

*Draft Order laid before the Scottish Parliament under section 34(5) of the National Parks (Scotland) Act 2000, for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2003 No.**

**COUNTRYSIDE**

**The Cairngorms National Park Elections (Scotland) Order 2003**

*Made - - - - 2003*

*Coming into force in accordance with article 1*

The Scottish Ministers, in exercise of the powers conferred by paragraph 4 of Schedule 1 to the National Parks (Scotland) Act 2000<sup>(1)</sup>, and of all powers enabling them in that behalf, hereby make the following Order, a draft of which has, in accordance with section 34(5) of that Act, been laid before and approved by resolution of the Scottish Parliament:

**PART I**  
**GENERAL**

**Citation and commencement**

1. This Order may be cited as the Cairngorms National Park Elections (Scotland) Order 2003 and shall come into force on the day after the day on which it is made.

**Interpretation**

2. In this Order—

“the 1973 Act” means the Local Government (Scotland) Act 1973<sup>(2)</sup>;

“the 2000 Act” means the National Parks (Scotland) Act 2000;

“the Authority” means the National Park Authority established by article 4 of the Designation Order;

“the Designation Order” means the Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003<sup>(3)</sup>;

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(1) 2000 asp 10.  
(2) 1973 c. 65.  
(3) S.S.I. 2003/ .

“close of nominations” means the latest time for delivery of nomination papers determined in accordance with article 9(1) below;

“elector” means a person who is, in accordance with paragraph 3(2) of Schedule 1 to the 2000 Act, entitled to vote at an election;

“election” means an election of members of the Authority held in accordance with paragraph 3(2) of Schedule 1 to the 2000 Act;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(4), any part of whose area forms part of the National Park;

“member” means a member of the Authority elected by virtue of an election;

“National Park” means the National Park designated by article 3 of the Designation Order;

“registered” means registered in the register of local government electors, and cognate expressions should be construed accordingly;

“registration officer” has the same meaning as in the Representation of the People Act 1983(5).

## PART II

### ELECTIONS

#### **Returning officer etc.**

3.—(1) The returning officer at an election shall be the person who, under section 41 of the Representation of the People Act 1983, is the returning officer at elections of councillors for the Highland Council.

(2) An election is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election.

#### **Payment of expenses of returning officer**

4.—(1) Any expenses properly incurred by the returning officer in the performance of his or her functions under this Order (in this article referred to as “returning expenses”) shall be paid—

- (a) in the case of the first election by the Scottish Ministers; and
- (b) in the case of every other election, by the Authority.

(2) The Scottish Ministers, in the case of the first election, and the Authority, in the case of every other election may pay to the returning officer such fees as they consider appropriate.

(3) On the request of the returning officer for an advance on account of returning expenses, the Scottish Ministers (in the case of the first election) and the Authority (in the case of every other election) may, if they think fit, make such an advance to him or her of such an amount and subject to such conditions as they may approve.

#### **Election of persons as members**

5.—(1) The poll at elections subsequent to the first election shall be held on the first Thursday occurring four years after the day on which the previous poll was held.

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(4) 1994 c. 39. Section 2 has been subject to amendments which are not relevant to this Order.

(5) 1983 c. 2.

(2) For the purposes of paragraph (1) above, a poll at an election to fill any vacancy held in accordance with article 8 below shall be disregarded.

(3) Elected members shall cease to hold office on the day of the poll at the next election following that at which they were elected.

(4) The National Park shall be divided into five electoral wards, which shall comprise the areas described in the Schedule to this Order and each such ward shall return 1 member.

### **Qualification for nomination, election and holding office as a member**

6. A person shall, unless disqualified by virtue of this Order, be qualified for being nominated as a candidate for election as, or for being elected, or for being an elected member only if he or she has attained the age of 21 years.

