

# Statutory Instrument 2005 No. 421

## **The New Forest National Park Authority (Establishment) Order 2005**

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### STATUTORY INSTRUMENTS

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**2005 No. 421**

### **COUNTRYSIDE, ENGLAND**

The New Forest National Park Authority (Establishment) Order 2005

<i>Made</i>	<i>2nd March 2005</i>
<i>Laid before Parliament</i>	<i>3rd March 2005</i>
<i>Coming into force</i>	<i>24th March 2005</i>

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The Secretary of State, in exercise of the powers conferred upon her by section 4A(1) of the Town and Country Planning Act 1990[1], sections 63(1) and 75(3) to (7) of, and paragraphs 1(2) to (6) and 2(1) and (2) of Schedule 7 to, the Environment Act 1995[2], and after consultation with the council for every

principal area the whole or any part of which is comprised in the New Forest National Park as required by paragraph 2(3) of that Schedule, hereby makes the following Order:

## PART 1

### *Introductory*

#### **Citation and commencement**

1. This Order may be cited as the New Forest National Park Authority (Establishment) Order 2005 and shall come into force on 24th March 2005.

#### **Interpretation**

2. In this Order -

"the 1972 Act" means the Local Government Act 1972[3];

"the 1989 Act" means the Local Government and Housing Act 1989[4];

"the 1995 Act" means the Environment Act 1995;

"the 2000 Act" means the Countryside and Rights of Way Act 2000[5];

"the acting National Park officer" means the officer appointed by the Secretary of State in accordance with article 11(1);

"the Authority" means the New Forest National Park Authority established by article 3;

"the establishment date" means 1st April 2005;

"the National Park officer" means the officer appointed by the Authority in accordance with paragraph 14 of Schedule 7 to the 1995 Act;

"a New Forest local authority" means a council mentioned in article 5;

"the operational date" means 1st April 2006;

"the relevant functions" means the functions which under Part III of the 1995 Act or this Order become, on the operational date, functions of the Authority; and

"the transitional period" means the period beginning with the establishment date and ending with 31st March 2006.

## PART 2

### *Establishment, constitution and administration of the Authority*

#### **Establishment**

3. On the establishment date there shall be established an authority, to be known as "the New Forest National Park Authority", for the New Forest National Park[6].

### **Membership of the Authority**

4. - (1) The specified number of local authority members of the Authority shall be twelve.

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

(3) The specified number of members of the Authority to be appointed by the Secretary of State who shall be parish members shall be 4.

### **Appointment of local authority members of the Authority**

5. The local authority members of the Authority shall be appointed as follows -

- (a) five members shall be appointed by Hampshire County Council;
- (b) one member shall be appointed by Wiltshire County Council;
- (c) four members shall be appointed by New Forest District Council;
- (d) one member shall be appointed by Salisbury District Council; and
- (e) one member shall be appointed by Test Valley Borough Council.

### **First appointment of members of the Authority**

6. The Secretary of State and each of the New Forest local authorities shall appoint their respective first members of the Authority before the establishment date, 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 appointment as required by this article.

### **Resignation of office**

7. A member may at any time resign his membership of the Authority by notice in writing delivered to the Authority, and that resignation shall take effect on the receipt of the notice by the Authority.

### **Vacancies**

8. Where a vacancy arises in the membership of the Authority, it shall be filled as soon as practicable -

- (a) where the vacancy is created by a local authority member, by the council in whose representation the vacancy arises in accordance with paragraph 2(4) to (7) (local authority members) of Schedule 7 to the 1995 Act; and
- (b) where the vacancy is created by a member appointed by the Secretary of State, by the Secretary of State in accordance with paragraph 3 (parish members of English National Park authorities) or paragraph 4 (members (other than parish members) appointed by the Secretary of State), as the case may be, of Schedule 7 to the 1995 Act.

### **Notice of appointment, etc.**

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

(a) where the member, or the member giving rise to the vacancy, was a local authority member, the council by whom he was appointed, or

(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 Authority stating the name of the member appointed and the date of his appointment or, as the case may be, of the occurrence of the vacancy.

(2) As soon as practicable after receiving a notice under article 7 or this article, the Authority 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.

