EXPLANATORY MEMORANDUM TO

THE COTSWOLDS AREA OF OUTSTANDING NATURAL BEAUTY (ESTABLISHMENT OF CONSERVATION BOARD) (AMENDMENT) ORDER 2009

2009 No.

1. This explanatory memorandum has been prepared by the Department of Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order amends previous legislation to allow the Conservation Board for the Cotswolds Area of Outstanding Natural Beauty ("the Board"), when compiling its annual statement of accounts, to reverse the effect of Financial Reporting Standard 17 (FRS 17) in respect of pension fund adjustments in the same way as local authorities are permitted to i.e. in the expectation that not all employees are made redundant at the same time.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 This Order and the Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) (Amendment) Order 2009 respectively amend the orders that establish the Board and the Conservation Board of the Chilterns Area of Outstanding Natural Beauty. This Order allows the Board to reverse the effect of Financial Reporting Standard 17 in respect of pension fund adjustments.

5. Territorial Extent and Application

5.1 This instrument only applies in relation to England.

6. European Convention on Human Rights

6.1 Huw Irranca-Davies has made the following statement regarding Human Rights:

6.2 In my view the provisions of the Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) (Amendment) Order 2009 are compatible with the Convention rights.

7. Policy background

7.1 The Cotswolds and the Chilterns are the only Areas of Outstanding Natural Beauty in respect of which Conservation Boards have been established. There is currently no legislative requirement for particular accounting practices to be followed by Conservation Boards, but in practice the Board follows the relevant parts of the Code of Practice on Local Authority Accounting in the UK, "A Statement of Recommended Practice" (SORP). However, under current regulations, as the turnover of the Board exceeds one million pounds, the Board is subject to Financial Reporting Standard 17 (FRS 17) requirements.

7.2 Whereas local authorities are exempt from the financial implications of FRS 17, Conservation Boards do not fall within the ambit of this exemption. This means that the charge that Conservation Boards have to make to the revenue account for pensions is higher than for mainstream local authorities, as (subject to having a turnover in excess of one million pounds) the Conservation Boards must provide for the possibility of all their staff being made redundant at the same time and all taking their pension entitlement. In contrast, a local authority need only provide for a regular, but small scale, series of retirements/redundancies.

7.3 The effect of non-reversal is the reduction of any surplus or the increase of any deficit by the difference between the actuary's valuation and the respective conservation board's actual contribution each year. This has the effect of transferring resources from the Board's working balance into the pension fund reserve on the balance sheet against the event that the Board is wound up and all its staff take their pension entitlement.

7.4 The effect is cumulative. Over the past four years the Board has been required to move £46,000 from its Working Balance into the Pension Fund Reserve. The Board estimates that a further £20,000 is likely to be required at the end of this year and the Working Balance (£16,654) is insufficient to support this. Consequently, the Board will need to make economies to support this theoretical accounting adjustment.

7.5 If no action is taken, the eventual outcome could be that all the funds the Board receives from Natural England and the local authorities would go towards meeting pension fund requirements rather than project work.

7.6 Defra has consulted with every local authority whose area consists of or includes any part of the Cotswolds Area of Outstanding Natural Beauty. The majority of local authorities have agreed to this proposal and no objections have been received.

7.7 This change is not politically important, but if the Order is not made, either there would be detrimental effect on the efficient operation of the Board, or else further funds would need to be made available to Natural England to increase its grant to the Board.

8. Consultation outcome

8.1 The consultation ran from 31 March 2009 to 20 April 2009. The Board's fifteen local authorities and Natural England were consulted. As at 20 April, nine (the majority) of the Board's local authorities had agreed to the proposal and no objections had been made.

8.2 The consultation document and the responses are available at Defra's website at www.defra.gov.uk/corporate/consult/aonb/index.htm

9. Guidance

9.1 None.

10. Impact

10.1 A Regulatory Impact Assessment has been prepared and was included in the consultation documents. It is, however, not anticipated that there will be any impact on business, charities or voluntary bodies.

10.2 It is not anticipated that there will be any impact on the public sector.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Board will review the effectiveness of the revised financial arrangements in September 2010.

13. Contact

Tina Blandford at the Department of Environment, Food and Rural Affairs (Defra) Tel: 0117 372 8106 or email: Tina.Blandford@defra.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency:	Title:	
Defra	Impact Assessment of the Statutory Instrument required to provide exemption for AONB Conservation Boards to FRS 17	
Stage:	**Version:** 1.0	**Date:** 24 March 2009
Related Publications:		

Available to view or download at:

http://www.

Contact for enquiries: Tina Blandford **Telephone:** 0117 372 8106

What is the problem under consideration? Why is government intervention necessary?

The Cotswolds Conservation Board has a annual turnover which exceeds £1m and is therefore required by Financial Reporting Standard 17 to make an annual provision for the pensions of its members. As this provision is cumulative and involves transferring money from the Conservation Board's working balance to a pension provision it is now becoming a serious drain on the Conservation Board's finances.

There is currently one other Conservation Board which is the Chilterns whose annual turnover does not as yet exceed £1m but it is anticipated that eventually their budget will exceed £1m too.

What are the policy objectives and the intended effects?

