SCOTTISH STATUTORY INSTRUMENTS

2002 No. 201

COUNTRYSIDE

The Loch Lomond and The Trossachs National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2002

Made - - - - 24th April 2002

Coming into force in accordance with article 1

The Scottish Ministers, in exercise of the powers conferred by sections 6(1), 7(1), (2) and (4), 9(2)(d), 10(1), 33 and 34(2), (3) and (4) and paragraphs 3, 4, and 16(3) of schedule 1 to the National Parks (Scotland) Act 2000(**1**), and of all other powers enabling them in that behalf, having had regard to the report prepared by Scottish Natural Heritage under section 3 of that Act as required by section 6(2) of that Act, and having complied with section 6(3), (5) and (6) of that Act, hereby make the following Order, a draft of which has been laid before and approved by resolution of the Scottish Parliament:

Citation and commencement

1. This Order may be cited as the Loch Lomond and The Trossachs National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2002 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 1989 Act" means the Local Government and Housing Act 1989(**3**);

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

"the establishment date" means 8th July 2002;

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

"local member" has the same meaning as in schedule 1 to the 2000 Act;

(**1**) 2000 asp 10.
(**2**) 1973 c. 65.
(**3**) 1989 c. 42.
(**4**) 1994 c. 39.

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

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

"the operational date" means 19th July 2002;

"the Planning Acts" has the same meaning as in the Town and Country Planning (Scotland) Act 1997(**5**).

Designation of National Park

3.—(1) The area shown delineated in black on the deposited map, marked "Loch Lomond and The Trossachs National Park Boundary" and subdivided into Boundary Maps 1 to 71 is hereby designated as a National Park.

(2) It is hereby declared, for the avoidance of doubt, that on Boundary Maps 49 and 50 the highlighted delineation includes the public right of way from Ardvorlich to Callander.

Establishment of the Authority

4. On the establishment date there shall be established the authority for the National Park to be known as the Loch Lomond and The Trossachs National Park Authority.

Constitution of the Authority

5.—(1) There shall be 25 members of the Authority.

(2) Five members of the Authority are to be elected in a poll in accordance with paragraph 3(2) of schedule 1 to the 2000 Act.

(3) Five members of the Authority are to be appointed as local members.

(4) The nominated members of the Authority shall be nominated as follows:–

(a) two members (including one local member) are to be nominated by West Dunbartonshire Council;

(b) four members (including one local member) are to be nominated by Stirling Council;

(c) three members (including one local member) are to be nominated by Argyll and Bute Council; and

(d) one member is to be nominated by Perth and Kinross Council.

First Election to the Authority

6. The date on which the poll at the first election to the Authority is to be held shall be 27th June 2002.

Planning functions

7.—(1) The functions exercisable by a planning authority under the provisions of–

(a) Parts II (but only in respect of functions in relation to local plans), III to X and XII to XIV of the Town and Country Planning (Scotland) Act 1997;

(b) the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997(**6**); and

(c) the Planning (Hazardous Substances) (Scotland) Act 1997(**7**),

(**5**) 1997 c. 8.
(**6**) 1997 c. 9.
(**7**) 1997 c. 10.

shall, in relation to the area of the National Park, transfer to and be exercisable by the Authority and not by any local authority.

(2) So far as may be necessary for the purpose or in consequence of the exercise of a function by the Authority by virtue of paragraph (1) above, any enactment and any other instrument or document shall be read as if references to a planning authority (however described) were or included references to the Authority.

(3) Without prejudice to paragraph (2) above, the Town and Country Planning (Structure and Local Plans) (Scotland) Regulations 1983(**8**) shall be amended in accordance with the following paragraph.

(4) After paragraph (2) of regulation 4 there shall be inserted–

> "(3) In the case of a planning authority preparing a structure plan in respect of an area which comprises the whole or part of the area of the Loch Lomond and The Trossachs National Park Authority the planning authority shall also consult the Loch Lomond and The Trossachs National Park Authority.
>
> (4) Where paragraph (2) above applies in relation to the preparation of a local plan by the Loch Lomond and The Trossachs National Park Authority, the word "other" where it occurs at subparagraph (a)(i) shall be deleted.".

