
DRAFT STATUTORY INSTRUMENTS

2004 No.

**The Cotswolds Area of Outstanding Natural Beauty
(Establishment of Conservation Board) Order 2004**

PART II

Establishment, constitution and administration of the Board

Establishment of the Board

3. On the establishment day there shall be established a conservation board for the Cotswolds Area of Outstanding Natural Beauty to be known as “the Conservation Board for the Cotswolds Area of Outstanding Natural Beauty”.

Specified number of Board members

4.—(1) The specified number of local authority members of the Board shall be 17.

(2) The specified number of members of the Board to be appointed by the Secretary of State shall be 15.

(3) The specified number of parish members of the Board shall be 8.

Appointment of local authority members

5. Each local authority specified in Schedule 1 (being collectively the local authorities for the areas wholly or partly comprised in the Cotswolds Area of Outstanding Natural Beauty) shall appoint one member to the Board.

Appointment of parish members

6. The parish members of the Board shall be appointed, in accordance with the provisions of Schedule 2, by the parish councils and parish meetings specified in Part IV of that Schedule (being collectively the parish councils for parishes the whole or any part of which is comprised in the Cotswolds Area of Outstanding Natural Beauty and the parish meetings of any of those parishes which do not have separate parish councils).

First appointment of members

7. Each local authority specified in Schedule 1, the Secretary of State, and the parish councils and parish meetings specified in Part IV of Schedule 2 (acting in accordance with the provisions of Part I of that Schedule), shall appoint their respective first members before the establishment day and those appointments shall take effect on that day; but no appointment shall be treated as invalid by reason only of a failure to make the appointments in accordance with this article.

Resignation of office

8. A member of the Board may at any time resign his membership by giving notice in writing to the chief officer of the Board, and his resignation shall take effect on the receipt of that notice by that officer.

Vacancies

9.—(1) Where a vacancy arises in the membership of the Board, it shall be filled as soon as practicable—

- (a) where the vacancy is created by a local authority member, by the authority in whose representation the vacancy arises,
- (b) where the vacancy is created by a member appointed by the Secretary of State, by the Secretary of State,
- (c) where the vacancy is created by a parish member, by the parish councils and parish meetings referred to in Part IV of Schedule 2,

in accordance with the appropriate provisions of Schedule 13 to the 2000 Act and Parts II and III of Schedule 2 to this Order, as the case may be.

(2) Where, by virtue of paragraph 4(4)(a) of Schedule 13 to the 2000 Act a vacancy arises in the membership of the Board as a result of a local authority member ceasing to be a member of the local authority, that person shall nevertheless continue to be a local authority member of the Board until—

- (a) notice is given to the Board under article 10(1)(a) of the appointment of a new local authority member of the Board to fill that vacancy, or
- (b) the expiration of 3 months from the day that vacancy arises,

whichever is the earlier.

(3) Where by virtue of paragraph 5(3) or (4) of Schedule 13 to the 2000 Act a vacancy arises in the membership of the Board as a result of a parish member of the Board ceasing to be a member of the parish council or chairman of the parish meeting (as the case may be), that person shall nevertheless continue to be a parish member of the Board until—

- (a) notice is given by the Board under paragraphs 22(1)(b) or 25(b) (as the case may be) of Schedule 2 of the appointment of a new parish member of the Board to fill that vacancy, or
- (b) the expiration of 3 months from the day that vacancy arises,

whichever is the earlier.

Notice of appointment, etc.

10.—(1) Where a member is appointed to the Board, or a vacancy arises in the membership of the Board, for any reason other than resignation—

- (a) where the member, or the member giving rise to the vacancy, is, or was, a local authority member, the council by whom he was appointed,
- (b) where the member, or the member giving rise to the vacancy, was appointed by the Secretary of State, the Secretary of State,

shall as soon as practicable give notice in writing to the Board and that notice shall state the date of his appointment or, as the case may be of the occurrence of the vacancy.

(2) Where a vacancy arises in the membership of the Board for any reason other than resignation and the member giving rise to the vacancy was a parish member, the parish council of which he was a member or the parish meeting of which he was chairman (as the case may be), shall as soon as

practicable give notice in writing to the Board and that notice shall state the date of the occurrence of the vacancy.

(3) As soon as practicable after receiving notice under article 8 (resignation) or this article, the Board shall give public notice of—

- (a) the appointment, or as the case may be, the resignation, termination or vacancy, and
- (b) the name of the person concerned.

Removal of members appointed by the Secretary of State

11. The Secretary of State may remove from office any member of the Board appointed by her either—

- (a) by giving that member three months' written notice of the termination of the appointment;
or
- (b) in such other manner as may be provided for in the terms of that member's appointment.