### **Disqualifications for nomination, election and holding office as a member**

7.—(1) Subject to paragraphs (2) and (3) below, a person shall be disqualified—

- (a) from being nominated as a candidate for election as, or from being elected, or from being, an elected member if—
  - (i) he or she holds any paid office or employment or other place of profit in the gift or disposal of the Authority;
  - (ii) he or she is a person whose estate has been sequestrated or who has been adjudged bankrupt or has made an arrangement with creditors or has granted a trust deed for creditors or a composition contract;
  - (iii) he or she has, within five years before the day of nomination, or of election or since his or her election, as the case may be, been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence and has had passed on him or her a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;
  - (iv) he or she is disqualified from being elected under Part III of the Representation of the People Act 1983; or
  - (iv) he or she is incapacitated by physical or mental illness from discharging the functions of a member;
- (b) from being an elected member if he or she has been absent from meetings of the Authority for a period longer than three consecutive months without the permission of the Authority.

(2) Where a person is disqualified under paragraph (1) above by reason of his or her estate having been sequestrated, the disqualification shall cease if and when—

- (a) the sequestration of his or her estate is recalled or reduced; or
- (b) he or she is discharged under or by virtue of the Bankruptcy (Scotland) Act 1985(6).

(3) Where a person is disqualified under paragraph (1) above by reason of having been adjudged bankrupt, then—

- (a) if the bankruptcy is annulled on the ground that he or she ought not to have been adjudged bankrupt or on the ground that his or her debts have been paid in full, the disqualification shall cease on the date of the annulment;
- (b) if he or she is discharged with a certificate that the bankruptcy was caused by misfortune without any misconduct on his or her part, the disqualification shall cease on the date of his or her discharge; or

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(6) 1985 c. 66.

- (c) if he or she is discharged without such a certificate, his or her disqualification shall cease on the expiration of five years from the date of his or her discharge.

### **Filling of casual vacancies**

8. On a vacancy occurring in the office of member other than by virtue of article 5(3) above, an election to fill that vacancy shall be held within three months from the date on which the vacancy is deemed, by the returning officer, to have occurred, and the day of the poll at that election shall be fixed by the returning officer.

### **Timetable**

9.—(1) The proceedings at an election shall be conducted in accordance with the following table:—

<i>Proceeding</i>	<i>Time</i>
1. Publication of notice of election.	Not later than 8 weeks before the day of the poll.
2. Delivery of nomination papers.	Not later than 4.00 p.m. on any day after the date of the publication of the notice of election but not later than 5 weeks before the day of the poll.
3. Delivery of notices of withdrawals of candidature.	Within the time for the delivery of nomination papers at the election.
4. Publication of statement of persons nominated.	Within 24 hours after the close of the time for the delivery of nomination papers at the election.

(2) At any election held under article 8 above (filling of casual vacancies) the timetable prescribed in paragraph (1) above shall apply subject to any modifications necessary to secure completion of the proceedings listed in items 1 to 4 in the first column of that timetable, before the date fixed as the day of the poll at that election.

### **Notice of election**

10. The returning officer shall publish notice of the election in such form as he or she thinks fit.

### **Nomination of candidates**

11.—(1) Each candidate shall be nominated by a separate nomination paper, in such form as the returning officer thinks fit, delivered at the place or places fixed for the purpose by the returning officer.

(2) The nomination paper shall state the name and address of the candidate, the surname being placed first.

(3) At an election each candidate may deliver to the returning officer within the time for delivery of nomination papers one postal communication, addressed to each elector containing matter relating to the election only and not exceeding 250 words, which shall be sent by the returning officer to each elector with the ballot paper sent in accordance with article 27 below.

(4) Where, in the opinion of the returning officer, the contents of any postal communication referred to in paragraph (3) above are unlawful, he or she may refuse to comply with the provisions of that paragraph.

### **Consent to nomination**

**12.** A person shall not be validly nominated unless his or her consent to nomination is given in writing on the nomination paper dated between the date of the publication of the notice of election and the last day for the delivery of nomination papers.

### **Subscription of nomination paper**

**13.—(1)** The nomination paper shall give the electoral number of each person subscribing it.

(2) The nomination paper shall be subscribed by two electors as proposer and seconder, and by four other electors for that electoral ward as assenting to the nomination.

(3) As soon as practicable after each nomination paper has been delivered, the returning officer shall examine it and decide whether the candidate has been validly nominated.

(4) Where the returning officer decides that a nomination paper is invalid, he or she shall endorse and sign on the paper the fact and the reasons for his or her decision.

