

NATIONAL PARKS (SCOTLAND) ACT 2000

EXPLANATORY NOTES

INTRODUCTION

Schedule 4: Transfer of staff, property and liabilities

130. *Paragraph 1* enables the Scottish Ministers to require a local authority whose area is at least partly within a National Park to make schemes for the transfer of employees or property and liabilities to a National Park authority or another local authority, as necessary in consequence of the setting up or operation of the National Park authority. A National Park authority may also be required to make transfer schemes for transfers from the National Park authority to another National Park authority or a local authority where a National Park is wound up or modified or in connection with the operation of the National Park authority. Before making such schemes, the Scottish Ministers must consult the transferring and receiving authorities and any local authority with part of its area within the National Park.
131. *Paragraph 2* sets out the procedure to be followed by a local authority or a National Park authority which is required to prepare a transfer scheme under paragraph 1. The authority must consult certain specified bodies before making a scheme including, in the case of a staff transfer scheme, staff associations. The authority must take into account any guidance on transfer schemes from the Scottish Ministers. Such a scheme has effect from a specified date, which would normally be the effective operational date of the new authority.
132. *Paragraph 3* enables the Scottish Ministers to approve or reject the scheme, or approve it with modifications; but if the latter, they must send a copy of the proposed modifications to the organisations mentioned, and take account of any comments.
133. *Paragraph 4* enables the Scottish Ministers to make a scheme themselves if the local authority or National Park authority does not prepare and submit a scheme, or if they reject the scheme submitted to them. The Scottish Ministers may if they wish approve a scheme submitted to them after the specified date.
134. *Paragraph 5* enables the Scottish Ministers to modify a transfer scheme which they have already approved, at any time before the transfer date, provided they have consulted the receiving authority and the other relevant authorities.
135. *Paragraph 6* sets out the effects of a transfer scheme for staff. It results in the relevant employees becoming employees of the receiving authority on the transfer date (*sub-paragraph (1)*), on terms and conditions set by the receiving authority but which must be no less favourable (*sub-paragraph (2)*) than those applying immediately prior to the transfer. The employee's continuity of employment will not be broken by the transfer to the receiving authority (*sub-paragraph (3)*), and the ending of their employment with the transferring authority will not be treated as redundancy (*sub-paragraph (4)*).
136. *Paragraph 7* makes provision for the effect of the transfer of property and liabilities between authorities. *Sub-paragraph (2)* provides for the Scottish Ministers to issue a certificate confirming conclusively that a transfer has or has not occurred.