Disqualification of members

12.—(1) A person is disqualified from becoming or remaining a member of the Board if he holds any paid office or employment, appointments to which are, or may be, made or confirmed by—

- (a) the Board or any council by whom a local authority member of the authority is appointed;
- (b) any committee or sub-committee of the Board or of any such council;
- (c) any joint committee on which the Board or any such council is represented;
- (d) any parish council for, or parish meeting of, a parish the whole or any part of which is comprised in the Cotswolds Area of Outstanding Natural Beauty;
- (e) any committee or sub-committee of any such parish council or parish meeting;
- (f) any joint committee on which any such parish council or parish meeting is represented; or
- (g) any person himself holding an office or employment which disqualifies him from becoming a member of the Board.

(2) A person is also disqualified from becoming or remaining a member of the Board if he holds any employment in a company which, in accordance with Part V of the 1989 Act other than section 73, would be under the control of the Board.

(3) Section 92 of the 1972 Act (proceedings for disqualification) shall apply in relation to a person who acts or claims to be entitled to act as a member of the Board as it applies in relation to a person who acts or claims to be entitled to act as a member of a local authority, but as if—

- (a) references in that section to a local government elector for the area concerned were references to a local government elector for any area the whole or any part of which is comprised in the Cotswolds Area of Outstanding Natural Beauty, and
- (b) in subsection (6)(b) of that section (failure to deliver declaration of acceptance of office), the words from “of failure” to “or by reason” were omitted.

(4) Sections 1 to 3 of the 1989 Act (disqualification of persons holding politically restricted posts) shall have effect as if the Board were a local authority for the purposes of Part 1 of that Act.

Vacation of office for failure to attend meetings

13. Section 85 of the 1972 Act (failure to attend meetings) shall apply in relation to the Board as if the Board were a local authority for the purposes of that section.

Conduct of members and staff

14.—(1) Part III of the Local Government Act 2000⁽¹⁾ (conduct of local government members and employees) shall apply in relation to the Board as if the Board were a relevant authority within the meaning of section 49(6) of that Act.

(2) Until such time as the Board pass a resolution adopting a code as regards conduct in accordance with section 51(1) of the Local Government Act 2000, the following provisions shall apply in relation to the Board as if the Board were a local authority—

- (a) section 31 of the 1989 Act (code of conduct);
- (b) sections 94 to 98 and 105 of the 1972 Act (restrictions on voting on account of interests); and
- (c) section 19 of the 1989 Act (members' interests).

(3) Where the Board have passed a resolution adopting a code as regards conduct in accordance with section 51(1) of the Local Government Act 2000, the following provisions shall, where applicable to the Board, be disapplied as respects the Board—

- (a) section 17(1)(b), (3), (5)(b), (7) and (8) of the Audit Commission Act 1998⁽²⁾;
- (b) in section 17(2) of that Act, the words “subject to subsection (3)” and paragraphs (a) and (b); and
- (c) section 18 of that Act.

Allowances and time off for members

15.—(1) Until such time as the Board shall make a scheme in accordance with Parts 2 and 3 of the Local Authorities (Members' Allowances) (England) Regulations 2003⁽³⁾, the Board shall be a body to which sections 174 to 176 of the 1972 Act (allowances for travelling, conferences and visits) shall apply.

(2) Section 10 of the 1989 Act (limit on paid leave for local authority duties) shall apply in relation to the Board as if the Board were a relevant council for the purposes of that section.

Meetings and proceedings of the Board

16. Schedule 3 shall have effect in relation to the meetings and proceedings of the Board.

Discharge of functions, committees and sub-committees, and staff

17.—(1) Sections 101 to 104 and 106 of the 1972 Act (arrangements for committees and sub-committees) shall apply in relation to the Board as if the Board were a local authority for the purposes of those sections.

(2) Accordingly, section 13 of the 1989 Act (voting rights of members of certain committees) shall apply as if the Board were a relevant authority for the purposes of that section.

(3) It shall be the duty of the Board in relation to any committee or sub-committee to which this paragraph applies, to secure that—

- (a) the membership of the committee or sub-committee consists at least one local authority member of the Board, one member of the Board appointed by the Secretary of State and one parish member of the Board;

(1) 2000 c. 22.

(2) 1998 c. 18.

(3) S.I.2003/1021; regulation 3(1)(j) applies those Regulations to a conservation board of an area of outstanding natural beauty.

- (b) subject to sub-paragraph (a), the division of members of the Board who are members of the committee or sub-committee between—
- (i) local authority members,
 - (ii) members appointed to the Board by the Secretary of State, and
 - (iii) parish members,
- is (as nearly as possible using whole numbers) in the same proportions as required, by virtue of article 4, in the case of the Board themselves; and
- (c) the quorum of the committee or sub-committee includes at least one local authority member of the Board, one member of the Board appointed by the Secretary of State and one parish member of the Board.
- (4) Paragraph (3) applies to the following committees and sub-committees of the Board except those appointed under section 102(4) or (4A)(4) of the 1972 Act (advisory committees), that is to say—
- (a) any committee or sub-committee of the Board;
 - (b) any joint committee on which the Board is represented; and
 - (c) any sub-committee of such a joint committee.
- (5) The proceedings of a committee or sub-committee to which paragraph (3) applies shall not be invalidated by any failure of the Board to perform their duty under that paragraph.
- (6) Sections 112 to 119 of the 1972 Act (staff of local authorities) and section 30 of the Local Government (Miscellaneous Provisions) Act 1976⁽⁵⁾ (power to forgo repayment of remuneration) shall apply in relation to the Board as if the Board were a local authority for the purposes of those sections.
- (7) The following provisions of the 1989 Act shall apply in relation to the Board as if the Board were a relevant authority for the purposes of those provisions—
- (a) section 4 (designation and reports of head of paid service);
 - (b) section 5 (designation and reports of monitoring officer);
 - (c) section 7 (staff to be appointed on merit);
 - (d) section 8 (standing orders with respect to staff) with the omission of subsection (4)(d) (assistants for political groups); and
 - (e) section 12 (conflict of interest in staff negotiations).