(5) The returning officer shall send notice of his or her decision that a nomination paper is valid or invalid to each candidate at his or her home address as given in his or her nomination paper.

(6) The returning officer's decision that a nomination paper is valid or invalid shall be final and shall not be questioned in any proceeding whatsoever.

(7) A person shall not subscribe more than one nomination paper in respect of the same electoral ward and, if he or she does, his or her signature shall be inoperative on any paper other than the one first delivered, but he or she shall not be prevented from subscribing a nomination paper by reason only of his or her having subscribed that of a candidate who has died or withdrawn before delivery of the first mentioned paper.

### **Withdrawal of candidates**

**14.** A candidate may withdraw his or her candidature by notice of withdrawal in such form as the returning officer thinks fit—

- (a) signed by him or her and attested by one witness; and
- (b) delivered to the returning officer at the place for delivery of nomination papers.

### **Nomination in more than one electoral ward**

**15.** If at an election a candidate is validly nominated for more than one electoral ward, he or she shall withdraw from his or her candidature in all but one of those wards; and if he or she does not so withdraw before the close of nominations, he or she shall be deemed to have withdrawn as a candidate for election to all of those wards.

### **Inspection of nomination papers**

**16.** Any person may inspect and take copies of, or extracts from, nomination papers during ordinary office hours on any day other than—

- (a) a Saturday or Sunday;
- (b) Christmas Eve, Christmas Day, Good Friday or Easter Monday;

- (c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(7); or
- (d) a day appointed for public thanksgiving or mourning,

after the latest time for delivery of nomination papers and before the date of the poll.

### **Method of election and notice of uncontested election**

**17.**—(1) If at the close of nominations, two or more candidates remain validly nominated for an electoral ward, the member for that ward shall be elected from among them at a poll under article 5 or, as the case may be, 8 above.

(2) If one candidate only remains validly nominated as aforesaid, the returning officer shall cause public notice to be given that there will be no poll in that ward, and that on the day when the poll at the election would have been held, that candidate shall be declared elected in accordance with the provisions of article 45 below.

(3) If no candidates for an electoral ward are validly nominated as aforesaid, a further election to fill the vacancy shall be held within three months of the day when the poll at the election would have been held.

(4) The public notice to be given under this article shall be in such form as the returning officer thinks fit.

### **Manner of voting at elections**

**18.** A person entitled to vote as an elector at an election may vote only by post.

### **Ballot papers**

**19.**—(1) The ballot of every voter shall consist of a ballot paper and the persons remaining validly nominated for the electoral ward after any withdrawals under this Order, and no other persons, shall be entitled to have their names inserted in the ballot paper.

(2) Every ballot paper shall be in such form as the returning officer thinks fit, and—

- (a) shall contain the names and addresses of the candidates as shown in their respective nomination papers and arranged alphabetically in the order of their surnames and, if there are two or more candidates with the same surname, of their other names; and
- (b) shall have a number printed on the back.

### **Absent voters**

**20.**—(1) Where a person applies to the registration officer for his or her ballot paper to be sent to an address other than the address in respect of which he or she will be registered at an election, the registration officer shall grant the application if he or she is satisfied that the applicant is or will be registered in the register of local government electors at an address within the National Park.

(2) The registration officer shall, in respect of each election, keep a special list (“the absent voters list”) consisting of a list of those whose applications under paragraph (1) above for their ballot papers to be sent to a different address have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(3) The registration officer shall remove a person from the record kept under paragraph (2) above if he or she applies to the registration officer to be removed.

### **Closing dates for applications**

**21.** An application under article 20 above shall be disregarded for the purposes of any election if it is received by the registration officer after 5.00 p.m. 5 weeks before the day of the poll at that election.

### **Grant or refusal of applications**

**22.—(1)** Where the registration officer grants an application under article 20 above he or she shall, where practicable, notify the applicant of his or her decision.

(2) Where the registration officer disallows an application under article 20 above, he or she shall notify the applicant of his or her decision and of the reason for his or her decision, and he or she shall date such notification.

(3) Where under article 21 above the registration officer disregards an application for the purposes of any particular election, he or she shall, where practicable, notify the applicant of this.