### **Meetings and proceedings**

**10.** Schedule 1 shall have effect with respect to the meetings and proceedings of the Authority.

### **Acting National Park officer**

**11.** - (1) Until such time as the Authority appoint a National Park officer in accordance with paragraph 14 of Schedule 7 to the 1995 Act, the Secretary of State shall appoint an officer who shall be known as "the acting National Park officer".

(2) The acting National Park officer shall, until the appointment of a National Park officer as mentioned in paragraph (1), act as, and have the powers of, the National Park officer for the Authority.

### **Reports and returns**

**12.** The Authority shall, if so requested by the Secretary of State, forthwith send or give to the Countryside Agency and to each New Forest local authority a copy of any report, return or information which the Authority is required to send or give to the Secretary of State in accordance with section 230 of the 1972 Act<sup>[7]</sup> (reports and returns).

### **Accounts, etc.**

**13.** - (1) Subject to paragraphs (2) and (3), the Authority shall -

(a) keep a fund (to be known as the general fund) to which all income of the Authority 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.

(2) The provisions of paragraph (1) are without prejudice to any provision contained in any enactment or instrument requiring the Authority to keep -

(a) a specific fund or funds in respect of specified income and expenditure of the Authority; or

(b) specific accounts in respect of specified income and expenditure of any funds of the Authority.

(3) Nothing in paragraph (1)(a) shall be construed as requiring or authorising the Authority to apply or dispose of the surplus revenue arising from any undertaking carried on by it otherwise than in accordance with any enactment or instrument applicable to the undertaking.

#### **Staff**

14. The provisions of Schedule 2 shall have effect in relation to staff.

### PART 3

#### *Functions*

#### **Application of section 4A of the Town and Country Planning Act 1990**

15. In relation to the New Forest National Park, 1st April 2006 is the time specified for the purposes of section 4A of the Town and Country Planning Act 1990 (the Authority to be the sole local planning authority).

### PART 4

#### *Application of enactments, transitional and supplemental provision etc.*

#### **Application of enactments and instruments**

16. The enactments and instruments mentioned in Schedule 3 shall apply to the Authority with the modifications there set out.

#### **Transitional and supplemental provision**

17. Schedule 4 shall have effect for the purpose of making transitional and supplemental provision.

#### **Continuity of exercise of functions**

18. - (1) The vesting in the Authority on the operational date of the relevant functions of the New Forest local authorities shall not affect the validity of anything done by or in relation to any of those functions before that date.

(2) The Authority may continue, on or after the operational date, any action or matter commenced before that date by a New Forest local authority in relation to any relevant function, and anything done by that New Forest local authority in relation to that action or matter shall, so far as is required for continuing its effect on and after the operational date, have effect as if done by the Authority.

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

(4) The provisions of this article are without prejudice to any other provision

made under this Order in relation to any particular relevant function and shall not be considered as continuing in force any contract of employment.

*Alun Michael*

Minister of State Department for Environment, Food and Rural Affairs

2nd March 2005

## SCHEDULE 1

### Article 10

#### MEETINGS AND PROCEEDINGS OF THE AUTHORITY

##### **First meeting and other meetings of the Authority before the operational date**

1. - (1) The first meeting of the Authority shall be convened by the acting National Park officer within 21 days beginning with the establishment date and shall be held at such place and hour as may be fixed by him.

(2) That meeting shall be treated as the annual meeting of the Authority for the year commencing 1st April 2005.

(3) Notice of that meeting shall be published at the place where the meeting is to be held and the summons to attend the meeting shall be signed by the acting National Park officer.

(4) Until the election of a chairman of the Authority at that meeting, the acting National Park officer shall exercise any functions falling to be exercised by the chairman of the Authority but the acting National Park officer shall not vote at the election of the chairman of the Authority unless the votes for election of the chairman are tied.

(5) The Authority shall hold such further meetings before the operational date as may be necessary.

(6) So far as is consistent with the preceding provisions of this paragraph, the following provisions of this Schedule shall apply to the calling and conduct of meetings under this paragraph.