The policy objective and intended effect is to reverse the effect of the Financial Reporting Standard 17 (FRS 17) adjustment in relation to the pension fund, in the same way as local authorities are permitted when compiling the Annual Statement of Accounts. i.e. in the expectation that not all employees are made redundant at the same time. This will allow the Conservation Board to operate efficiently and to channel funds towards projects in order for the Conservation Boards to meet their purposes.

What policy options have been considered? Please justify any preferred option.

Not to do anything - this would have long-term outcomes of the Conservation Boards becoming unviable and the Minister abolishing Boards.

Providing an exemption - which would allow Conservation Boards to channel funds to projects which would otherwise be used for the pension provision. This is the preferred option.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

September 2010

Ministerial Sign-off For SELECT STAGE Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Huw Irranca-Davies

..... Date: 27 April 2009

Summary: Analysis & Evidence

Policy Option: Providing an exemption	Description: Provide an exemption for AONB Conservation Boards to FRS 17

COSTS

ANNUAL COSTS	Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition) **Yrs**	
£	
Average Annual Cost (excluding one-off)	
£	**Total Cost** (PV) **£ 0**

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS	Description and scale of **key monetised benefits** by 'main affected groups'
One-off **Yrs**	Approximate because the provision is cumulative and is growing each year.
£ 46,000.00	
Average Annual Benefit (excluding one-off)	
£	**Total Benefit** (PV) **£ 46,000.00**

Other **key non-monetised benefits** by 'main affected groups' .

Key Assumptions/Sensitivities/Risks

The key assumption is that there will not be a situation where the Board's entire staff are made redundant at the same time. It could be politically sensitive if nothing is done. The risk is that the Boards will wound up but this is highly unlikely. We do not expect any criticism making this

Price Base Year	Time Period Years	**Net Benefit Range** (NPV) **£**	**NET BENEFIT** (NPV Best estimate) **£**

What is the geographic coverage of the policy/option?				National
On what date will the policy be implemented?				25 June 2009
Which organisation(s) will enforce the policy?				Not applicable
What is the total annual cost of enforcement for these				£ 0
Does enforcement comply with Hampton principles?				Yes
Will implementation go beyond minimum EU requirements?				N/A
What is the value of the proposed offsetting measure per year?				£ 0
What is the value of changes in greenhouse gas emissions?				£ 0
Will the proposal have a significant impact on competition?				No
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase £ Decrease £ **Net** **£** 0

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

The Cotswolds Conservation Board currently has a turnover that is above £1m which means that it is required by Financial Reporting Standard 17 (FRS 17) to make a provision to its pension fund each year. This is cumulative and is becoming a serious drain on the Conservation Board's finances. The Chilterns Conservation Board currently has a turnover that is below the £1m threshold and is therefore not required to make this provision. However, it is expected that in future years the Chilterns' turnover will exceed £1m and will then be faced with the same problem.

The Cotswolds Conservation Board would like to reverse the effect of the actuary's FRS 17 adjustment in relation to the pension fund in the same way as local authorities are permitted when compiling the Annual Statement of Accounts.

Following the completion of the 2007/08 Statement of Accounts, it has now become clear that the effect of the non-reversal to the Cotswolds Conservation Board is the reduction of any surplus or the increase of any deficit by the difference between the actuary's valuation and the Board's actual contribution each year. This has the effect of transferring resources from the Board's Working Balance into the Pension Fund Reserve on the Balance Sheet against the unlikely event that the Board is wound up and all its staff take their pension entitlement. It cannot be used for any other purpose.

The effect of this is cumulative. Over the past four years the Cotswolds Conservation Board has been required to move £46,000 from its Working Balance Reserve to the Pension Fund Reserve. The Cotswolds Conservation Board estimate that a further £20,000 is likely to be required at the end of this year and the Working Balance (£16,654) is insufficient to support this. Consequently, the Board will need to make economies to support this theoretical accounting adjustment.

If actuarial valuations continue in this current trend, the Board will need to set aside an increasing sum in the Pension Fund. This becomes unavailable for other activity and will be a serious drain on the Conservation Board's finances. The Cotswolds Conservation Board estimates that the level of working balances at the end of 2008/09 will not be sufficient to allow for the FRS 17 adjustment at 31 March 2009. Further, it will become necessary for the Board to apply for grant with effect from 2009/10 to enable the FRS 17 adjustment to be made.

Defra officials have met with CLG and both Conservation Boards and agreed that the best policy option would be to apply regulation 30 of the Local Authorities (Capital Finance & Accounting) (England) Regulations 2003 to the Conservation Boards through an order amending the Establishment Orders of the Boards. This would mean that Boards would only need to provide pension funds in the event of an occasional redundancy rather than for the hypothetical situation of the entire Board staff being made redundant at the same time, as is the case now.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	Yes/No	Yes/No
Small Firms Impact Test	Yes/No	Yes/No
Legal Aid	Yes/No	Yes/No
Sustainable Development	Yes/No	Yes/No
Carbon Assessment	Yes/No	Yes/No
Other Environment	Yes	Yes
Health Impact Assessment	Yes/No	Yes/No
Race Equality	Yes/No	Yes/No
Disability Equality	Yes/No	Yes/No
Gender Equality	Yes/No	Yes/No
Human Rights	Yes/No	Yes/No
Rural Proofing	Yes/No	Yes/No

Annexes