



**THE LOCH LOMOND AND THE TROSSACHS NATIONAL PARK AUTHORITY**

**NATIONAL PARKS (SCOTLAND) ACT 2000**

**THE LOCH LOMOND AND THE TROSSACHS NATIONAL PARK  
DESIGNATION, TRANSITIONAL AND CONSEQUENTIAL PROVISIONS  
(SCOTLAND) ORDER 2002**

**SCHEME OF DELEGATION TO OFFICERS RELATIVE TO:**

**DELAGATED POWERS UNDER PART 1 OF THE LAND REFORM (SCOTLAND)  
ACT 2003**

**AND**

**DELEGATED POWERS TO ASSERT, PROTECT, KEEP OPEN, REPAIR AND  
MAINTAIN PUBLIC RIGHTS OF WAY - SECTIONS 31, 32 33, 45 AND 46 OF  
THE COUNTRYSIDE (SCOTLAND) ACT 1967**

## **SCHEME OF OFFICER DELEGATION**

### **PART A: GENERAL REQUIREMENTS**

1. This Scheme of Officer Delegation ("Scheme of Delegation") for the Loch Lomond and The Trossachs National Park Authority ("Park Authority") and has been prepared in accordance with the provisions of Section 8, Schedule 1 (Paragraph 17) and Schedule 5 (paragraph 2) of the National Parks (Scotland) Act 2000 and (1) The Loch Lomond and The Trossachs National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2002 and (3) The Land Reform (Scotland) Act 2003 ("2003 Act") and (4) the Countryside (Scotland) Act 1967 ("1967 Act").
2. The "Appointed Access Officer" who shall be entitled to exercise the delegated powers set out below in Part B and Part C of this Scheme of Delegation shall be the officer employed by the Park Authority (including their successor) who is for the time being (1) The Director of Environment and Visitor Services (2) The Head of Visitor Services (3) The Sustainable Travel and Access Manager and (4) where the Head of Visitor Services so determines any suitably qualified and experienced officer employed by the Park Authority.
3. The Park Authority remains responsible for all the functions of the Park Authority notwithstanding the provisions of this Scheme of Delegation and accordingly (1) the Park Authority (through the Park Authority Board) or (2) on the recommendation of an Appointed Access Officer to whom the matter is delegated may at any time determine that any power delegated under this Scheme of Delegation must be exercised by the Park Authority's Planning and Access Committee ("Committee") or the Park Authority's Board ("Board").
4. In exercising the delegated powers set out in Part B and Part C of this Scheme of Delegation, the Appointed Access Officer must observe the following general requirements:
  - a) all determinations under Part B of this Scheme of Delegation shall be carried out in accordance with the provisions of 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 by an Appointed Access Officer under Part B or Part C of this Scheme of Delegation shall be made which conflicts with a decision made by the Board or the Committee on a previous, similar application or enforcement matter in the same location unless there has been a material change in circumstances; and;
  - c) all determinations made by an Appointed Access Officer under Part B or Part C of this Scheme of Delegation shall be reported as soon as reasonably practical to Committee Members for information.
5. In a number of the categories of delegation there is the need for a degree of judgement and interpretation on the part of an Appointed Access Officer. As with all schemes of delegation this is unavoidable. An Appointed Access Officer will use their professional discretion to determine which matters

should best be considered by the Board or the Committee. For the avoidance of doubt, this Scheme of Delegation does not prevent a matter being determined by the Board or the Committee even if the decision could otherwise be taken by an Appointed Access Officer.

**PART B: DELEGATED POWERS, DELEGATED TO THE APPOINTED ACCESS OFFICER TO DETERMINE REQUESTS OR APPLICATIONS EXEMPTING LAND FROM ACCESS RIGHTS, UNDER SECTION 11 OF THE 2003 ACT AND MAKE ORDERS THEREUNDER**

6. The authority to determine requests or applications under Section 11 of the 2003 Act and to make an order thereunder for an access exemption for a period of 5 days or fewer is delegated to an Appointed Access Officer
7. All such requests and applications will be determined (either approved or refused), subject to the general requirements of the operation of this Scheme of Delegation as outlined in Part A.
8. Section 11 access exemption requests or applications covering a period of 6 days or more must be authorised by Scottish Ministers and will be advertised in the Weekly Planning Schedule and require to be subject to consultation with the landowner, the local access forum and any other person considered appropriate and be subject to public notification and representation. Such requests or applications must be considered by the Committee or the Board (as the case may be) who will then make a recommendation to the Scottish Ministers accordingly.