##### **Annual meetings and other meetings of the Authority**

2. - (1) In the year commencing 1st April 2006 and in each subsequent year the Authority shall hold an annual meeting and those meetings shall be held at such hour as the Authority may fix or, if no hour is fixed, at twelve noon.

(2) In addition to the annual meeting, the Authority shall hold in the year commencing 1st April 2006 and in every succeeding year at least three other meetings for the transaction of general business and those other meetings shall be held at such hour and on such day as the Authority may determine but shall be held as near as may be at regular intervals.

3. - (1) The chairman of the Authority or, if the office of the chairman is vacant, the deputy chairman of the Authority may call an extraordinary meeting

of the Authority at any time.

(2) If the offices of chairman and deputy chairman are vacant, the National Park officer may call an extraordinary meeting of the Authority at any time.

(3) Not less than five members of the Authority may requisition an extraordinary meeting of the Authority at any time.

(4) The requisition referred to in sub-paragraph (3) shall be in writing and shall be presented to the chairman of the Authority or, if the office of chairman is vacant, to the deputy chairman of the Authority or, if the offices of chairman and deputy chairman are vacant, to the National Park officer.

(5) Where the chairman, deputy chairman or National Park officer (as the case may be) have not called an extraordinary meeting within seven days of the presentation of a requisition as mentioned in sub-paragraphs (3) and (4), any five members of the Authority may forthwith call an extraordinary meeting of the Authority.

#### **Chairman and Deputy chairman**

4. - (1) The election of a chairman and deputy chairman shall be the first business transacted at the annual meeting of the Authority.

(2) The person elected as chairman or deputy chairman of the Authority may at any time resign his office by notice in writing delivered to the National Park officer.

(3) Where a casual vacancy in the office of chairman or deputy chairman of the Authority is filled, the person so appointed shall hold office until the date upon which the person in whose place he is elected would regularly have retired.

(4) Where necessary, the meeting at which the casual vacancy is to be filled shall be convened by the National Park officer.

#### **Calling of meetings of the Authority**

5. - (1) Meetings of the Authority shall be held at such place, whether or not in the New Forest National Park, as the Authority may direct.

(2) At least three clear days before a meeting of the Authority -

(a) notice of the time and place of the intended meeting shall be published at the principal offices of the Authority and, where the meeting is called by members of the Authority, the notice shall be signed by those members and shall specify the business proposed to be transacted; and

(b) a summons to attend the meeting, specifying the business proposed to be transacted, and signed by the National Park officer shall, subject to sub-paragraphs (3) and (4) below, be left at or sent by post to the usual place of residence of every member of the Authority; and the National Park officer shall give a copy of that summons to the proper officer for each of the New Forest local authorities, the Countryside Agency and the Secretary of State.

(3) If a member of the Authority gives notice in writing to the National Park officer that he desires summonses to attend meetings of the Authority to be sent

to him at some address specified in the notice other than his usual place of residence, any summons addressed to him and left at or sent by post to that address shall be deemed sufficient service of the summons.

(4) Where a member of the Authority and the National Park officer agree in writing, summonses to attend meetings of the Authority may be given to that member by electronic communication.

(5) Want of service of a summons on any member of the Authority will not affect the validity of such a meeting.

(6) Subject to section 100B(4) of the 1972 Act<sup>[8]</sup> (consideration of items of business), except in the case of business required under this Order or any other statutory provision to be transacted at the annual meeting of the Authority and any other business brought before that meeting as a matter of urgency in accordance with the Authority's standing orders, no business shall be transacted at a meeting of the Authority other than that specified in the summons relating to that meeting.

(7) For the purpose of computing the period of three clear days under subparagraph (2) of this paragraph there shall be excluded any day that is a Saturday, Sunday, bank holiday (being a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971<sup>[9]</sup>), Christmas Day or Good Friday.

### **Conduct of meetings**

6. - (1) At a meeting of the Authority the chairman, if present, shall preside.

(2) If the chairman is absent from a meeting of the Authority the deputy chairman, if present, shall preside.

(3) If both the chairman and the deputy chairman of the Authority are absent such other member of the Authority as the members present shall choose shall preside.

