

2004 No. 397

LOCAL GOVERNMENT

The Scottish Network 2 Tourist Board Scheme Order 2004

Made - - - - - *14th September 2004*

Laid before the Scottish Parliament *16th September 2004*

Coming into force - - - *1st December 2004*

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SCHEDULE 2 REVOCATIONS

The Scottish Ministers, in exercise of the powers conferred by sections 172(1), (3) and (4) and 173 of the Local Government etc. (Scotland) Act 1994(a) and of all other powers enabling them in that behalf, after consulting the Scottish Tourist Board and all local authorities whose areas lie within the area of the Board in accordance with section 173(4)(a) of that Act, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Scottish Network 2 Tourist Board Scheme Order 2004 and shall come into force on 1st December 2004.

Interpretation

2. In this Order—

“the existing schemes” means—

- the Aberdeen and Grampian Tourist Board Scheme 1995;
- the Angus and City of Dundee Tourist Board Scheme 1995;
- the Argyll, the Isles, Loch Lomond, Stirling and Trossachs Tourist Board Scheme 1995;
- the Highlands and Islands Tourist Board Scheme 1995;
- the Kingdom of Fife Tourist Board Scheme 1995;
- the Orkney Tourist Board Scheme 1995;
- the Perthshire Tourist Board Scheme 1995;
- the Shetland Tourist Board Scheme 1995; and
- the Western Isles Tourist Board Scheme 1995;

“the scheme” means the Scottish Network 2 Tourist Board Scheme 2004 set out in Schedule 1 to this Order;

“the Board” means the Scottish Network 2 Tourist Board established under the scheme;

“the existing Boards” means the Aberdeen and Grampian Tourist Board, the Angus and City of Dundee Tourist Board, the Argyll, the Isles, Loch Lomond, Stirling and Trossachs Tourist Board; the Highlands and Islands Tourist Board, the Kingdom of Fife Tourist Board, the Orkney Tourist Boards, the Perthshire Tourist Board, the Shetland Tourist Board, and the Western Isles Tourist Board, established under the existing schemes;

“local government area” shall be construed in accordance with section 1(2) of the Local Government etc. (Scotland) Act 1994; and

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

The scheme

3.—(1) Subject to paragraph (2), the scheme shall have effect, as from 1st April 2005, for the establishment of the Board for the local government areas of Aberdeenshire, Aberdeen City, Moray, Angus, Dundee City, Argyll and Bute, Clackmannanshire, Dumbarton and Clydebank, Falkirk and Stirling, Highland, Fife, the Orkney Islands, Perthshire and Kinross, the Shetland Islands, and the Western Isles.

(a) 1994 c.39. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

- (2) The scheme shall have effect from the date of coming into force of this Order in relation to—
- (a) the constitution of the Board;
 - (b) the carrying out by the Board of any functions necessary to bring the scheme into operation on 1st April 2005; and
 - (c) any functions necessary to wind up the existing Boards on 1st April 2005.

Revocations

4. The Orders specified in Schedule 2 to this Order shall be revoked with effect from 1st April 2005.

FRANCIS McAVEETY
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
14th September 2004

PART I
GENERAL

Title of scheme

1. This scheme may be cited as the Scottish Network 2 Tourist Board Scheme 2004.

Interpretation

- 2.—(1) In this scheme—

“the 1994 Act” means the Local Government etc. (Scotland) Act 1994; and

“the area of the Board” means the local government areas for which the Board is established under paragraph 3(1).

- (2) Any reference in this scheme to a numbered paragraph is a reference to the paragraph in the scheme bearing that number.

PART II
THE CONSTITUTION OF THE BOARD

The Board

- 3.—(1) There shall be established a body to be known as the Scottish Network 2 Tourist Board for the local government areas of Aberdeenshire, Aberdeen City, Moray, Angus, Dundee City, Argyll and Bute, Clackmannanshire, Dumbarton and Clydebank, Falkirk and Stirling, Highland, Fife, the Orkney Islands, Perthshire and Kinross, the Shetland Islands, and the Western Isles.

- (2) The Board shall be a body corporate with a common seal.

Membership of the Board

- 4.—(1) The Scottish Ministers shall appoint the first and future members of the Board, which members shall be all or some of the persons who are the members of the Scottish Tourist Board from time to time, as the Scottish Ministers think fit.

- (2) The Scottish Ministers may appoint other persons as first or future members of the Board and shall be entitled to remove such persons from membership of the Board, as the Scottish Ministers think fit.

- (3) In the case of any member of the Board who is also a member of the Scottish Tourist Board, that member’s membership of the Board shall terminate on the termination of that member’s membership of the Scottish Tourist Board.

- (4) The maximum number of Board members shall be nine.

Membership of controlling body

- 5.—(1) The Scottish Ministers shall appoint the first members of the controlling body of the Board from among the first members of the Board whom they have appointed under paragraph 4.

