 2013

17. **Section 20(4)** allows the council to set eligibility criteria for co-opted trustees if they wish to seek either further co-option or election. This allows this matter to be dealt with in the same way as the setting of criteria for elected trustees.

Section 3 – Abolition of representative membership of the council

18. The repeals made by section 3 of the Act remove all references to representative members of the council from the 1935 Order while also re-stating section 14(f) of the 1935 Order as section 14(e) to allow the lettering to remain sequential.

Section 4 – Name of the Trust

19. **Section 4** is inserted to make it clear that use of the customary abbreviation, The National Trust for Scotland, is legally valid and is to be considered to be equivalent to use of the full name, the National Trust for Scotland for Places of Historic Interest or Natural Beauty.

Section 5 – Transitional provisions

20. **Section 5** of the Act includes transitional provisions to provide for the period between the Bill being enacted and coming into force and the first appointments being made under the Act.
21. **Section 5(1)** states that any individuals who were appointed under those provisions of the 1935 Order which are now being repealed are not removed from office as a result of these repeals. Any president, vice-president, or co-opted trustee who is presently in office will, therefore, remain in office until the first Annual General Meeting of the Trust held after the Bill has been enacted and has come into force, at which point new appointments will be made under its provisions.
22. **Section 5(2)** removes the status of charity trustee from the current president and any vice-presidents immediately upon the Bill being enacted and coming into force, rather than this change only coming into effect when new appointments are made under its provisions.