National Library of Scotland Act 2012

2012 asp 3

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 16th May 2012 and received Royal Assent on 21st June 2012

An Act of the Scottish Parliament to make further provision about the name, functions and governance of the National Library of Scotland; and for connected purposes.

VALID FROM 01/02/2013

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.

VALID FROM 01/02/2013

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

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(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.

VALID FROM 01/02/2013

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.

VALID FROM 01/02/2013

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.

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(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.

VALID FROM 01/02/2013

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.

VALID FROM 01/02/2013

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.

VALID FROM 01/02/2013

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.

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General

VALID FROM 01/02/2013

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.

VALID FROM 21/08/2012

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.

Commencement Information

I1 S. 10 partly in force; s. 10(1) in force for specified purposes at 21.8.2012 see s. 12(2)

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.

(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.

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VALID FROM 21/08/2012

VALID FROM 01/02/2013

SCHEDULE 1

(introduced by section 1(2))

NLS

Status

1 (1) NLS is a body corporate.

(2) NLS—

(a) is not a servant or agent of the Crown, and

(b) does not enjoy any status or immunity of the Crown.

(3) NLS's property is not property of, or property held on behalf of, the Crown.

(4) NLS's members and employees are not to be regarded as civil servants.

Membership

2 (1) NLS is to consist of—

(a) a person appointed by the Scottish Ministers to chair NLS, and

(b) no fewer than 8 and no more than 13 other members appointed by the Scottish Ministers.

(2) One of the members is to be selected from persons nominated by the Dean of the Faculty (who may include the Dean).

(3) The Scottish Ministers may by order amend sub-paragraph (1)(b) so as to substitute a different number for the minimum or maximum number of members for the time being specified there.

(4) A person who, immediately before this sub-paragraph comes into force, is a member of The Trustees of the National Library of Scotland ceases to be such a member on the date this sub-paragraph comes into force.

(5) A member holds and vacates office in accordance with terms and conditions determined by the Scottish Ministers.

(6) A member may resign office by giving notice in writing to the Scottish Ministers.

(7) The Scottish Ministers may reappoint as a member a person who has ceased to be a member.

Persons disqualified from membership of NLS

3 A person is disqualified from appointment (and from holding office) as a member of NLS if the person is (or becomes)—

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(a) a member of the House of Commons,
(b) a member of the Scottish Parliament, or
(c) a member of the European Parliament.

Removal of members

4 (1) The Scottish Ministers may, by written notice, revoke the appointment of a member if—
(a) the member becomes insolvent,
(b) the member has been absent from 3 consecutive meetings without the permission of NLS,
(c) the member is otherwise unfit to be a member or unable for any reason to discharge the functions of a member.

(2) For the purposes of sub-paragraph (1)(a), a member becomes insolvent when—
(a) the member's estate is sequestrated,
(b) the member grants a trust deed for creditors or enters into a composition contract,
(c) a voluntary arrangement proposed by the member is approved, or
(d) the member is adjudged bankrupt.

Remuneration, allowances and expenses of members

5 NLS must pay to each member—
(a) such remuneration, and
(b) such allowances and expenses,
as the Scottish Ministers may determine.

Chief executive and other staff

6 (1) NLS is to employ a chief executive.

(2) The chief executive may not be a member of NLS.

(3) The first chief executive is to be the person who, immediately before this paragraph comes into force, is the librarian appointed under section 2(f) of the 1925 Act.

(4) That person is employed as chief executive on the same terms and conditions as apply to the appointment of that person as the librarian.

(5) Each subsequent chief executive is, with the approval of the Scottish Ministers, to be appointed on terms and conditions determined by NLS and approved by the Scottish Ministers.

(6) NLS may employ any other staff necessary for the carrying out of NLS's functions.

(7) Those staff are to be employed on terms and conditions determined by NLS and approved by the Scottish Ministers.

(8) NLS may, with the approval of the Scottish Ministers—
(a) pay (or make arrangements for the payment of),
(b) make payments or contributions towards the provision of,

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(c) provide and maintain schemes (whether contributory or not) for the payment of,

such pensions, allowances or gratuities to or in respect of any person who is or has ceased to be an employee, as NLS may determine.