- (2) Subject to sub-paragraph (1), the members of the controlling body shall be appointed by the Board from among the members of the Board.

Proceedings of the Board

6.—(1) The Board may—

- (a) subject to the provisions of this scheme, regulate its own procedure;
- (b) appoint committees including committees composed of persons who are not members of the Board;
- (c) delegate any of its duties to any of its members who or committees which are authorised (generally or specifically) for the purpose;
- (d) pay such allowances in respect of expenses as the Board may determine to any of its members or any person appointed to a committee of the Board.

(2) A committee shall act in accordance with such directions as the Board may from time to time give, and the Board may provide for anything done by a committee to have effect as if it had been done by the Board.

(3) The validity of any proceedings of the Board, the controlling body or of any committee appointed by the Board shall not be affected by any vacancy among its members or by any defect in the appointment of any member.

Duty to keep accounting records

7.—(1) The Board shall keep accounting records which are sufficient to show and explain the transactions of the Board and are such as to disclose with reasonable accuracy, at any time, the financial position of the Board at that time.

(2) The accounting records of the Board shall at all times be open to inspection by the Scottish Ministers.

(3) Accounting records which the Board is required by sub-paragraph (1) to keep shall be preserved by it for three years from the date on which they are made.

PART III

FUNCTIONS AND POWERS OF THE BOARD

Additional functions and powers

8.—(1) For the purposes of enabling the Board to carry out its principal function which is specified in section 172(2) of the 1994 Act, but subject to sub-paragraph (3), the Board shall have the additional functions and powers conferred upon it by this scheme.

(2) Without prejudice to the generality of sub-paragraph (1), the Board shall have power—

- (a) to hold property, subject to paragraph 9;
- (b) to provide finance, whether by way of grant or loan, to any person in relation to activities relating to tourism;
- (c) to borrow such sums as it may require;
- (d) to grant security over its assets in respect of obligations incurred by it;
- (e) to grant guarantees for obligations (arising out of loans or otherwise) incurred by other persons or grant indemnities;
- (f) to enter into contracts with third parties (including the Scottish Tourist Board and any local authority or local authorities) for that third party to carry on activities relating to tourism on behalf of the Board, on such terms and conditions as the Board thinks fit;
- (g) to consult, and enter into agreements with, third parties (including the Scottish Tourist Board and any local authority or local authorities) as to the manner in which the Board carries out its activities in relation to tourism; and

(h) to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of its principal function.

(3) The Board shall not, without the express or general consent given in writing of the Scottish Ministers (or of such body as they may direct the Board to consult) carry on activities relating to the promotion of tourism outside the United Kingdom.

Membership, formation and acquisition of companies

9.—(1) The Board may, subject to the conditions specified in this paragraph, form, or join with another person in forming, acquire or become a member of, a company within the meaning of the Companies Act 1985(a).

(2) Subject to sub-paragraph (5), the Board shall itself or together with any other area tourist board established or, as the case may be, approved under sections 172, 173 and 174 of the 1994 Act hold not less than 50 per cent of the voting rights in any company in which it holds an interest.

(3) The memorandum of any company formed or acquired by the Board shall—

- (a) enable the company to carry on only activities relating to tourism or such activities as are reasonably incidental to the principal function of the Board; and
- (b) provide that the company shall not, without the express or general consent given in writing of Scottish Ministers (or such body as they may direct the Board to consult) carry on activities relating to the promotion of tourism outside the United Kingdom.

(4) In the event that any company formed or acquired by the Board or of which the Board is a member or has an interest of whatsoever nature at any time ceases to comply with the provisions of sub-paragraph (3), the Board shall immediately—

- (a) take all steps necessary to ensure that the provisions of that sub-paragraph are complied with; or
- (b) resign from or otherwise terminate its membership of the company, sell or otherwise dispose (other than by way of gift) of any interest which it may have in such company.

(5) Sub-paragraph (2) shall not apply in relation to any interest in a company—

- (a) transferred to the Board by virtue of paragraph 13; or
- (b) limited by guarantee and established for charitable purposes only.

(6) Sub-paragraphs (3) and (4) shall apply in relation to an interest in a company transferred to the Board by virtue of paragraph 13 only where such interest carries the majority of voting rights in the company.

(7) The Board shall have power to transfer to a company of which it is a member and which complies with the provisions of sub-paragraphs (2) and (3) any or all of such employees of the Board, or such property, rights and liabilities of the Board, as the Board considers appropriate to enable such company to carry out the company's activities in terms of sub-paragraph (3).

Staff

10.—(1) The Board may appoint, on such terms and conditions as to remuneration or otherwise as it may determine, such employees as it thinks fit.