### **Quorum**

7. Subject to the provisions of paragraph 45 of Schedule 12 to the 1972 Act<sup>[10]</sup> (quorum), no business shall be transacted at a meeting of the Authority unless -

(a) at least eight members of the Authority are present; and

(b) of those present at least one is a local authority member and at least one a member appointed by the Secretary of State.

### **Minutes and proceedings of meetings**

8. A copy of the minutes of the proceedings at each meeting of the Authority shall be sent to the proper officer for each of the New Forest local authorities, the Countryside Agency and the Secretary of State within thirty five days of the date of the meeting at which those minutes were approved.

## **SCHEDULE 2**

### **Article 14**

## TRANSFER OF STAFF

### **Interpretation**

#### **1.** In this Schedule -

"contract of employment" means any agreement between an employee and his employer determining the terms and conditions of his employment;

"employee" means any individual who works for another person under a contract of service or apprenticeship or otherwise but does not include anyone who provides services under a contract for services;

"list of staff" has the meaning given by paragraph 2(1); and

"transfer date" has the meaning given in paragraph 2(1)(b).

### **List of staff**

**2.** - (1) In this Schedule, "list of staff" means a list marked with the words "The New Forest National Park Authority-List of Staff " which -

(a) includes a list of persons to be transferred to the Authority;

(b) includes the date on which those persons are to be transferred to the Authority ("the transfer date") provided that such date shall be within the transitional period; and

(c) is signed by the Secretary of State.

(2) A copy of every list of staff shall be deposited with the Authority and with each New Forest local authority.

### **Transfer of staff**

**3.** - (1) This paragraph applies to any person -

(a) whose name is included in a list of staff; and

(b) who, immediately before the transfer date included in that list of staff, was employed by a New Forest local authority under a contract of employment.

(2) The contract of employment of a person to whom this paragraph applies shall not be terminated on the transfer date but shall have effect as if originally made between that person and the Authority.

(3) This paragraph is without prejudice to any provision of the Transfer of Undertakings (Protection of Employment) Regulations 1981[[11](#)].

## SCHEDULE 3

### Article 16

#### APPLICATION OF ENACTMENTS AND INSTRUMENTS

##### PART 1

##### ADMINISTRATION

###### **Members' allowances**

1. - (1) Section 175(3B) of the 1972 Act[12] (allowances for attending conferences and meetings) shall apply as if the Authority were a combined body all the members of which are representatives of local authorities.

(2) Section 177(1)(b) of the 1972 Act[13] (supplementary provisions) shall apply as if the Authority were a body specified in section 21(1) of the 1989 Act, as referred to in section 177(1)(a) of the 1972 Act.

###### **Financial administration**

2. Part VIII (financial administration) of the Local Government Finance Act 1988[14] ("the 1988 Act") shall apply as if -

(a) the Authority were a relevant authority for the purposes of that Part; and

(b) references to "commencement day" were references to 1st April 2005.

###### **Standing orders.**

3. - (1) The Local Authorities (Standing Orders) Regulations 1993[15] shall apply as if -

(a) in regulations 1 to 3 and Schedule 1, the Authority were a relevant authority within the meaning of regulation 1;

(b) in regulation 4 and Schedule 2, the Authority were a council mentioned in paragraph (1) of that regulation; and

(c) in paragraph 2 of Schedule 2, the reference to a meeting called under paragraph 3 of Schedule 12 to the 1972 Act were a reference to an extraordinary meeting of the Authority.

(2) Regulations 6 and 7 of the Local Authorities (Standing Orders) (England) Regulations 2001[16] shall apply as if the Authority were a local authority as mentioned in regulations 6 and 7 of those Regulations.

##### PART 2

##### MISCELLANEOUS FUNCTIONS

### **New Forest Act 1949**

4. - (1) Section 1(c) of the New Forest Act 1949[17] (constitution of verderers) shall apply as if for "one by the authority which is the local planning authority for the purposes of the Town and Country Planning Act, 1947"[18] there were substituted "one by the New Forest National Park Authority as established by article 3 of the New Forest National Park Authority (Establishment) Order 2005".

