

NATIONAL LIBRARY OF SCOTLAND ACT 2012

EXPLANATORY NOTES

THE ACT

Joint arrangements etc. between NLS and the Faculty

Section 6 – NLS and the Faculty: joint arrangements etc.

42. This section requires NLS and the Faculty to continue maintaining arrangements for the management and interaction of their libraries and collections of publications¹. The detail of these arrangements is to be agreed between NLS and the Faculty and it is open to the parties to agree exceptions to access. Subsection (1) replaces section 6 of the 1925 Act, in which the Faculty's collections of legal publications are referred to as "books contained in the Faculty's Law Library".
43. Subsection (1)(a) requires there to be arrangements as to co-operation in relation to NLS' collections and the Faculty's collections of legal publications. These might include provisions for the rejection by the Faculty of legal publications sent to it that it does not wish to hold. These might also include provisions for the depositing of Faculty-owned publications in NLS storage areas.
44. Subsection (1)(b) requires there to be arrangements as to the consultation of objects in NLS's collections by members of the Faculty. These might include allowing Faculty members (advocates) to access NLS objects in the Faculty Library instead of in NLS's reading rooms.
45. Subsection (1)(c) requires there to be arrangements as to the consultation of objects in the Faculty's collections of legal publications by users of NLS's collections. Arrangements might include allowing users of NLS to access Faculty publications in NLS's reading rooms.
46. Subsection (1)(d) requires there to be arrangements as to the conservation and preservation of legal publications. Arrangements might include regular meetings concerning best practice in the storing of legal publications in print and non-print format.
47. Subsection (1)(e) requires there to be arrangements as to the legal publications which are electronic publications which NLS is to request under regulations made under the 2003 Act. Electronic publications in this paragraph includes both on line and off line electronic publications. Arrangements might include a collecting policy for acquiring legal websites and blogs through harvesting.
48. Subsection (1)(f) requires there to be arrangements for the making available to the Faculty of on line electronic legal publications delivered to NLS under regulations made under the 2003 Act. Such arrangements would have to be compatible with the 2003 Act regulations and copyright law. The sending of conventional publications and off line electronic publications to the Faculty is provided for in section 5(1).

¹ Memoranda of Agreement between NLS and the Faculty were entered into on 22 December 2011 and are published at <http://www.nls.uk/collections/british/historical>.

*These notes relate to the National Library of Scotland Act
2012 (asp 3) which received Royal Assent on 21 June 2012*

49. Subsection (2) provides that arrangements entered into between NLS and the Faculty may contain provision about charging. It is implicit that such provision may only be included if NLS and the Faculty both agree to it.
50. Subsection (3) preserves the special dispute resolution mechanism in section 3(4) of the 1925 Act if there are any disputes as to which objects transferred from the Faculty to NLS on 26 October 1925, the date on which the 1925 Act came into force. This provision is required because there is continuing scope for uncertainty as to which particular objects did and did not transfer to NLS in 1925. This mechanism is not relevant to any dispute concerning publications received subsequently to 26 October 1925 by way of legal deposit (any such dispute being settled instead in accordance with section 5(5)).