### **List kept under article 20**

**23.—(1)** Subject to the provisions of this article the list kept under article 20 above shall be in such form as the registration officer thinks fit.

(2) The registration officer shall make available for inspection at his or her office a copy of the list kept under article 20 above.

### **The official mark**

**24.—(1)** Every ballot paper shall be marked with an official mark.

(2) The official mark shall be kept secret, and an interval of not less than five years shall intervene between the use of the same official mark at elections.

### **Prohibition of disclosure of vote**

**25.** No person who has voted at an election shall, in any legal proceeding to question the election, be required to state for whom he or she voted.

## **PART III**

### **ISSUE AND RECEIPT OF BALLOT PAPERS**

#### **Interpretation of Part III**

**26.** For the purposes of this Part of this Order—

“absent voters list” mean the list kept under article 20 above;

“agent” includes the counting agent referred to in article 28 below and any person appointed to attend in the counting agent’s place;

“covering envelope” means the envelope referred to in article 33 below;

“issue” includes the original and any subsequent issue;

“spoilt ballot paper” means a ballot paper referred to in article 35 below.

### **Issue of ballot papers**

27. The returning officer shall as soon as practicable send to each elector—

- (a) at the address in respect of which he or she will be registered; or
- (b) at the address determined in accordance with article 20 above,

a ballot paper together with instructions for completing it in such form as the returning officer thinks fit, an envelope for its return and the postal communication referred to in article 11 above.

### **Appointment of counting agents**

28.—(1) Each candidate may, before the commencement of the poll, appoint such number of counting agents as the returning officer considers appropriate to attend at the issue of ballot papers and the counting of the votes.

(2) Notice in writing of the appointment, stating the names and addresses of the persons appointed, shall be given by the candidate to the returning officer not later than 3 weeks before the day of the poll.

### **Order for issuing ballot papers**

29.—(1) The returning officer shall first issue ballot papers to those electors included as voting by post in the absent voters list for the election and shall place a mark in that list and in the register of electors against the number of the elector (which he or she shall also mark with the letter “A”) to denote that—

- (a) the elector is an absent voter; and
- (b) a ballot paper has been issued to that elector but without showing the particular ballot paper issued.

(2) The returning officer shall secondly issue ballot papers to every elector in the register of electors against whose number no mark has been placed and shall then place a mark against the number of that elector to denote that a ballot paper has been issued but without showing the particular ballot paper issued.

### **Notification of requirement of secrecy**

30. Every person attending the proceedings in connection with the issue or the receipt of ballot papers shall maintain and aid in maintaining the secrecy of the voting and shall not—

- (a) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark; or
- (b) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number on the back of the ballot paper sent to any person.

### **Notice of issue of ballot papers**

31.—(1) The returning officer shall give each candidate not less than 48 hours' notice in writing of the time and place at which he or she will issue ballot papers and of the number of agents the candidate may appoint under article 28 above to attend that issue.

(2) Where any subsequent issue of ballot papers is made, the returning officer shall notify each candidate as soon as practicable of the time and place at which he or she will make such subsequent issue and of the number of agents the candidate may appoint under article 28 above to attend such issue.



### **Refusal to issue ballot paper**

**32.** Where a returning officer is satisfied that two or more entries in the absent voters list or in the register relate to the same elector he or she shall not issue more than one ballot paper in respect of that elector in respect of any one election.

### **Envelopes**

**33.** The envelope which the returning officer is required by article 27 above to send to a voter for the return of the ballot paper is referred to as a “covering envelope”.

### **Delivery of ballot papers**

**34.—**(1) For the purposes of delivering ballot papers, the returning officer may use—

- (a) a universal postal service provider; or
- (b) a commercial delivery firm.

(2) Where the services of a universal postal service provider or commercial delivery firm are to be used, envelopes addressed to voters shall be counted and delivered by the returning officer with such form of receipt to be endorsed by that provider or firm as may be arranged.

(3) Delivery of all envelopes addressed to voters and all covering envelopes shall be pre-paid by the returning officer.

### **Spoilt ballot papers and covering envelopes**

**35.—**(1) If a voter has inadvertently dealt with his or her ballot paper in such manner that it cannot be conveniently used as a ballot paper (referred to as “a spoilt ballot paper”) he or she may return (either by hand or by post) to the returning officer the spoilt ballot paper and the covering envelope.