(2) Section 16 of the New Forest Act 1949 (trunk roads) shall apply as if -

(a) in subsection (5) for "local planning authority" in paragraphs (a) and (b) there were substituted "New Forest National Park Authority"; and

(b) in subsection (6) for "local planning authority" there were substituted "New Forest National Park Authority".

### **Water**

5. - (1) Schedule 11 to the Water Industry Act 1991[19] shall apply as if the Authority were a local authority for the purposes of paragraph 1(3)(b) of that Schedule (persons to be notified of a compulsory works order application).

(2) The Water Resources Act 1991[20] shall apply as if -

(a) the Authority were a local authority for the purposes of section 72(2) (a) of that Act (interpretation of Chapter II); and

(b) the Authority were a local authority for the purposes of section 158(1) (works agreements), section 197(5) (information), and paragraph 2(3)(a) of Schedule 5 (procedure) to that Act.

### **Transport and Works Act 1992**

6. The Transport and Works Act 1992[21] shall apply as if the Authority were a local authority for the purposes of section 11(4) of that Act (inquiries and hearings).

### **Commons**

7. The Commons (Schemes) Regulations 1982[22], to the extent that they relate to land within the New Forest National Park, shall apply -

(a) as if the Authority were a council for the purposes of those Regulations; and

(b) as if in forms 1 and 2 in the Schedule to those Regulations references to the Authority were substituted for references to the Council.

### **Areas of archaeological importance**

8. The Operations in Areas of Archaeological Importance (Forms of Notices etc.) Regulations 1984[23] shall apply in relation to any area of archaeological importance wholly or partly within the New Forest National Park as if for each reference to a district council there were substituted a reference to the Authority.

### **Disposal of abandoned vehicles**

9. The Removal and Disposal of Vehicles Regulations 1986[24] shall apply as if the Authority were a council of a county for the purposes of regulation 12(1)(aa) and as if the New Forest National Park were that council's area.

### **Listed building purchase notices**

10. The Planning (Listed Buildings and Conservation Areas) Regulations 1990[25] shall apply as if -

(a) the reference in regulation 9(1) (claims for compensation and listed building purchase notices) to the council of a district included a reference to the Authority; and

(b) the purchase notice referred to in paragraph (2) of the form set out in Part II of Schedule 1 (refusal of consent etc.) were, in the case where the land is situated in the New Forest National Park, to be served on the Authority.

### **Conservation (natural habitats)**

11. The Conservation (Natural Habitats &c.) Regulations 1994[26] shall apply as if the definition of "local authority" in regulation 6(3) (competent authorities) included a reference to the Authority.

### **Town and country planning**

12. The Town and Country Planning General Regulations 1992[27] shall apply as if the reference to the council of a district in regulation 12(1) (claims for compensation and purchase notices) included a reference to the Authority.

13. The Town and Country Planning (General Development Procedure) Order 1995[28] shall apply as if the reference to the district council in the final paragraph of the notification set out in Part 2 of Schedule 1 to that Order were, where the land is situated in the New Forest National Park, a reference to the Authority.

## SCHEDULE 4

### Article 17

## TRANSITIONAL AND SUPPLEMENTAL PROVISION

### **Access to the countryside**

1. Notwithstanding section 1(2) of the 2000 Act[29] (interpretation), the Authority shall become the access authority for the purposes of Part I of that Act in relation to land in the New Forest National Park on the operational date and until that date the local highway authority (within the meaning of section 45(1) of that Act) in whose area the land is situated shall continue to be the access authority for those purposes.

2. Notwithstanding section 21(5) of the 2000 Act[30] and subject to section 21(6) of that Act, the Authority shall become the relevant authority for the purposes of Chapter II of Part I of the 2000 Act (exclusion or restriction of access) on the operational date and until that date the Countryside Agency shall

be the relevant authority for those purposes.

**3.** Notwithstanding section 94(2)(b) of the 2000 Act (local access forums), the Authority shall become the appointing authority for the area of the New Forest National Park on the operational date and until that date the local highway authority (within the meaning of that section) for any area within the New Forest National Park shall continue to be the appointing authority for that area.

