

National Library of Scotland Act 2012

2012 asp 3

The National Library of Scotland

1 The National Library of Scotland

- (1) The body corporate known as The Trustees of the National Library of Scotland, established by section 1(1) of the 1925 Act, continues in existence and is renamed the National Library of Scotland or Leabharlann Nàiseanta na h-Alba (“NLS”).
- (2) Schedule 1, which makes further provision about NLS, has effect.

Functions of NLS

2 Functions of NLS

- (1) NLS has the general function of managing the library established by section 1(1) of the 1925 Act as a national resource for reference, study, research and bibliography, having particular regard to Scotland.
- (2) NLS has the particular functions of—
 - (a) preserving, conserving and developing its collections,
 - (b) making the collections accessible to the public and to persons wishing to carry out study and research,
 - (c) exhibiting and interpreting objects in the collections, and
 - (d) promoting collaboration and the sharing of good practice with and between other persons providing library and information services, and the adoption of good practice by those persons.
- (3) NLS is to exercise its functions with a view to—
 - (a) encouraging education and research,
 - (b) promoting understanding and enjoyment of the collections,
 - (c) promoting the diversity of persons accessing the collections, and
 - (d) contributing to understanding of Scotland’s national culture.
- (4) NLS—
 - (a) must, when required to do so by the Scottish Ministers, and

- (b) may, at any other time, provide the Scottish Ministers with advice, information and assistance on any matter relating to NLS's functions.
- (5) Any advice, information or assistance under subsection (4)(a) must be provided in such manner as the Scottish Ministers may determine.

*Acquisitions, deposits, disposal and loan of objects***3 Acquisitions, deposits and disposal of objects**

- (1) NLS may—
 - (a) acquire (by purchase, exchange or gift),
 - (b) accept on deposit,
 any object which it considers it is desirable to add to its collections.
- (2) The powers in subsection (1) are in addition to any other powers or means of acquisition or acceptance on deposit.
- (3) NLS may dispose of any object from its collections if—
 - (a) the object is a duplicate of, or similar to, another object in the collections,
 - (b) NLS considers that the object is not required for the purposes of the collections,
 - (c) because of damage, deterioration or infestation by destructive organisms, the object is no longer of use for the purposes of the collections,
 - (d) the object is hazardous,
 - (e) in any other case, the Scottish Ministers agree to the disposal.
- (4) Disposal under subsection (3) may be by sale, exchange, gift, return or destruction.
- (5) The power in subsection (3) is in addition to any other powers of disposal, in particular those conferred by—
 - (a) section 6 of the Museums and Galleries Act 1992 (c.44), and
 - (b) section 2 of the Holocaust (Return of Cultural Objects) Act 2009 (c.16).
- (6) The power in subsection (3) does not apply in relation to an object which is relevant material within the meaning of section 7 of the 2003 Act.
- (7) Where an object is subject to a prohibition or restriction on disposal, NLS may dispose of the object under subsection (3) in a manner inconsistent with the prohibition or restriction only—
 - (a) with the consent of the person having the right to enforce the prohibition or restriction, or
 - (b) in the circumstances mentioned in subsection (3)(c) or (d).

4 Borrowing and lending of objects

- (1) NLS may borrow or accept loans of objects for the purposes of exhibition, study or research.
- (2) NLS may lend any object from its collections.

- (3) In deciding whether or not to lend an object (and in determining the period for which and the conditions on which the object is to be lent), NLS is to have regard to—
 - (a) the interests of users of the collections,
 - (b) the suitability of the prospective borrower,
 - (c) the purpose of the loan,
 - (d) the physical condition and degree of rarity of the object,
 - (e) any risk to which the object is likely to be exposed and the extent to which that risk can be mitigated or indemnified.
- (4) The powers in subsections (1) and (2) are in addition to any other powers of borrowing, accepting loans or lending.
- (5) The power in subsection (2) does not apply in relation to an object which is relevant material within the meaning of section 7 of the 2003 Act.
- (6) Where an object is subject to a prohibition or restriction on lending, NLS may lend the object under subsection (2) in a manner inconsistent with the prohibition or restriction only—
 - (a) with the consent of the person having the right to enforce the prohibition or restriction, or
 - (b) where, despite taking all reasonable steps, NLS is unable to ascertain the name and contact details of any person having that right.