Chief officer

- 18.**—(1) There shall be a chief officer of the Board.
- (2) The first appointment of the chief officer shall be made by the Secretary of State after consultation with the Countryside Agency.
- (3) The Board shall, with the approval of the Secretary of State, make all subsequent appointments of the chief officer of the Board.

Personal liability of members and staff

- 19.** Section 265 of the Public Health Act 1875⁽⁶⁾ (personal liability of members and officers of certain authorities) shall apply as if—

(4) Section 102(4A) of the Local Government Act 1972 was inserted by the Local Government and Housing Act 1989, Schedule 11, paragraph 25.

(5) 1976 c. 57.

(6) 1875 c. 55.

- (a) the Board were an authority such as is mentioned in that section;
- (b) the references in that section to a member of the authority included, in relation to the Board, references to any person who is not such a member but for the time being serves as a member of a committee or sub-committee of the Board;
- (c) the references in that section to the purpose of executing that Act and to the purposes of that Act were each, in relation to the Board, references to the purpose of carrying out the functions of the Board; and
- (d) the words “or rate” were omitted.

Liaison with parish councils and parish meetings

20. The Board shall make arrangements with—

- (a) the parish councils for parishes the whole or any part of which is comprised in the Cotswolds Area of Outstanding Natural Beauty, and
- (b) the parish meetings of any of those parishes which do not have separate parish councils,

for the purpose of informing and consulting those councils or meetings about the discharge of the functions of the Board.

Records, access to meetings and documents, notices and documents

21.—(1) The Local Government (Records) Act 1962(7) shall apply in relation to the Board as if the Board were a local authority for the purposes of that Act.

(2) The following provisions of the 1972 Act—

- (a) Part VA(8) (access to meetings and documents),
- (b) sections 224 and 225(1) (custody and deposit of documents),
- (c) sections 228 and 229 (inspection of documents and photocopies),
- (d) section 230 (reports and returns),
- (e) sections 231 to 234 (service and authentication of documents), and
- (f) sections 236 to 238 (byelaws),

shall apply as if for the purposes of those provisions the Board were a local authority or, in the case of Part VA and section 224, a principal council, and as if any reference in those provisions to the proper officer of the authority were a reference to the chief officer of the Board.

(3) Section 41 of the Local Government (Miscellaneous Provisions) Act 1976 (evidence of resolutions and minutes of proceedings) shall apply as if the Board were a local authority for the purposes of that Act.

(4) Where the Board have made any byelaws and those byelaws have been confirmed, the Board shall send a copy of the byelaws as confirmed to each local authority specified in Schedule 1.

Reports and returns

22. The Board shall, if so requested by the Secretary of State, forthwith give to—

- (a) the Countryside Agency,
- (b) each local authority specified in Schedule 1,
- (c) English Nature, and

(7) 1962 c. 56.

(8) Part VA of the 1972 Act was inserted by the Local Government (Access to Information) Act 1985 (c. 43), section 1.

(d) each parish council and parish meeting specified in Part IV of Schedule 2,
a copy of any report, return or information which the Board is required to send or give to the Secretary of State in accordance with section 230 of the 1972 Act (reports and returns).

Financial administration and accounts, etc.

23.—(1) Sections 151 (financial administration) and 168 (financial returns) of the 1972 Act shall apply in relation to the Board as if the Board were a local authority for the purposes of those sections.

(2) Subject to paragraphs (3) and (4), the Board shall—

- (a) keep a fund (to be known as the general fund) to which all income of the Board shall be carried, and from which all expenditure discharging liabilities shall be met; and
- (b) keep accounts of income and expenditure of the general fund.

(3) The provisions of paragraph (1) are without prejudice to any provision contained in any enactment or instrument requiring the Board to keep—

- (a) a specific fund or funds in respect of specified income and expenditure of the Board; or
- (b) specific accounts in respect of specified income and expenditure of any funds of the Board.

(4) Nothing in paragraph (2)(a) shall be construed as requiring or authorising the Board to apply or dispose of the surplus revenue arising from any undertaking carried on by them otherwise than in accordance with any enactment or instrument applicable to the undertaking.

Maladministration

24. The Board shall be an authority to which Part III of the Local Government Act 1974⁽⁹⁾ (local government administration) applies.

(9) 1974 c. 7.