#### **Disclosure of officers' interests**

**4.** For the purposes of section 117 of the 1972 Act [31] (disclosure by officers of interest in contracts) any contract -

(a) which was entered into by a New Forest local authority, and

(b) to which the Authority becomes a party by virtue of this Order or any provision made under Part III of the 1995 Act,

shall be treated as a contract entered into by the Authority.

#### **Application of directions etc. to the Authority**

**5.** Where under any provision relating to any relevant functions the Secretary of State is empowered to give directions or issue guidance to a New Forest local authority, or is otherwise empowered to make a decision on such functions in relation to such an authority, that power may be exercised during the transitional period in relation to the Authority to the extent that it is consistent with the powers and duties conferred and imposed on the Authority.

#### **Duty of New Forest local authorities to assist the Authority**

**6.** Each New Forest local authority shall provide the Authority with such assistance and information as the Authority may reasonably request for the purposes of discharging any of its functions.

#### **Access to information**

**7.** - (1) The right conferred by this paragraph shall be exercisable by the Authority against any New Forest local authority.

(2) Upon giving reasonable notice, the Authority shall have the right at all reasonable times to inspect and take copies of recorded information to which access is reasonably required for the proper discharge of its functions, wherever, and in whatever form, such information may be held.

(3) The New Forest local authority against whom the right is exercised shall supply all such information and assistance as may reasonably be required.

(4) The duty imposed under this paragraph is in addition to the duty imposed by paragraph 6 or any other duty imposed upon a New Forest local authority.

#### **Registers and similar records required to be maintained.**

**8.** - (1) This paragraph applies where the Authority does not, or will not, receive from a New Forest local authority all of the material comprised in any register maintained by that local authority so far as relevant to the New Forest National Park.

(2) Upon giving reasonable notice, the Authority shall at all reasonable times be entitled to access to such material as is referred to in sub-paragraph (1)

which it has not received, or will not receive, to enable copies to be taken or information extracted.

(3) In fulfilling its obligation to maintain a register, the Authority may incorporate with any material copied or extracted in accordance with subparagraph (2) a certificate that it is a true copy of, or extract from, the register from which it has been copied or extracted and thereafter the certified copy or extract may be maintained as the register, or as the case may be, part of the register, that the Authority is required to maintain.

(4) Nothing in this paragraph shall affect the operation of any other provision in relation to any register which the Authority is required to maintain.

(5) For the purposes of this paragraph "register" means any register, map, list or other document of whatever form and in whatever medium which a local authority is required to maintain.

### **Interim monitoring officer**

9. - (1) If, at the time of the holding of the first meeting of the Authority in accordance with paragraph 1 of Schedule 1 to this Order, the Authority is not in a position to designate a monitoring officer as required by section 5(1) of the 1989 Act[32] (designation and reports of monitoring officer), it shall appoint an interim monitoring officer in accordance with the provisions of this paragraph.

(2) The obligation of the Authority to have an interim monitoring officer shall continue until the designation of a monitoring officer by the Authority under section 5(1) of the 1989 Act.

(3) Subject to the provisions of this paragraph, section 5 of the 1989 Act (designation and reports of monitoring officer) and Part III of the Local Government Act 2000[33] (conduct of local government members and employees) shall apply to the interim monitoring officer in the same way as they apply to a monitoring officer, and the interim monitoring officer shall, for all purposes, be treated as the Authority's monitoring officer.

(4) The interim monitoring officer shall be paid such remuneration and allowances (if any) as the Authority think fit.

(5) The duties of the interim monitoring officer shall be performed by him personally.

(6) The Authority shall not appoint as its interim monitoring officer a person who holds any other paid office or employment with the Authority.

(7) During the period of his appointment the interim monitoring officer shall not be appointed to any other paid office or employment with the Authority.

(8) Any person who ceases to be the interim monitoring officer shall be disqualified from being appointed to any paid office or employment with the Authority until 1st April 2006.

(9) A member of the Authority shall be disqualified from being appointed as the interim monitoring officer for the Authority.

(10) The Authority may revoke the appointment of the interim monitoring officer if -

- (a) he becomes bankrupt or makes an arrangement with his creditors; or
- (b) he is, in the opinion of the Authority, unable or unfit to discharge his duties.

