



APPENDIX 2 TO THE STANDING ORDERS FOR MEETINGS OF THE PLANNING & ACCESS COMMITTEE OF THE LOCH LOMOND & THE TROSSACHS NATIONAL PARK AUTHORITY

LOCH LOMOND & THE TROSSACHS NATIONAL PARK AUTHORITY

SCHEME OF DELEGATION RELATIVE TO:

IMPLEMENTING PART ONE OF THE LAND REFORM (SCOTLAND) ACT 2003

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DELEGATED POWERS TO ASSERT, PROTECT, KEEP OPEN, REPAIR AND MAINTAIN PUBLIC RIGHTS OF WAY UNDER SECTIONS 45 AND 46 OF THE COUNTRYSIDE (SCOTLAND) ACT 1967

Deleted: Approved 13th June 2005
Updated 26th October 2010

LAND REFORM (SCOTLAND) ACT 2003

SCHEME OF OFFICER DELEGATION

PART 1: GENERAL REQUIREMENTS

1. This Scheme of Officer Delegation is prepared in accordance with the provisions of Section 8 and Schedule 1 (Paragraph 17) of the National Parks (Scotland) Act 2000.
2. In exercising the delegated powers set out in Parts 2 and 3 below, the Director of Operations and the Head of Visitor Management shall observe the following general requirements:
 - a) all determinations shall be carried out in accordance with the provisions of the Land Reform (Scotland) Act 2003 (the "2003 Act") after taking account of any national guidance including the Scottish Outdoor Access Code and the Guidance for Local Authorities and National Park Authorities under Part 1 of the 2003 Act;
 - b) no determination shall be made which conflicts with a decision made by the LLTNPA Board or the Planning & Access Committee (the "Committee") on a previously similar application or enforcement matter in the same location; and
 - c) all determinations made under this Scheme of Officer Delegation shall be reported to the Committee Members. [DN: are these different to Board Members?] for information.
3. In a number of the categories of delegation there is the need for a degree of judgement in interpretation on the part of LLTNPA officers. LLTNPA officers will have to use their professional discretion to determine which matters should best be considered by the LLTNPA Board or the Committee. The Scheme does not prevent a matter being determined by the LLTNPA Board or the Committee even if the decision could otherwise be taken by a LLTNPA officer.
4. The weekly planning schedule will be used to advertise the existence of section 11 access exemption requests. The weekly 'planning' schedule will be used as the vehicle for operating the call-in procedure. The schedule is published on the Tuesday of each week and indicates whether an application is anticipated to be officer delegated or reported to the Committee. Board Members will be afforded the opportunity to call for an application, which is anticipated to be delegated, to be considered by the Committee. Such a call-in must be exercised within 14 days of an application appearing on the schedule and the period for exercising this right will expire at the end of office hours on the 14th day (normally a Monday). Any Board Member may request that an application be referred to the Committee, but must give clear related reasons for doing so. Board Members should contact the Visitor Operations Manager when making such requests. LLTNPA officers will then consult with the Chair and Depute Chair of the Committee on whether an application should be referred to the Committee in light of the reasons given. The final decision on accepting applications will rest with the Chair or Depute Chair.

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PART 2: DELEGATED POWERS TO DETERMINE APPLICATIONS EXEMPTING LAND FROM ACCESS RIGHTS FOR 5 DAYS OR LESS, UNDER SECTION 11 OF THE 2003 ACT,

5. Powers are delegated to the Director of Operations and to the Head of Visitor Management under section 11 of the 2003 Act in the following circumstances. The decision would be taken in consultation and conjunction between the LLTNPA officers, but in the event of holidays, illness or other absence, this Scheme of Officer Delegation specifically authorises either officer to take the decision without recourse to the others, against the background that all relevant efforts will have been made to ensure proper consultation.
6. All applications will be determined (either approved or refused), subject to the general requirements of the operation of the Scheme of Officer Delegation as outlined in Part 1 above.

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PART 3: DELEGATED POWERS TO UPHOLD ACCESS RIGHTS UNDER SECTIONS 13, 14, 15, 19, 21, 23, 25 AND 26 OF THE 2003 ACT,

7. The LLTNPA is under a duty to uphold access rights under section 13 of the 2003 Act. Further specific powers are given in sections 14, 15, 19, 21, 23, 25 and 26 of the 2003 Act. All powers to uphold, assert, protect and keep open and free routes from obstruction are delegated to the Director of Operations and to the Head of Visitor Management. The decision would be taken in consultation and conjunction between the LLTNPA officers, but in the event of holidays, illness or other absence, this Scheme of Officer Delegation specifically authorises either officer to take the decision without the others, against the background that all relevant efforts will have been made to ensure proper consultation.
8. This does not prevent the decision being taken by the Board or the Committee either at a Board Member's request or where a significant level of public objection has been received. 'Significant' will be defined narrowly and officer discretion in considering public objection will be exercised cautiously. LLTNPA officers may also consider even without a Board Member request for call in, or public objection, if the issue may still be best determined by the Board or the Committee.
9. In particular, the Director of Operations and the Head of Visitor Management have powers delegated to them under sections 13, 14, 15, 19, 21, 23 and 26 of the 2003 Act. The delegation of powers under section 26 of the 2003 Act permits authorisation of persons to use certain powers of entry as defined by the 2003 Act.
10. The Director of Operations and the Head of Visitor Management have powers delegated to them under section 25 of the 2003 Act in respect of the establishment, appointment and termination of members to the Local Access Forum, except insofar as that relates to the appointment of Board Members of the LLTNPA to the Forum.

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Deleted: under delegated powers where the criteria used in Part 54 of this Scheme of Officer Delegation indicates a low, medium/low or medium rating of the effect of the access request. If the scoring is medium/high or high according to the criteria, the Planning & Access Committee would decide the application.

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PART 4: DELEGATED POWERS TO ASSERT, PROTECT, KEEP OPEN, REPAIR AND MAINTAIN PUBLIC RIGHTS OF WAY UNDER SECTIONS 45 AND 46 OF THE COUNTRYSIDE (SCOTLAND) ACT 1967

11. The LLTNPA is required to: take such steps as it may deem expedient in order to assert, protect, keep open and free from obstruction or encroachment any public right of way which is wholly or partially within its area; and repair and maintain any public right of way (except for a public road or a footway) within its area under section 46(1) and (2) of the Countryside (Scotland) Act 1967 (the "1967 Act"). The LLTNPA may also receive applications for consent to erect and maintain guide posts and direction notices on any public right of way other than a public road pursuant to section 46(3) of the 1967 Act and applications from owners, tenants and occupiers of land which is being used or being brought into use for agriculture or forestry for the erection of stiles, gates or other works for preventing the ingress or egress of animals pursuant to section 45(1) of the 1967 Act. All powers to take such steps or to grant such consent under section 46 of the 1967 Act are delegated to [the Director of Operations and to the Head of Visitor Management]. The decision would be taken in consultation and conjunction between the LLTNPA officers, but in the event of holidays, illness or other absence, this Scheme of Officer Delegation specifically authorises either officer to take the decision without the others, against the background that all relevant efforts will have been made to ensure proper consultation.
12. All applications will be determined (either approved or refused), subject to the general requirements of the operation of the Scheme of Officer Delegation as outlined in Part 1 above.

**Deleted: PART 5: SECTION 11
SCORING SCHEME**

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Criteria 1: Does the area or activity to be restricted fall within access rights?¶
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Criteria 2: What is the overall impact rating of the exclusion?¶
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Score on 1 – 5 (1= low 5=high)¶
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