(5) Notwithstanding the provisions of paragraph 16(1) of schedule 1 to the 2000 Act, the Authority shall establish a committee for the purposes of exercising the planning functions conferred on it by this Order and a majority of the members of that committee shall consist of members of the Authority who are–

(a) elected by virtue of an election held under paragraph 3(2) of schedule 1 to the 2000 Act; or

(b) members of a local authority.

Additional functions

8.—(1) The Authority shall, in relation to the National Park, have the following functions in addition to those it has in terms of section 9(2)(a) and (b) of the 2000 Act and by virtue of article 7 above:–

(a) the function of providing rangers under section 65 of the Countryside (Scotland) Act 1967(**9**);

(b) the functions of making byelaws under section 121 of the Civic Government (Scotland) Act 1982(**10**); and

(c) any functions conferred on the local authority by the Loch Lomond Registration and Navigation Byelaws 1995.

(2) The function specified at paragraph (1)(a) above (so far as exercised prior to the operational date by a local authority in relation to a National Park) and the functions specified at paragraph (1)(b) and (c) above, shall on the operational date cease to be exercisable by the local authority concerned and shall be exercisable by the Authority on and after that date.

(3) The exercise of the functions specified at paragraph (1)(b) and (c) above by the Authority is not limited by virtue of the powers at paragraph 8 of schedule 2 to the 2000 Act.

(**8**) S.I.1983/1590.
(**9**) 1967 c. 86.
(**10**) 1982 c. 45.

Date on which functions to be exercised

9.—(1) The functions conferred by virtue of the provisions specified in Schedule 1 to this Order shall be exercisable by the Authority on and after the establishment date.

(2) The functions referred to in Schedule 2 to this Order shall be exercisable by the Authority on and after the operational date.

First meeting of the Authority

10.—(1) The first meeting of the Authority shall be held on the date which falls seven days after whichever is the later of–

(a) the establishment date; or

(b) the earliest date on which paragraph (2) below is complied with.

(2) This paragraph is complied with when–

(a) there are no fewer than thirteen members of the Authority; and

(b) no fewer than five such members are members elected by virtue of an election held under paragraph 3(2) of schedule 1 to the 2000 Act.

(3) All necessary arrangements for the convening of the first meeting (including arranging for accommodation to be made available for the holding of that meeting) shall be made by the Chief Officer of the Stirling Council (or the nominee of such Officer) for such time on the date referred to in paragraph (1) above and at such place as shall be fixed by that person.

(4) That person shall act as convener of that meeting until the election of a convener in terms of paragraph 11(1) of schedule 1 to the 2000 Act, which election shall be the first business transacted at the meeting.

(5) Subject to the provisions of this Order, Schedule 7 to the 1973 Act shall apply to the proceedings of the Authority until the determination by the Authority of its own procedure in terms of paragraph 19(1) of schedule 1 to the 2000 Act, subject to the following modifications:–

(a) references to a council shall be treated as references to the Authority;

(b) references to a member of a council shall be treated as references to a member of the Authority;

(c) in paragraph 1(1), the words from "and in an election year" to the end are omitted;

(d) in respect of the first meeting of the Authority, the reference in paragraph 2(1)(a) to the council's offices shall be treated as references to the offices of the local authorities referred to in article 5(3) above; and

(e) paragraphs 7(3)(**11**) and 8 shall not apply.

Acting proper officer and acting monitoring officer

11.—(1) Until such time as the Authority appoints a proper officer for the purposes of Part IIIA of the 1973 Act(**12**) or for the purposes of Schedule 7 to that Act (as applied by article 10(5) above), the proper officer of the Stirling Council shall act as the proper officer of the Authority, for those respective purposes.

(**11**) Paragraph 7(3) was inserted by the Local Government and Housing Act 1989 (c. 42) ("the 1989 Act"), Schedule 11, paragraph 36.

(**12**) Part IIIA of the Local Government (Scotland) Act 1973 was inserted by section 2 of the Local Government (Access to Information) Act 1985 (c. 43) and was applied to National Parks authorities by virtue of the National Parks (Scotland) Act 2000, Schedule 2, paragraph 12(1).