(2) If a voter has inadvertently dealt with his or her covering envelope in such manner that it cannot be conveniently used as a covering envelope (referred to as “a spoilt covering envelope”) he or she may return (either by hand or post) to the returning officer the spoilt covering envelope.

(3) On receipt of the documents referred to in paragraphs (1) or (2) above, the returning officer shall issue another ballot paper or covering envelope, as the case may be, except where those documents are received too late for another ballot paper to be returned before the close of the poll.

### **Lost ballot papers**

**36.—**(1) Where an elector has not received his or her ballot paper by the third day before the day of the poll, he or she may apply (whether or not in person) to the returning officer for a replacement ballot paper.

(2) Such an application shall include evidence of the elector’s identity.

(3) Where the application is received by the returning officer before 5.00 p.m. on the day before the day of the poll and the returning officer—

- (a) is satisfied as to the elector’s identity; and
- (b) has no reason to doubt that the elector did not receive the original ballot paper,

he or she shall issue another ballot paper;

(4) The returning officer shall enter in a list kept for the purpose (“the list of lost ballot papers”)—

- (a) the name and number of the elector as stated in the register; and
- (b) the number of the lost ballot paper and of its replacement issued under this article.

(5) Articles 19, 24 and 27 above shall apply to the issue of a replacement ballot paper under paragraph (3) above as they apply to any ballot paper.

(6) Where an elector applies in person, the returning officer may hand a replacement ballot paper to him or her instead of delivering it in accordance with articles 27 and 34 above.

### **Opening of ballot box**

**37.**—(1) The returning officer shall provide one or more ballot boxes for the receipt of ballot papers.

(2) Every ballot box referred to in paragraph (1) above shall be marked “ballot papers” and with the electoral ward for which the election is held.

(3) Covering envelopes received by the returning officer until the close of the poll shall be placed in the ballot box or boxes.

(4) The returning officer shall make provision for the safe custody of every such ballot box.

(5) Every such ballot box shall be opened at the counting of the votes under article 40 of this Order.

### **Opening of covering envelopes**

**38.**—(1) When a ballot box has been opened, the returning officer shall count and note the number of covering envelopes, and shall then open each covering envelope separately.

(2) Where a covering envelope does not contain a ballot paper the returning officer shall mark the covering envelope “rejected”, attach to it the contents (if any) of the covering envelope and place it in a separate receptacle (referred to as “the receptacle for rejected votes”).

(3) Where the covering envelope does contain a ballot paper, the returning officer shall place it in a different receptacle from the receptacle for rejected votes.

### **Attendance at counting of votes**

**39.**—(1) The returning officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after 4.00 p.m. on the day of the poll and shall give to the counting agents notice in writing of the time and place at which he or she will begin to count the votes.

(2) No person other than—

- (a) the returning officer and his or her staff;
- (b) the candidates and their partners; and
- (c) the counting agents,

may be present at the counting of the votes, unless permitted by the returning officer to attend.

(3) A person not entitled to attend at the counting of the votes shall not be permitted to do so by the returning officer unless he or she is satisfied that the efficient counting of the votes will not be impeded.

(4) The returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he or she can give them consistently with the orderly conduct of the proceedings and the discharge of his or her duties in connection with them.

(5) In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each

candidate, the counting agents shall be entitled to satisfy themselves that the ballot papers are correctly sorted.

### **The count**

**40.**—(1) The returning officer shall count such of the ballot papers as have been duly returned for each ward and record the number counted.

(2) The returning officer shall so far as practicable proceed continuously with counting the votes, allowing only time for refreshment.

### **Re-count**

**41.**—(1) A candidate may, if present when the counting or any re-count of the votes is completed, require the returning officer to have the votes re-counted or again re-counted but the returning officer may refuse to do so if in his or her opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting or any re-count of votes until the candidates present at its completion have been given a reasonable opportunity to exercise the right conferred by this article.

