SCOTTISH STATUTORY INSTRUMENTS

2003 No. 2

COUNTRYSIDE

The Cairngorms National Park Elections (Scotland) Order 2003

Made - - - - 6th January 2003

Coming into force in accordance with article 1

The Scottish Ministers, in exercise of the powers conferred by paragraph 4 of Schedule 1 to the National Parks (Scotland) Act 2000(**1**), and of all powers enabling them in that behalf, hereby make the following Order, a draft of which has, in accordance with section 34(5) of that Act, been laid before and approved by resolution of the Scottish Parliament:

PART I

GENERAL

Citation and commencement

1. This Order may be cited as the Cairngorms National Park Elections (Scotland) Order 2003 and shall come into force on the day after the day on which it is made.

Interpretation

2. In this Order–

"the 1973 Act" means the Local Government (Scotland) Act 1973(**2**);

"the 2000 Act" means the National Parks (Scotland) Act 2000;

"the Authority" means the National Park Authority established by article 4 of the Designation Order;

"the Designation Order" means the Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003(**3**);

"close of nominations" means the latest time for delivery of nomination papers determined in accordance with article 9(1) below;

(**1**) 2000 asp 10.
(**2**) 1973 c. 65.
(**3**) S.S.I. 2003/1.

"elector" means a person who is, in accordance with paragraph 3(2) of Schedule 1 to the 2000 Act, entitled to vote at an election;

"election" means an election of members of the Authority held in accordance with paragraph 3(2) of Schedule 1 to the 2000 Act;

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**4**), any part of whose area forms part of the National Park;

"member" means a member of the Authority elected by virtue of an election;

"National Park" means the National Park designated by article 3 of the Designation Order;

"registered" means registered in the register of local government electors, and cognate expressions should be construed accordingly;

"registration officer" has the same meaning as in the Representation of the People Act 1983(**5**).

PART II

ELECTIONS

Returning officer etc.

3.—(1) The returning officer at an election shall be the person who, under section 41 of the Representation of the People Act 1983, is the returning officer at elections of councillors for the Highland Council.

(2) An election is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election.

Payment of expenses of returning officer

4.—(1) Any expenses properly incurred by the returning officer in the performance of his or her functions under this Order (in this article referred to as "returning expenses") shall be paid–

(a) in the case of the first election by the Scottish Ministers; and

(b) in the case of every other election, by the Authority.

(2) The Scottish Ministers, in the case of the first election, and the Authority, in the case of every other election may pay to the returning officer such fees as they consider appropriate.

(3) On the request of the returning officer for an advance on account of returning expenses, the Scottish Ministers (in the case of the first election) and the Authority (in the case of every other election) may, if they think fit, make such an advance to him or her of such an amount and subject to such conditions as they may approve.

Election of persons as members

5.—(1) The poll at elections subsequent to the first election shall be held on the first Thursday occurring four years after the day on which the previous poll was held.

(2) For the purposes of paragraph (1) above, a poll at an election to fill any vacancy held in accordance with article 8 below shall be disregarded.

(**4**) 1994 c. 39. Section 2 has been subject to amendments which are not relevant to this Order.
(**5**) 1983 c. 2.

(3) Elected members shall cease to hold office on the day of the poll at the next election following that at which they were elected.

(4) The National Park shall be divided into five electoral wards, which shall comprise the areas described in the Schedule to this Order and each such ward shall return 1 member.

Qualification for nomination, election and holding office as a member

6. A person shall, unless disqualified by virtue of this Order, be qualified for being nominated as a candidate for election as, or for being elected, or for being an elected member only if he or she has attained the age of 21 years.

Disqualifications for nomination, election and holding office as a member

7.—(1) Subject to paragraphs (2) and (3) below, a person shall be disqualified–

(a) from being nominated as a candidate for election as, or from being elected, or from being, an elected member if–

(i) he or she holds any paid office or employment or other place of profit in the gift or disposal of the Authority;

(ii) he or she is a person whose estate has been sequestrated or who has been adjudged bankrupt or has made an arrangement with creditors or has granted a trust deed for creditors or a composition contract;

(iii) he or she has, within five years before the day of nomination, or of election or since his or her election, as the case may be, been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence and has had passed on him or her a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;

(iv) he or she is disqualified from being elected under Part III of the Representation of the People Act 1983; or

(iv) he or she is incapacitated by physical or mental illness from discharging the functions of a member;

(b) from being an elected member if he or she has been absent from meetings of the Authority for a period longer than three consecutive months without the permission of the Authority.

(2) Where a person is disqualified under paragraph (1) above by reason of his or her estate having been sequestrated, the disqualification shall cease if and when–

(a) the sequestration of his or her estate is recalled or reduced; or

(b) he or she is discharged under or by virtue of the Bankruptcy (Scotland) Act 1985(**6**).