(2) The Board may, in the case of such of its employees or former employees as it may determine—

- (a) pay such pensions, allowances or gratuities to or in respect of those employees;
- (b) make such payments towards provision of such pensions, allowances or gratuities; or
- (c) provide and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities,

as it may determine.

(a) 1985 c.6.

PART IV
TRANSITIONAL PROVISIONS

Winding-up and dissolution of existing schemes

11. Any area tourist board established for the purposes of the exciting schemes revoked under article 4 and Schedule 2 to this Order shall be wound up and dissolved with effect from that date.

Transfer of staff

12. Any person employed on 31st March 2005 by any of the existing Boards wound up and dissolved in accordance with paragraph 11 shall transfer to the employment of the Board on 1st April 2005 on the same terms and conditions as those of his or her employment by the existing Board.

Transfer of property, rights and liabilities

13. On 1st April 2005 there shall transfer to and vest in the Board all property, rights and liabilities of the existing Boards wound up and dissolved in accordance with paragraph 11.

SCHEDULE 2

Article 4

REVOCATIONS

<i>Orders Revoked</i>	<i>References</i>
The Aberdeen and Grampian Tourist Board Scheme Order 1995	S.I. 1995/1879, amended by S.I. 1995/2211
The Angus and City of Dundee Tourist Board Scheme Order 1995	S.I. 1995/1880, amended by S.I. 1995/2212
The Argyll, the Isles, Loch Lomond, Stirling Order 1995	S.I. 1995/1881, amended by 1995/2213
The Highlands of Scotland Tourist Board Scheme Order 1995	S.I. 1995/1886, amended by S.I. 1995/2236
The Kingdom of Fife Tourist Board Scheme Order 1995	S.I. 1995/1887, amended by S.I. 1995/2237
The Orkney Tourist Board Scheme Order 1995	S.I. 1995/1888, amended by S.I. 1995/2239
The Perthshire Tourist Board Scheme Order 1995	S.I. 1995/1889, amended by S.I. 1995/2238
The Shetland Tourist Board Scheme Order 1995	S.I. 1995/1891, amended by S.I. 1995/2240
The Western Isles Tourist Board Scheme Order 1995	S.I. 1995/1892, amended by S.I. 1995/2241
The Aberdeen and Grampian Tourist Board Scheme Amendment Order 1995	S.I. 1995/2211
The Angus and City of Dundee Tourist Board Scheme Amendment Order 1995	S.I. 1995/2212
The Argyll, the Isles, Loch Lomond, Stirling and Trossachs Tourist Board Scheme Amendment Order 1995	S.I. 1995/2213
The Highlands of Scotland Tourist Board Scheme Amendment Order 1995	S.I. 1995/2236
The Kingdom of Fife Tourist Board Scheme Amendment Order 1995	S.I. 1995/2237
The Orkney Tourist Board Scheme Amendment Order 1995	S.I. 1995/2238

The Perthshire Tourist Board Scheme Amendment Order 1995	S.I. 1995/2239
The Shetland Tourist Board Scheme Amendment Order 1995	S.I. 1995/2240
The Western Isles Tourist Board Scheme Amendment Order 1995	S.I. 1995/2241

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes a scheme for the establishment of a new area tourist board for the local government areas of Aberdeenshire, Aberdeen City, Moray, Angus, Dundee City, Argyll and Bute, Clackmannanshire, Dumbarton and Clydebank, Falkirk and Stirling, Highland, Fife, the Orkney Islands, Perthshire and Kinross, the Shetland Islands, and the Western Isles (“the Board”). The Board is to be called “the Scottish Network 2 Tourist Board”.

The following existing tourist boards for these areas shall be wound up with effect from 1st April 2005:

The Aberdeen and Grampian Tourist Board

The Angus and City of Dundee Tourist Board

The Argyll, the Isles, Loch Lomond, Stirling and Trossachs Tourist Board

The Highlands and Islands Tourist Board

The Kingdom of Fife Tourist Board

The Orkney Tourist Board The Perthshire Tourist Board

The Shetland Tourist Board

The Western Isles Tourist Board

Article 3 provides that the scheme set out in the Schedule to the Order shall have effect from 1st April 2005, but provides that the scheme shall have effect from the date of coming into force of the Order, namely 1st December 2004 in relation to—

- (a) the constitution of the Board;
- (b) the carrying out by the Board of any functions necessary to bring the scheme into operation on that date; and
- (c) any functions necessary to wind up the existing boards on 1st April 2005.

The scheme deals with—

The membership of the Board and the controlling body of the Board

The Proceedings of the Board

The Board’s duty to keep accounting records

Additional functions and powers of the Board

Conditions on which the Board may be a member of a company

The staff employed by the Board and the transfer of the staff employed by the existing tourist boards to the employment of the Board

The transfer of the property, rights and liabilities of the existing boards to the Board

The revocation of the Orders establishing the existing boards.

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The Scottish Network 2 Tourist Board Scheme Order 2004

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