### **Rejected ballot papers**

**42.**—(1) Any ballot paper—

- (a) which does not bear the official mark;
- (b) on which votes are given for more than one candidate;
- (c) on which anything is written or marked by which the voter can be identified except the printed number on the back; or
- (d) which is unmarked or null and void for uncertainty,

shall, subject to paragraph (2) below, be null and void and not counted.

(2) A ballot paper on which the vote is marked—

- (a) elsewhere than in the proper place;
- (b) otherwise than by means of a cross; or
- (c) by more than one mark,

shall not for such reason be deemed to be null and void if an intention that the vote shall be for one or other of the candidates clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that he or she can be identified by it.

(3) The returning officer shall endorse the word “rejected” on any ballot paper which under this article is not to be counted, and shall add to the endorsement the words “rejection objected to” if any objection is made by a counting agent to his or her decision.

(4) The returning officer shall draw up a statement showing the number of ballot papers rejected, under the several heads of—

- (a) want of official mark;
- (b) voting for more than one candidate;
- (c) writing or mark by which voter could be identified;
- (d) unmarked or null and void for uncertainty.

### **Decisions on ballot papers**

43. The decision of the returning officer on any question arising in respect of a ballot paper shall be final.

### **Equality of votes**

44. Where, after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

### **Declaration of result**

45.—(1) In a contested election, when the result of the poll has been ascertained, the returning officer shall forthwith—

- (a) declare to be elected the candidate to whom the majority of votes has been given;
- (b) give notice of the name of the candidate elected to the proper officer of the Authority; and
- (c) give public notice of the name of the candidate elected and of the total number of votes given for each candidate (whether elected or not) together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.

(2) Where notice of an uncontested election has been given under article 17 above the returning officer shall—

- (a) not later than 11.00 a.m. on the day of election declare to be elected the validly nominated candidate referred to in the said notice of uncontested election;
- (b) give notice of the name of the person to whom sub-paragraph (a) above applies to the proper officer of the Authority; and
- (c) give public notice of the name of such person.

### **Sealing up of ballot papers**

46. On the completion of the counting at a contested election the returning officer shall seal up in separate packets the counted and rejected ballot papers.

### **Delivery of documents**

47. The returning officer shall then forward to the proper officer of the Authority, the following documents:—

- (i) the packets of ballot papers in his or her possession;
- (ii) the statement of rejected ballot papers; and
- (iii) such other documents, including, without prejudice to the foregoing generality, marked registers and marked absent voters lists, as may be necessary to verify the validity of the election,

endorsing on each packet a description of its contents, the date of the election to which they relate and the name of the ward for which the election was held.

### **Orders for production of documents**

48.—(1) An order—

- (a) for the inspection or production of any rejected ballot papers in the custody of the proper officer of the Authority; or
- (b) for the inspection of any counted ballot papers in the custody of the proper officer of the Authority,

may be made by the sheriff principal having jurisdiction in the National Park, and, where more than one sheriff principal has jurisdiction in the said area, by any such sheriff principal, on being satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of civil proceedings.

(2) An order under this article may be made subject to such conditions as to—

- (a) persons;
- (b) time;
- (c) place and mode of inspection;
- (d) production or opening,

as the sheriff principal making the order may think expedient; but in making and carrying into effect an order for the inspection of counted ballot papers, care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved that the vote was given and that the vote has been declared by a competent court to be invalid.

(3) An appeal lies to the Court of Session from any order of a sheriff principal under this article.

(4) Any power given under this article to a sheriff principal may be exercised otherwise than in open court.

(5) Where an order is made for the production by the proper officer of the Authority of any document in his or her possession relating to any specified election—

- (a) the production by him or her or his or her agent of the document ordered in such manner as may be directed by that order shall be conclusive evidence that the document relates to the specified election; and
- (b) any endorsement on any packet of ballot papers so produced shall be prima facie evidence that the ballot papers are what they are stated to be by the endorsement.

### **Retention and public inspection of documents**

**49.**—(1) The proper officer of the Authority shall retain for six months all ballot papers, statements of rejected ballot papers, marked registers and marked absent voters lists relating to an election forwarded to him or her in pursuance of this Order by a returning officer, and then, unless otherwise directed by an order of a sheriff principal, shall cause them to be destroyed.