(3) Where a person is disqualified under paragraph (1) above by reason of having been adjudged bankrupt, then–

(a) if the bankruptcy is annulled on the ground that he or she ought not to have been adjudged bankrupt or on the ground that his or her debts have been paid in full, the disqualification shall cease on the date of the annulment;

(b) if he or she is discharged with a certificate that the bankruptcy was caused by misfortune without any misconduct on his or her part, the disqualification shall cease on the date of his or her discharge; or

(c) if he or she is discharged without such a certificate, his or her disqualification shall cease on the expiration of five years from the date of his or her discharge.

(**6**) 1985 c. 66.

Filling of casual vacancies

8. On a vacancy occurring in the office of member other than by virtue of article 5(3) above, an election to fill that vacancy shall be held within three months from the date on which the vacancy is deemed, by the returning officer, to have occurred, and the day of the poll at that election shall be fixed by the returning officer.

Timetable

9.—(1) The proceedings at an election shall be conducted in accordance with the following table:–

Proceeding	*Time*
1. Publication of notice of election.	Not later than 8 weeks before the day of the poll.
2. Delivery of nomination papers.	Not later than 4.00 p.m. on any day after the date of the publication of the notice of election but not later than 5 weeks before the day of the poll.
3. Delivery of notices of withdrawals of candidature.	Within the time for the delivery of nomination papers at the election.
4. Publication of statement of persons nominated.	Within 24 hours after the close of the time for the delivery of nomination papers at the election.

(2) At any election held under article 8 above (filling of casual vacancies) the timetable prescribed in paragraph (1) above shall apply subject to any modifications necessary to secure completion of the proceedings listed in items 1 to 4 in the first column of that timetable, before the date fixed as the day of the poll at that election.

Notice of election

10. The returning officer shall publish notice of the election in such form as he or she thinks fit.

Nomination of candidates

11.—(1) Each candidate shall be nominated by a separate nomination paper, in such form as the returning officer thinks fit, delivered at the place or places fixed for the purpose by the returning officer.

(2) The nomination paper shall state the name and address of the candidate, the surname being placed first.

(3) At an election each candidate may deliver to the returning officer within the time for delivery of nomination papers one postal communication, addressed to each elector containing matter relating to the election only and not exceeding 250 words, which shall be sent by the returning officer to each elector with the ballot paper sent in accordance with article 27 below.

(4) Where, in the opinion of the returning officer, the contents of any postal communication referred to in paragraph (3) above are unlawful, he or she may refuse to comply with the provisions of that paragraph.

Consent to nomination

12. A person shall not be validly nominated unless his or her consent to nomination is given in writing on the nomination paper dated between the date of the publication of the notice of election and the last day for the delivery of nomination papers.

Subscription of nomination paper

13.—(1) The nomination paper shall give the electoral number of each person subscribing it.

(2) The nomination paper shall be subscribed by two electors as proposer and seconder, and by four other electors for that electoral ward as assenting to the nomination.

(3) As soon as practicable after each nomination paper has been delivered, the returning officer shall examine it and decide whether the candidate has been validly nominated.

(4) Where the returning officer decides that a nomination paper is invalid, he or she shall endorse and sign on the paper the fact and the reasons for his or her decision.

(5) The returning officer shall send notice of his or her decision that a nomination paper is valid or invalid to each candidate at his or her home address as given in his or her nomination paper.

(6) The returning officer's decision that a nomination paper is valid or invalid shall be final and shall not be questioned in any proceeding whatsoever.

(7) A person shall not subscribe more than one nomination paper in respect of the same electoral ward and, if he or she does, his or her signature shall be inoperative on any paper other than the one first delivered, but he or she shall not be prevented from subscribing a nomination paper by reason only of his or her having subscribed that of a candidate who has died or withdrawn before delivery of the first mentioned paper.

Withdrawal of candidates

14. A candidate may withdraw his or her candidature by notice of withdrawal in such form as the returning officer thinks fit–

(a) signed by him or her and attested by one witness; and

(b) delivered to the returning officer at the place for delivery of nomination papers.

Nomination in more than one electoral ward

15. If at an election a candidate is validly nominated for more than one electoral ward, he or she shall withdraw from his or her candidature in all but one of those wards; and if he or she does not so withdraw before the close of nominations, he or she shall be deemed to have withdrawn as a candidate for election to all of those wards.

Inspection of nomination papers

16. Any person may inspect and take copies of, or extracts from, nomination papers during ordinary office hours on any day other than–

(a) a Saturday or Sunday;

(b) Christmas Eve, Christmas Day, Good Friday or Easter Monday;

(c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(**7**); or

(d) a day appointed for public thanksgiving or mourning,

(**7**) 1971 c. 80.