

*Status: Point in time view as at 01/02/2013.*

*Changes to legislation: There are currently no known outstanding effects for the National Library of Scotland Act 2012. (See end of Document for details)*

## 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.

#### **Commencement Information**

**II** [Sch. 1 para. 1](#) in force at 1.2.2013 by [S.S.I. 2013/1, art. 2](#)

#### *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.

#### **Commencement Information**

**I2** [Sch. 1 para. 2](#) in force at 1.2.2013 by [S.S.I. 2013/1, art. 2](#)

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

**Commencement Information**

**I3** Sch. 1 para. 3 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

*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.

**Commencement Information**

**I4** Sch. 1 para. 4 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

*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.

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

*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.

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- (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,
  - (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.

#### Commencement Information

**I6** Sch. 1 para. 6 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

#### *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.

#### Commencement Information

**I7** Sch. 1 para. 7 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

#### *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)—

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- (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.

**Commencement Information**

**I8** Sch. 1 para. 8 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

*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.

**Commencement Information**

**I9** Sch. 1 para. 9 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

*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.

**Commencement Information**

**I10** Sch. 1 para. 10 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

*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.

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- (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).

**Commencement Information**

**I11** Sch. 1 para. 11 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

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

**Commencement Information**

**I12** Sch. 1 para. 12 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

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### *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.

#### **Commencement Information**

**I13** Sch. 1 para. 13 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

## SCHEDULE 2

*(introduced by section 10(1))*

### MODIFICATIONS OF ENACTMENTS

#### PART 1

##### TRANSITORY MODIFICATION OF ENACTMENTS

- 1 Until its repeal by section 10(5) and schedule 3, paragraph 2 of the Schedule to the 1925 Act has effect as if for the words from “pleasure,” to “Board”, in the second place where it appears, there were substituted “pleasure. The Scottish Ministers are to appoint a person as chairman of the Board”.

#### **Commencement Information**

**I14** Sch. 2 para. 1 wholly in force; Sch. 2 para. 1 wholly in force at 21.8.2012 see s. 12(2)

#### PART 2

##### CONSEQUENTIAL MODIFICATIONS OF ENACTMENTS

##### *National Heritage (Scotland) Act 1985 (c.16)*

- 2 In section 22(2) of the National Heritage (Scotland) Act 1985 (finance)—
- (a) for “Edinburgh,” substitute “Edinburgh and ”, and
  - (b) the words from “, and the” to the end are repealed.

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**Commencement Information**

**I15** Sch. 2 para. 2 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

*Museums and Galleries Act 1992 (c.44)*

- 3 In the Museums and Galleries Act 1992—
- (a) in Part 1 of Schedule 5 (transfers to and from certain collections), for “The Board of Trustees of the National Library of Scotland” substitute “ The National Library of Scotland ”, and
  - (b) in Schedule 6 (bodies to whom land may be transferred)—
    - (i) after “The National Library of Scotland” insert “ , established by section 1(1) of the National Library of Scotland Act 1925 (c.73) ”, and
    - (ii) for “The Board of Trustees of the National Library of Scotland” substitute “ The National Library of Scotland ”.

**Commencement Information**

**I16** Sch. 2 para. 3 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

*Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)*

- 4 In the Ethical Standards in Public Life etc. (Scotland) Act 2000, in schedule 3 (devolved public bodies), for the entry relating to The Trustees of the National Library of Scotland substitute “ The National Library of Scotland ”.

**Commencement Information**

**I17** Sch. 2 para. 4 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

*Scottish Public Services Ombudsman Act 2002 (asp 11)*

- 5 In the Scottish Public Services Ombudsman Act 2002, in paragraph 30 of Part 2 of schedule 2 (listed authorities), for “The Trustees of the National Library of Scotland” substitute “ The National Library of Scotland ”.

**Commencement Information**

**I18** Sch. 2 para. 5 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

*Freedom of Information (Scotland) Act 2002 (asp 13)*

- 6 In the Freedom of Information (Scotland) Act 2002, in paragraph 105 of Part 7 of schedule 1 (Scottish public authorities), for “The Trustees of the National Library of Scotland” substitute “ The National Library of Scotland ”.

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**Commencement Information**

**I19** Sch. 2 para. 6 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

*Legal Deposit Libraries Act 2003 (c.28)*

- 7 In the Legal Deposit Libraries Act 2003—
- (a) in section 12 (regulations: Scotland and Wales)—
    - (i) in subsection (1)(a), the words “the authority controlling” are repealed,
    - (ii) in subsection (1)(b), for “that authority” substitute “ the National Library of Scotland ”,
    - (iii) in subsection (2)(b), the words “the authority controlling” are repealed, and
    - (iv) in subsection (3), the words “the authority controlling” are repealed, and
  - (b) in section 14 (interpretation), in the definition of “deposit library”—
    - (i) after “Board” insert “ , the National Library of Scotland ”, and
    - (ii) paragraph (a) is repealed.

**Commencement Information**

**I20** Sch. 2 para. 7 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

*Holocaust (Return of Cultural Objects) Act 2009 (c.16)*

- 8 In the Holocaust (Return of Cultural Objects) Act 2009—
- (a) in section 1 (bodies to which this Act applies), for “The Trustees of the National Library of Scotland” substitute “ The National Library of Scotland ”, and
  - (b) in section 2(5) (power to return victims' property), for “The Trustees of the National Library of Scotland” substitute “ The National Library of Scotland ”.

**Commencement Information**

**I21** Sch. 2 para. 8 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

*Public Services Reform (Scotland) Act 2010 (asp 8)*

- 9 In the Public Services Reform (Scotland) Act 2010—
- (a) in schedule 5 (improvement of public functions: listed bodies), for “The Trustees of the National Library of Scotland” substitute “ The National Library of Scotland ”, and
  - (b) in schedule 8 (information on exercise of public functions: listed public bodies), for “The Trustees of the National Library of Scotland” substitute “ The National Library of Scotland ”.



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**I22** Sch. 2 para. 9 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

*Public Records (Scotland) Act 2011 (asp 12)*

- 10 In the schedule to the Public Records (Scotland) Act 2011, for “Trustees of the National Library of Scotland” substitute “ National Library of Scotland ”.

**Commencement Information**

**I23** Sch. 2 para. 10 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

SCHEDULE 3  
*(introduced by section 10(5))*

REPEALS

**Commencement Information**

**I24** Sch. 3 in force at 1.2.2013 by S.S.I. 2013/1, art. 2

<i>Enactment</i>	<i>Extent of repeal</i>
National Library of Scotland Act 1925 (c.73)	The whole Act.
National Heritage (Scotland) Act 1985 (c.16)	Section 18.
Public Finance and Accountability (Scotland) Act 2000 (asp 1)	In schedule 4, paragraph 2.
Legal Deposit Libraries Act 2003 (c. 28)	Section 15(2) to (5).

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