(2) Those documents, except ballot papers, shall be open to public inspection at such time and in such manner as the proper officer of the Authority may determine.

(3) The proper officer of the Authority shall, on request, supply copies of or extracts from the documents open to public inspection on payment of such fees and subject to such conditions as he or she may determine.

### **Countermand or abandonment of poll on death of candidate**

**50.**—(1) If at a contested election proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as candidate in the ballot papers has died, then the returning officer shall countermand notice of the poll or, if ballot papers have been issued, direct that the poll be abandoned, and the provisions of article 8 of this Order apply in respect of filling any such vacancy as then exists.

(2) The provisions of this Order as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election apply to any such documents relating to a poll abandoned by reason of a candidate's death, with the following modifications:—

- (a) ballot papers on which the votes were neither counted nor rejected shall be treated as counted ballot papers; and
- (b) no order shall be made for the production or inspection of any ballot papers unless the order is made by a court with reference to a prosecution.

## PART IV

### MISCELLANEOUS AND SUPPLEMENTAL

#### **Election expenses**

**51.** No sum shall be paid and no expense shall be incurred by a candidate at an election, whether before, during or after an election, on account of or in respect of the conduct or management of the election, in excess of £250.

#### **Election expenses returns**

**52.**—(1) Within 35 days after the day on which the result of the election is declared every candidate at the election shall deliver to the returning officer a true return and declaration in such form as the returning officer thinks fit containing as respects that candidate a statement of all payments made by that candidate together with all the bills or receipts.

- (2) The returning officer shall then forward the returns to the proper officer of the Authority.
- (3) The provisions of article 49 above shall apply to elections expenses returns.

#### **Effect of misdescription**

**53.** No misnomer or inaccurate description of any person or place named—

- (a) in the register of electors; or
- (b) in any list, record, nomination paper, ballot paper, notice or other document required for the purposes of this Order,

affects the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

St Andrew's House,  
Edinburgh  
2003

Authorised to sign by the Scottish Ministers

## SCHEDULE

Article 5(4)

## ELECTORAL WARDS

<i>Electoral Ward</i>	<i>Area</i>
1.	Commencing on the boundary of the National Park at national grid reference 282171, 785820; then following the National Park boundary to national grid reference 283660, 812347 (summit of Geal-charn Mor); then running south to national grid reference 284058, 806352; then following the boundary between the Badenoch East and the Badenoch West electoral wards of the Highland local government area to national grid reference 282171, 785820.
2.	Commencing on the boundary of the National Park at national grid reference 282171, 785820; then running northwards to follow the boundary of Electoral Ward 1 of the National Park to national grid reference 283660, 812347 (summit of Geal-charn Mor); then following the National Park boundary to national grid reference 284795, 814398 (summit of Geal charn Beag); then following the boundary between the Badenoch East and the Strathspey North East electoral wards of the Highland local government area to national grid reference 286187, 813165 (summit of Carn Dearg Mor); then following the boundary between the Strathspey North East and the Strathspey South electoral wards of the Highland local government area to national grid reference 313559, 813515; then running southwest to follow the boundary between Highland and Moray local government areas to national grid reference 298088, 801710; then following the boundary between Highland and Aberdeenshire local government areas to the National Park boundary at national grid reference 290470, 784189; then running westwards following the National Park boundary to national grid reference 282171, 785820.
3.	Commencing on the boundary of the National Park at national grid reference 284795, 814398; then following the National Park boundary to national grid reference 313708, 828942 (summit of Carn Eachie); then running southwards following the boundary between Highland and Moray local government areas to national grid reference 313559, 813515; then