**PART C: DELEGATED POWERS TO AN APPOINTED ACCESS OFFICER TO UPHOLD ACCESS RIGHTS AND EXERCISE POWERS UNDER SECTIONS 13, 14, 15, 19, 21, 23, 24, 25 AND 26 OF THE 2003 ACT**

9. The Park Authority 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, 24, 25 and 26 of the 2003 Act.
10. Authority is hereby delegated to an Appointed Access Officer on behalf of the Park Authority under Section 13 of the 2003 Act to uphold, assert, protect and keep open and free from obstruction or encroachment any route, waterway or other means by which access rights may reasonably be exercised, including, in consultation with the Park Authority's Legal Manager (or their successor) to institute and defend legal proceedings in that regard.
11. Authority is hereby delegated to an Appointed Access Officer on behalf of the Park Authority to undertake all of the powers and duties set out in Sections 14<sup>1</sup>, 15, 19, 21, 23, 24 and 26 of the 2003 Act.
12. The Appointed Access Officer may also refer a decision on any matter to the Board or Committee to consider, if it is agreed by the Appointed Access Officer in consultation with the relevant Chair that it would be important for the matter to be determined by the Board or the Committee.

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<sup>1</sup> In all cases the Appointed Access Officer shall prior to serving a notice, consult with the Chair (or in their absence the Depute Chair) of the Planning and Access Committee

13. Authority is hereby delegated to the Appointed Access Officer on behalf of the Park Authority to undertake all of the powers and duties set out in Section 25 of the 2003 Act in respect of the establishment, appointment and termination of membership of the Local Access Forum (the "Forum"), except insofar as that relates to the appointment of Board Members of the Park Authority to the Forum who are appointed by the Board.
14. Authority is hereby delegated to the Appointed Access Officer on behalf of the Park Authority to undertake all of the powers and duties set out in Section 26 of the 2003 Act and to authorise a person or persons to enter any land for a purpose connected with the exercise or proposed exercise of any of the Park Authority's functions under Part 1 of the 2003 Act.

**PART C: DELEGATED POWERS TO AN APPOINTED ACCESS OFFICER TO ASSERT, PROTECT, KEEP OPEN, REPAIR AND MAINTAIN PUBLIC RIGHTS OF WAY – SECTIONS, 31, 32, 33, 45 AND 46 OF THE COUNTRYSIDE (SCOTLAND) ACT 1967**

15. Paragraph 4(b) repeals sections 30 to 38 (creation, closure and diversion of public paths) of the 1967 Act, which are superseded by sections 21 and 22 of the 2003 Act. However, paragraph 7 of Schedule 2 to the of the 1967 Act provides a saving to enable the continued application of those powers in relation to land in respect of which access rights do not apply.
16. Authority is hereby delegated to an Appointed Access Officer on behalf of the Park Authority in respect of the duties and powers conferred on the Park Authority under Sections 31, 32 and 33 of the 1967 Act.
17. The Park Authority 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 may 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 1967 Act. The Park Authority 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.
18. Authority is hereby delegated to an Appointed Access Officer on behalf of the Park Authority to: take such steps as they 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 the National Park; and may repair and maintain any public right of way (except for a public road or a footway) within the National Park under section 46 (1) and (2) of the "1967 Act") including, in consultation with the Park Authority's Legal Manager (or their successor), to institute and defend legal proceedings in that regard<sup>2</sup>
19. Authority is hereby delegated to an Appointed Access Officer on behalf of the Park Authority under section 45 of 1967 Act in relation to rights of way for the

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<sup>2</sup> In all cases the Appointed Access Officer shall consult with the Chair (or in their absence the Depute Chair) of the Planning and Access Committee

erection of stiles, gates or other works for preventing the ingress or egress of animals.