(11) If the appointment of the interim monitoring officer is ended other than by reason of the designation of a monitoring officer, the Authority shall, unless it designates a monitoring officer, appoint a further person to be the interim monitoring officer and the provisions of this paragraph shall have effect in relation to that further appointment.

### **Codes of conduct**

**10.** Section 51 of the Local Government Act 2000 shall have effect as if -

(a) in subsection (1) for "a relevant authority, before the end of the period of six months beginning with the day on which the first order under section 50 which applies to them is made" there were substituted " the New Forest National Park Authority, before the end of the period of six months beginning with the establishment date"[\[34\]](#); and

(b) in subsection (2) for "a relevant authority, before the end of the period of six months beginning with the day on which any subsequent order under section 50 which applies to them is made" there were substituted "the New Forest National Park Authority, before the end of the period of six months beginning with the day on which any order under section 50, which applies to that Authority, is made after the establishment date".

### **Best value performance plans**

**11.** Notwithstanding section 6(1) of the Local Government Act 1999[\[35\]](#), the Authority shall not be required to prepare a best value performance plan for the financial year beginning with 1st April 2005.

### **Planning and compulsory purchase**

**12.** Notwithstanding section 37(5) of the Planning and Compulsory Purchase Act 2004[\[36\]](#) (interpretation), the Authority shall become the local planning authority for the area of the New Forest National Park for the purposes of Part 2 of that Act (local development) on the operational date, and until that date section 37(4) of that Act shall continue to apply in respect of the area of that National Park.

### **Members' Allowances**

**13.** - (1) The Local Authorities (Members' Allowances) (England) Regulations 2003[\[37\]](#) (in this paragraph referred to as "the 2003 Regulations") shall apply to the Authority from the establishment date subject to the following sub-paragraphs.

(2) Notwithstanding regulation 10 of the 2003 Regulations, the Authority shall, on or before 30th June 2005, make a scheme in accordance with those Regulations for the year ending 31st March 2006.

(3) The scheme made by the Authority as required by sub-paragraph (2) may make provision for any allowance payable in accordance with that scheme to be payable as if the scheme had been in force on and after the establishment date.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

The New Forest National Park ("the Park") was designated on 24th January 2002 under Part II of the National Parks and Access to the Countryside Act 1949. The designation was confirmed with modifications on 1st March 2005 and took effect on that date.

This Order establishes the New Forest National Park Authority ("the Authority") for the area of the Park and specifies the time when the Authority becomes the local planning authority for the Park.

In particular, this Order makes provision for -

the establishment of the Authority on 1st April 2005 (article 3);

the membership of the Authority. There shall be 22 members, 10 of whom are to be appointed by the Secretary of State (4 of those members being parish members), and 12 to be appointed by the local authorities for the area of the Park (article 4);

meetings and proceedings of the Authority (article 10 and Schedule 1);

reports, returns and accounts (articles 12 and 13);

staff (article 14 and Schedule 2);

specifying 1st April 2006 for the purposes of section 4A of the Town and Country Planning Act 1990 (article 15). On this date the Authority becomes, for most purposes, the sole local planning authority for the Park. (Also on this date, in consequence of sections 68 to 70 of the Environment Act 1995 the Authority takes on various other statutory functions including planning authority functions under the National Parks and Access to the Countryside Act 1949, the Countryside Act 1968 and the Wildlife and Countryside Act 1981);

applying various enactments and instruments to the Authority (article 16 and Schedule 3); and

transitional and supplemental matters (article 17 and Schedule 4).

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from the Department for Environment, Food and Rural Affairs at Zone 1/04, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6EB and is also available at <http://www.defra.gov.uk/>

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*Notes:*

[1] 1990 c.8; section 4A was inserted by section 67(1) of the Environment Act

1995 (c.25).[back](#)

[2] 1995 c.25.[back](#)

[3] 1972 c.70.[back](#)

[4] 1989 c.42.[back](#)

[5] 2000 c.37.[back](#)

[6] The New Forest National Park was designated by order of the Countryside Agency on 24th January 2002 under section 7 of, and Schedule 1 to, the National Parks and Access to the Countryside Act 1949 (c.97); that order was confirmed with modifications by the Minister under paragraph 2 of Schedule 1 to that Act on 1st March 2005 and took effect on that date.[back](#)