(9) The reference in sub-paragraph (8) to pensions, allowances and gratuities includes a reference to pensions, allowances and gratuities by way of compensation for loss of office.

Committees

7 (1) NLS may establish committees for any purpose relating to its functions.

(2) NLS is to determine the composition of its committees.

(3) NLS may appoint persons who are not members of NLS to be members of a committee, but those persons are not entitled to vote at meetings of the committee.

(4) A committee is to comply with any directions given to it by NLS.

Procedure and meetings

8 (1) NLS may determine its own procedure and that of its committees, including a quorum for meetings.

(2) The following persons may attend and take part in a meeting of NLS (or any of its committees)—

(a) members of the Scottish Executive,

(b) persons authorised by the Scottish Ministers,

(c) the Dean of the Faculty or a person authorised by the Dean of the Faculty.

(3) The persons mentioned in sub-paragraph (2) are not entitled to vote at such meetings.

Delegation of functions

9 (1) NLS may authorise—

(a) the chief executive,

(b) any other employee,

(c) any of its committees,

to exercise such of its functions (and to such extent) as it may determine.

(2) NLS may not authorise either of the following functions to be exercised by any other person—

(a) the approval of annual reports and accounts,

(b) the approval of any budget or other financial plan.

(3) Sub-paragraph (1) does not affect the responsibility of NLS for the exercise of its functions.

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Validity of proceedings and actions

10 The validity of proceedings or actions of NLS (including proceedings or actions of any of its committees) is not affected by—

(a) any vacancy in the membership of NLS or any of its committees,

(b) any defect in the appointment of a member of NLS or any of its committees, or

(c) the disqualification of a person as a member after appointment.

General powers

11 (1) NLS may do anything which appears to it—

(a) to be necessary or expedient for the purpose of, or in connection with, the exercise of its functions,

(b) to be conducive to the exercise of its functions.

(2) In particular, NLS may—

(a) enter into contracts,

(b) with the approval of the Scottish Ministers, acquire and dispose of land,

(c) borrow money from the Scottish Ministers or, with the approval of the Scottish Ministers, from other persons,

(d) enter into any business or undertaking,

(e) form, promote or acquire (whether alone or with others) companies (within the meaning of the Companies Act 2006 (c.46)),

(f) enter into joint ventures with others,

(g) undertake or execute any charitable trust,

(h) invest sums not immediately required in relation to the exercise of its functions,

(i) accept gifts of money and other property,

(j) obtain advice or assistance from any person who, in NLS's opinion, is qualified to give it,

(k) carry out or commission research,

(l) issue publications,

(m) make charges for access to the collections,

(n) make other charges in connection with the exercise of its functions (including charges for the provision of goods and services).

(3) For the purposes of sub-paragraph (2)(g), a trust is a charitable trust if all its purposes are within section 7(2) of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).

Accounts

12 (1) NLS must—

(a) keep proper accounts and accounting records,

(b) prepare in respect of each financial year a statement of accounts, and

(c) send a copy of the statement to the Scottish Ministers.

(2) NLS must comply with any directions which the Scottish Ministers give it in relation to the matters mentioned in sub-paragraph (1).

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(3) NLS must send the statement of accounts to the Auditor General for Scotland for auditing.

Reports

13 (1) As soon as practicable after the end of each financial year, NLS must prepare a report which is—

(a) to provide information on the exercise of its functions during that year, and

(b) to include a copy of the statement of accounts for that year audited by the Auditor General for Scotland.

(2) NLS must—

(a) send a copy of the report to the Scottish Ministers, and

(b) publish the report.

(3) The Scottish Ministers must lay a copy of the report before the Scottish Parliament.

(4) NLS may publish such other reports and information on matters relevant to its functions as it considers appropriate.

SCHEDULE 2

(introduced by section 10(1))

MODIFICATIONS OF ENACTMENTS

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VALID FROM 01/02/2013

SCHEDULE 3

(introduced by section 10(5))

REPEALS

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