

NATIONAL PARKS IN SCOTLAND:

SOME KEY FACTS

Scottish National Parks are established under the National Parks (Scotland) Act 2000. This legislation specifies what they are for, how places qualify and are assessed for National Park status, and how they are to be run. It also identifies certain key responsibilities that the body managing the Park – the National Park Authority – must fulfil. Foremost amongst these is the preparation and implementation, in consultation and partnership with a wide variety of bodies, of a National Park Plan. The Act is, however, deliberately vague about the precise functions and powers to be exercised by individual Parks. This allows each National Park to be tailored closely to the circumstances and needs of the area in which it is to operate.

The details of individual National Parks – their boundaries, functions and powers – are laid down in secondary legislation, through a so-called “Designation Order”. Each Park therefore has its own statutory basis. This secondary legislation can only be brought to the Scottish Parliament for approval by Ministers. The initiative for establishing new National Parks thus lies squarely with the Scottish Government, which also provides the funding to run them.

The following sections describe more fully various features of this legal framework.

Purposes of National Parks

Scottish National Parks have four aims:

- (a) to conserve and enhance the natural and cultural heritage of the area;
- (b) to promote sustainable use of the natural resources of the area;
- (c) to promote enjoyment and understanding (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
- (d) to promote sustainable economic and social development of the area's communities.

The last of these aims is unique within the UK to Scottish National Parks and is an explicit acknowledgement of the importance of ensuring that they bring benefits to the people of the area as well as to the wider public.

It is the duty of the body charged with running the National Park (the National Park Authority) to make sure that so far as possible these aims are achieved together (in the words of the Act "collectively achieved ... in a co-ordinated way"). Only if there is a conflict between the conservation and enhancement objective – Aim (a) – and the others must the Authority give greater weight to it. This is the so-called "Sandford Principle", which applies in all UK National Parks and is designed to guarantee that the natural and cultural heritage is safeguarded for future generations.

Criteria for creating a National Park

To qualify to become a National Park, an area must:

- (a) be of “outstanding national importance because of its natural heritage or the combination of its natural and cultural heritage”; and
- (b) have a “distinctive character and coherent identity”.

Making the area a National Park must also be demonstrably the best way of pursuing its future well-being – in the words of the Act it must be shown that “a National Park would meet the special needs of the area and would be the best means of ensuring that the National Park aims are collectively achieved in relation to the area in a co-ordinated way”. These tests make it very clear that a National Park in Scotland can be as much about the cultural heritage as the natural environment and that National Parks are very much a means to a broader end, not an end in themselves.

Functions and powers

There are only three things that every National Park Authority is legally obliged to do:

- (i) prepare a National Park Plan setting out how it intends, in its own actions and working with others, to manage the National Park;
- (ii) take the responsibilities for managing access in the Park that elsewhere fall to local authorities; and
- (iii) establish at least one Advisory Group to help it to decide how best to do its job.

In addition to these duties, The Act sets out a very wide range of functions and powers that a Designation order may confer on an individual National Park or which a National Park Authority is free to exercise at its own discretion. The former include becoming (in whole or in part) the planning authority for the area. Discretionary powers include providing advice and grants, entering agreements over the management of land, buying land, conducting research and (subject to Ministerial approval) making byelaws. The overall effect is to give the National Park Authority a very diverse set of tools, from which it can select those that it judges most useful to pursue the aims set out in the legislation and translated into practical proposals in the National Park Plan.

Staffing

The staffing of National Parks depends very much on their size, specific functions and style of working. The only post that every Park is required to have is that of Chief Executive. In practice the numbers employed by National Parks across Britain vary between about 50 and 280. The two Scottish National Parks, in the Cairngorms and Loch Lomond and the Trossachs, currently employ around 60 and 120 staff respectively. The Cairngorms, by some distance the UK's largest National Park, thus has amongst the smallest teams of staff – a situation that reflects the fact that it relies heavily on other bodies, both public and private, to help it to deliver its objectives.

The process for establishing a National Park

The precise way in which a National Park is established in Scotland is very much down to Ministers. Under the National Parks (Scotland) Act 2000 they may ask Scottish Natural Heritage (SNH) or another public body to examine the case for doing so and to report to them on matters such as the boundary, functions and cost. In preparing its report, the responsible body is expected to consult widely. This is what happened in the case of the two existing Scottish Parks, for which SNH acted as Reporter.

The legislation does, however, provide Ministers with the alternative option of undertaking the required consultation themselves, on the basis of a proposition that they have developed. Either way, Ministers can also order a Public Inquiry before finalising the proposal that they put to the Scottish Parliament.

The Designation order laid before the Scottish Parliament must specify the boundary of the proposed National Park, the functions to be carried out by the National Park Authority and the time when its powers will come into force, and the precise composition of the Board that will run the National Park Authority. They must also provide the Parliament with a statement summarising the views expressed in response to consultation on the draft Order and outlining any changes that they propose to make to it as a result.