[7] Section 230 of the 1972 Act applies to the Authority by virtue of paragraph 17(2)(c) of Schedule 7 to the 1995 Act.[back](#)

[8] Inserted by section 1 of the Local Government (Access to Information) Act 1985 (c.43).[back](#)

[9] 1971 c.80.[back](#)

[10] Paragraph 45 of Schedule 12 to the 1972 Act is applied to a National Park authority by paragraph 12 (1)(a) of Schedule 7 to the 1995 Act.[back](#)

[11] S.I. 1981/1794, amended by the Trade Union Reform and Employment Rights Act 1993 (c.19) and S.I. 1995/2587; there are other amending instruments but none is directly relevant to this Order.[back](#)

[12] Subsection (3B) is inserted by section 25(3) of the Local Government, Planning and Land Act 1980 (c.65), and amended by paragraph 27(b) of Schedule 11 to the 1989 Act. Section 175 applies to National Park authorities by virtue of paragraph 11(1) of Schedule 7 to the 1995 Act.[back](#)

[13] Section 177(1) was substituted by paragraph 28 of Schedule 11 to the 1989 Act.[back](#)

[14] 1988 c.41.[back](#)

[15] S.I. 1993/202, amended by S.I. 2001/3384.[back](#)

[16] S.I. 2001/3384.[back](#)

[17] 1949 c.69.[back](#)

[18] To be construed as a reference to the local planning authority within the meaning of section 336(1) of the Town and Country Planning Act 1990 (c.8) (section 2(4) of the Planning (Consequential Provisions) Act 1990 (c.11)).[back](#)

[19] 1991 c.56.[back](#)

[20] 1991 c.57.[back](#)

[21] 1992 c.42.[back](#)

[22] S.I. 1982/209. Paragraph 1 of Schedule 9 to the 1995 Act provides that section 1 of the Commons Act 1899 (c.30) (scheme for regulation) shall have effect in relation to a registered common as if a National Park authority were a

local authority for the purposes of that enactment.[back](#)

[23] S.I. 1984/1285. Paragraph 10(2) of Schedule 9 to the 1995 Act provides that section 35 of the Ancient Monuments and Archaeological Areas Act 1979 (c.46) (archaeological areas) shall have effect as if any notice required to be served on a local authority under that section were required to be served, instead, on a National Park authority.[back](#)

[24] S.I. 1986/183. Paragraph 9(1) of Schedule 9 to the 1995 Act provides that references to a local authority in the Refuse Disposal (Amenity) Act 1978 (c.3) shall have effect in relation to land in a National Park for which a National Park authority is the local planning authority as if they included references to that authority and as if the relevant Park were the authority's area.[back](#)

[25] S.I. 1990/1519. Paragraph 33 of Schedule 10 to the 1995 Act makes a National Park authority a body on whom a listed building purchase notice may be served where it is the local planning authority for the area in which the building and land in question are situated.[back](#)

[26] S.I. 1994/2716.[back](#)

[27] S.I. 1992/1492.[back](#)

[28] S.I.1995/419. Section 67(5) of the 1995 Act inserts section 147A of the Town and Country Planning Act 1990 (c.8) which applies Chapter I of Part VI of that Act to National Park authorities.[back](#)

[29] *See* the definition of "access authority".[back](#)

[30] *See* the definition of "relevant authority" .[back](#)

[31] Section 117 applies to the New Forest National Park Authority by virtue of paragraph 13(6) of Schedule 7 to the 1995 Act.[back](#)

[32] Section 5 of the 1989 Act is applied to a National Park authority by paragraph 13(7)(b) of Schedule 7 to the 1995 Act.[back](#)

[33] 2000 c.22.[back](#)

[34] A model code of conduct for National Park authorities was issued under the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001 (S.I. 2001/3577) amended by S.I. 2002/1719.[back](#)

[35] 1999 c.27.[back](#)

[36] 2004 c.5.[back](#)

[37] S.I. 2003/1021 to which there are amendments not relevant to this Order.[back](#)

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