Legal publications

5 Legal publications

- (1) Copies of legal publications delivered to NLS under section 1 of the 2003 Act—
 - (a) are to be sent by NLS to the Faculty for the purposes of its Law Library, and
 - (b) when accepted by the Faculty, become the property of the Faculty.
- (2) NLS must include in a request under section 5 of the 2003 Act such legal publications as the Faculty may require it to include.
- (3) Subsection (1) does not apply to legal publications which are on line electronic publications.
- (4) Copies of legal publications which are on line electronic publications are to be made available by NLS to the Faculty.
- (5) Any question as to what constitutes a legal publication for the purposes of—
 - (a) this section or section 6, or
 - (b) section 5 of the 1925 Act (as it had effect immediately before its repeal by section 10(5) and schedule 3),is to be resolved by agreement between NLS and the Faculty or, if they cannot agree, by arbitration.

Joint arrangements etc. between NLS and the Faculty

6 NLS and the Faculty: joint arrangements etc.

- (1) NLS and the Faculty must enter into arrangements about—
 - (a) co-operation between NLS and the Faculty in relation to—
 - (i) NLS's collections,
 - (ii) the Faculty's collections of legal publications,
 - (b) the consultation of objects in NLS's collections by members of the Faculty,
 - (c) the consultation of objects in the Faculty's collections of legal publications by users of NLS's collections,
 - (d) the preservation and conservation of legal publications,
 - (e) the legal publications which are electronic publications which NLS is to request, and
 - (f) how legal publications which are on line electronic publications are to be made available by NLS to the Faculty.
- (2) Arrangements under subsection (1) may contain provision about charging.
- (3) Any question as to what are law books, legal manuscripts and papers, pictures or articles of furniture belonging to the Faculty for the purposes of section 3(1) of the 1925 Act is to continue to be determined by the Keeper of the Advocates' Library despite the repeal of that section by section 10(5) and schedule 3.

Grants and loans

7 Grants and loans

- (1) The Scottish Ministers may make grants to NLS.
- (2) In addition to any grants made under subsection (1), the Scottish Ministers may make grants to NLS for particular purposes.
- (3) A grant under subsection (1) or (2) is subject to such terms and conditions (including conditions as to repayment) as the Scottish Ministers may determine.
- (4) NLS may make grants and loans to such persons as it considers appropriate—
 - (a) for the purposes of, or in connection with, the exercise of its functions,
 - (b) where it appears to be conducive to the exercise of its functions.
- (5) A grant or loan under subsection (4) is subject to such terms and conditions (including conditions as to repayment) as NLS may determine.

Directions and guidance

8 Directions and guidance

- (1) The Scottish Ministers may give NLS directions (of a general or specific nature) as to the exercise of its functions.
- (2) But the Scottish Ministers may not give NLS directions so far as relating to—

- (a) NLS's functions under section 2(2)(a) to (c) or (3)(a), (b) or (d) or sections 3 to 7,
 - (b) NLS's functions under or by virtue of the 2003 Act.
- (3) NLS must—
- (a) comply with any directions given to it by the Scottish Ministers under this section,
 - (b) have regard to any guidance issued by the Scottish Ministers in relation to the exercise of its functions.
- (4) A direction under this section is to be given in writing.
- (5) The Scottish Ministers may vary or revoke any direction given under this section.

General

9 Interpretation

In this Act—

- “the 1925 Act” means the National Library of Scotland Act 1925 (c.73),
- “the 2003 Act” means the Legal Deposit Libraries Act 2003 (c.28),
- “the Faculty” means the Faculty of Advocates,
- “NLS” has the meaning given by section 1(1),
- “object” includes a thing in electronic form,
- “on line electronic publication” has the same meaning as in section 14 of the 2003 Act.

10 Consequential modification of enactments and repeals

- (1) Schedule 2, which contains modifications of enactments, has effect.
- (2) The Scottish Ministers may by order make such incidental or consequential provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.
- (3) An order under subsection (2) may modify any enactment (including this Act).
- (4) An order under subsection (2) which adds to, replaces or omits any part of the text of an Act is subject to the affirmative procedure.
- (5) The enactments mentioned in the first column of schedule 3 are repealed to the extent specified in the second column of that schedule.

11 Subordinate legislation

Orders under this Act (except orders referred to in section 10(4) and orders under section 12(3)) are subject to the negative procedure.

12 Commencement

- (1) Sections 11 and 13 and this section come into force on the day after Royal Assent.

Status: This is the original version (as it was originally enacted).

- (2) Paragraph 1 of schedule 2 (and section 10(1) in so far as it introduces that paragraph) come into force at the end of the period of 2 months beginning with the day of Royal Assent.
- (3) The other provisions of this Act come into force on such day as the Scottish Ministers may by order appoint.
- (4) An order under subsection (3) may include transitional, transitory or saving provision.

13 Short title

The short title of this Act is the National Library of Scotland Act 2012.