<i>Electoral Ward</i>	<i>Area</i>
	running westwards following the boundary of Electoral Ward 2 of the National Park to national grid reference 284795, 814398.
4.	Commencing on the boundary of the National Park at national grid reference 313708, 828942 (summit of Carn Eachie); then running east then south-east to follow the National Park boundary to national grid reference 339420, 804256; then running westwards to national grid reference 336544, 804035; then running north westwards to national grid reference 335717, 804895; then running westwards following the boundary between Donside and Cromar and Upper Deeside electoral wards of the Aberdeenshire local government area to national grid reference 320085, 805293 (summit of Meikle Geal Charn); then running westwards following the boundary between Moray and Aberdeenshire local government areas to national grid reference 298088, 801710; then running north eastwards to follow the boundary between Moray and Highland local government areas to national grid reference 313708, 828942 (summit of Carn Eachie).
5.	Commencing on the boundary of the National Park at national grid reference 339420, 804256 (summit of Scraulac); then running westwards following the boundary of Electoral Ward 4 of the National Park to national grid reference 298088, 801710; then running south westwards then south following the boundary between Highland and Aberdeenshire local government areas to national grid reference 290470, 784189; then running east and north to follow the boundary of the National Park to national grid reference 339420, 804256 (summit of Scraulac).



## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order sets out the arrangements under which direct elections to the Cairngorms National Park Authority shall be conducted.

It designates the returning officer of Highland Council as the returning officer for each election (article 3) and provides for expenses (article 4).

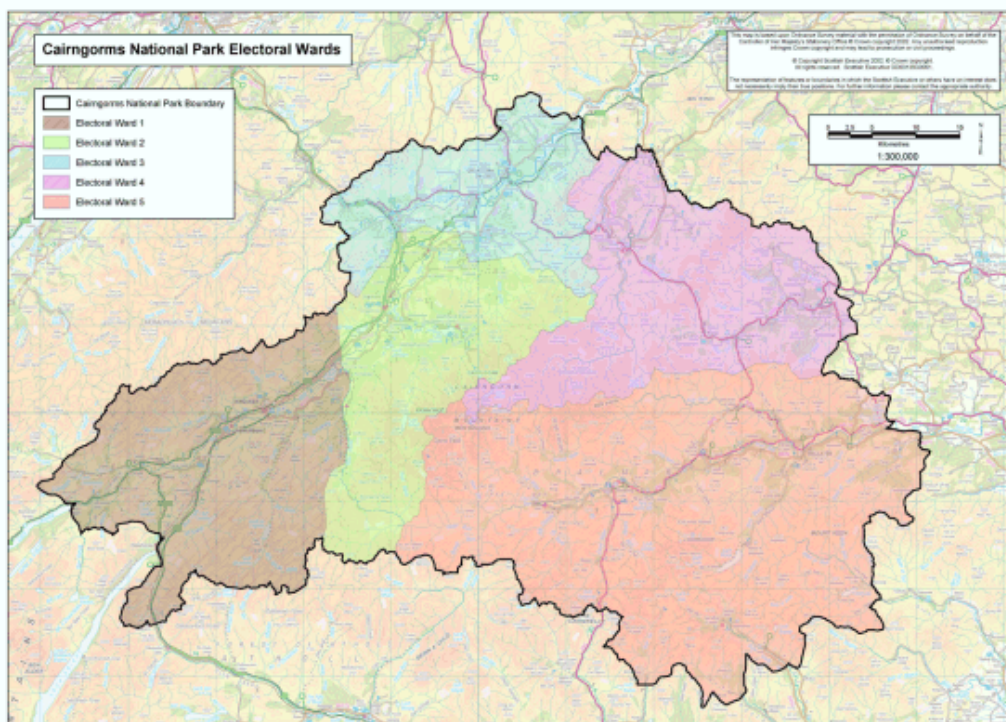
It divides the National Park into five wards, with each ward returning one member (article 5 and the Schedule to the Order). The map annexed to and forming part of this note gives a general guide to the wards and the area affected by this Order.

Provision is made for the filling of casual vacancies (article 8). It sets out provisions relating to qualification and disqualification for membership of the National Park Authority (articles 6 and 7). The timetable for conducting elections and provision regarding notice are detailed in articles 9 and 10.

The procedures for nomination of candidates are detailed in articles 11 to 16. Arrangements for the method of election, manner of voting (only by post), the form of the ballot papers and arrangements for absent voters are detailed in articles 17 to 25.

Part III of the Order sets out arrangements for the issue and receipt of ballot papers, the counting of ballot papers and the declaration of result (articles 26 to 50).

Part IV of the Order includes miscellaneous provisions relating to candidates' expenses and election returns (articles 51 to 53).



**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: The Cairngorms National Park Elections (Scotland) Order 2003 No. 2