
DRAFT STATUTORY INSTRUMENTS

2004 No.

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

PART IV

Incidental, supplemental, consequential and transitional provisions

Land, enforceability of covenants

26. Section 33 of the Local Government (Miscellaneous Provisions) Act 1982⁽¹⁾ (enforceability by local authorities of certain covenants relating to land) shall have effect as if references to a principal council included references to the Board; and for the purposes of this paragraph the reference in subsection (1) of that section to section 111 of the 1972 Act shall have effect as a reference to the powers and functions of the Board.

Agreements as to incidental matters

27.—(1) The Board may from time to time make agreements in consequence of this Order with any public body (within the meaning of section 85(3) of the 2000 Act) with respect to—

- (a) any property, income, rights or liabilities (so far as affected by this Order) of the parties to the agreement; or
- (b) any financial relations between those parties.

(2) Such an agreement may provide—

- (a) for the transfer or retention of any property, rights and liabilities, with or without conditions, and for joint use of any property;
- (b) for the making of payments by any party to the agreement in respect of—
 - (i) property, rights and liabilities transferred or retained;
 - (ii) the joint use of any property; or
 - (iii) remuneration or compensation payable to any person.

(3) In default of agreement as to any disputed matter, the matter shall be referred to the arbitration of a single arbitrator agreed on by the parties or, in default of agreement, appointed by the Secretary of State; and the award of the arbitrator may make any provision which might be contained in an agreement under this article.

(4) In paragraph 3 “disputed matter” means any matter which might be the subject of provision contained in an agreement under this article.

Borrowing

28.—(1) Subject to paragraph (3), the Board may, with the approval of the Secretary of State, borrow money—

- (a) for any purpose relevant to their functions under any enactment, or
- (b) for the purposes of the prudent management of their financial affairs.

(2) The approval of the Secretary of State under paragraph (1) may be given subject to conditions or limitations.

(3) The Board may borrow by way of temporary loan or overdraft from a bank or otherwise such money as the Board may temporarily require for the purpose of meeting expenses pending the receipt of revenues receivable by them in respect of the period of account in which the expenses are chargeable.

(4) A person lending money to the Board shall not be bound to enquire whether the Board have power to borrow the money and shall not be prejudiced by the absence of any such power.

Miscellaneous transactions and powers

29.—(1) The following provisions of the 1972 Act shall have effect as if the Board were a principal council for the purposes of that Act and as if the Cotswolds Area of Outstanding Natural Beauty were the authority's area—

- (a) section 132 (provision of premises for public meetings);
- (b) section 135 (contracts of local authorities);
- (c) section 136 (contributions towards expenditure on concurrent functions);
- (d) section 139 (acceptance of gifts of property);
- (e) sections 140, 140A and 140C (insurance);
- (f) sections 141 (research and the collection of information) and 142 (provision of information, etc.);
- (g) section 144 (power to encourage visitors and provide conference and other facilities); and
- (h) sections 222 and 223 (conduct of prosecutions and participation in other legal proceedings).

(2) Section 38 of the Local Government (Miscellaneous Provisions) Act 1976⁽²⁾ (use of spare capacity of local authority computers) shall have effect as if the Board were a local authority for the purposes of that Act.

(3) Section 41 of the Local Government (Miscellaneous Provisions) Act 1982 (lost property) shall have effect as if the Board were a local authority for the purposes of that Act.

(4) Section 45 of the Local Government (Miscellaneous Provisions) Act 1982 (arrangements under the Employment and Training Act 1973⁽³⁾) shall have effect as if the Board were a local authority to which that section applies.

Supply of goods and services

30. The Local Authorities (Goods and Services) Act 1970⁽⁴⁾ (supply of goods and services by local authorities) shall have effect as if the Board were both a local authority and a public body for the purposes of that Act.

(2) 1976 c. 57.

(3) 1973 c. 50.

(4) 1970 c. 39.

Power to execute works outside the Cotswolds Area of Outstanding Natural Beauty

31. Any power to execute works which is conferred on the Board by virtue of this Order or any other enactment shall be taken, except in so far as the contrary intention appears, to include power, for the purposes of the carrying out of the Board's functions, to execute works of the relevant description outside, as well as inside, the Cotswolds Area of Outstanding Natural Beauty.

Power to promote Bills

32.—(1) Subject to paragraph (2), section 239 of the 1972 Act (power of local authority to promote local or personal Bills) shall have effect in relation to the Board as if the Board were a local authority for the purposes of that Act.

(2) The Board shall have no power to promote a Bill for—

- (a) modifying the Cotswolds Area of Outstanding Natural Beauty;
- (b) modifying the Board's own constitution; or
- (c) modifying the status or the electoral arrangements of any of the local authorities, parish councils or parish meetings mentioned, or referred to, in articles 5 and 6.

(3) In sub-paragraph (2) above—

“electoral arrangements” means any electoral arrangements within the meaning of section 14(4) of the Local Government Act 1992⁽⁵⁾.

Restrictions on publicity

33. Part II of the Local Government Act 1986⁽⁶⁾ (restrictions on publicity) shall have effect as if the Board were a local authority for the purposes of that Part.

Contracting out

34. Part II of the Deregulation and Contracting Out Act 1994⁽⁷⁾ (contracting out) shall have effect as if the Board were a local authority for the purposes of that Part.

Continuity of exercise of functions

35.—(1) The concurrent exercise of functions by the Board under article 25 shall not affect the validity of anything done in relation to any of those functions before the operative day.

(2) Where in relation to any function to which article 25 applies, the Board continue, on or after the operative day, any action or matter commenced by a local authority, anything done by that authority in relation to that action or matter shall, so far as is required for continuing its effect on or after the operative day, have effect as if done by the Board.

(3) Any reference, however framed, to a local authority in any document relating to any of the functions to which article 25 applies shall, so far as is required for giving effect to this article, be construed as a reference to the Board.

Transfer of staff

36. The provisions of Schedule 4 shall have effect.

(5) 1992 c. 19.

(6) 1986 c. 10.

(7) 1994 c. 40.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument:
The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 No. 1777
