



# New Forest Act 1877

## 1877 CHAPTER cxxi 40 and 41 Vict

### *Legal Proceedings*

**33 Every verderer to have powers, &c. as if he were a justice of the peace, and court of swainmote to be deemed court of petty sessions.**

Each of the verderers as constituted under this Act shall, for all the purposes of his office, have the same powers and jurisdiction as if he were a justice of the peace acting in and for the Forest, and such Forest were a county; and a court of swainmote when transacting judicial business shall have the same power and jurisdiction as if it were a court consisting of two or more justices of the peace, sitting for the transaction of business within the purview of their commissions as justices at some court or other public place at which justices are for the time being accustomed to assemble for holding special or petty sessions, and as if the Forest were a petty sessional division. Where any seal is required to be affixed to any summons, warrant, conviction, or other document in pursuance of the Summary Jurisdiction Act in this Act mentioned, the seal of the verderers shall be deemed to be a proper and sufficient seal.

**34 Recovery of fines.**

Every sum of money which the verderers are empowered to collect or levy under this Act may be recovered as a fine, and all offences and fines capable of being prosecuted or recovered before a court of swainmote or before the verderers or any two of them, or the verderers in their court of attachments, shall be prosecuted and recovered in manner provided by the [<sup>F1</sup>Magistrates' Courts Act 1980].

The expression "the Summary Jurisdiction Act" means the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," inclusive of any Acts amending the same.

#### **Textual Amendments**

**F1** Words substituted by virtue of [Magistrates' Courts Act 1980 \(c. 43\)](#), [Sch. 8 para. 5](#)

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*Changes to legislation: There are currently no known outstanding effects for the New Forest Act 1877, Cross Heading: Legal Proceedings. (See end of Document for details)*

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**Modifications etc. (not altering text)**

- C1** The text of the definition of “the Summary Jurisdiction Act”, now spent, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Marginal Citations**

- M1** 1980 c. 43.

**35 Disobedience to order of court of swainmote.**

Any person disobeying any summary order of a court of swainmote made in pursuance of this Act shall incur a fine not exceeding one pound for every day during which such disobedience continues; moreover, if any person so in default persists in disobeying any requirement of any such order for a period of not less than seven days or such other period less than seven days as may be prescribed by such order, the court may, in addition to any fine it may impose, appoint any person or persons to carry into effect such order, and all expenses incurred by any such person or persons to such amount as may be allowed by the court shall be deemed to be a debt due from the person in default to the person or persons executing such order, and may be recovered accordingly as a fine in the court of swainmote.

**36 Appeal from decision of court of swainmote.**

Any person aggrieved by a decision of a court of swainmote under this Act may appeal therefrom, subject to the conditions and regulations following:

- (1) The appeal shall be made to [<sup>F2</sup>the Crown Court] not less than twenty-one days after the giving of the decision from which the appeal is made; and
- (2) The appellant shall, within ten days after the giving of the decision from which the appeal is made, give notice in manner prescribed by the verderers to the other party and to the court of swainmote of his intention to appeal, and the ground thereof; and
- (3) The appellant shall, within three days after giving such notice, enter into a recognizance before a justice of the peace, with two sufficient sureties, conditioned to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court, or give such other security, by deposit of money or otherwise, as the justice may allow; and
- (4) Where the appellant is in custody the justice may, if he think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody;
- (5) The [<sup>F3</sup>Crown Court] may adjourn the appeal, and upon the hearing thereof [<sup>F3</sup>the Court] may confirm, reverse, or modify the decision of the court of swainmote, or remit the matter to the court, with the opinion of [<sup>F3</sup>the Crown Court] thereon, or make such other order in the matter as the court thinks just. The [<sup>F3</sup>Crown Court] may also make such order as to costs to be paid by either party as the court thinks just.

**Textual Amendments**

- F2** Words substituted by virtue of Courts Act 1971 (c. 23), Sch. 8 Pt. I para. 2

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**Changes to legislation:** *There are currently no known outstanding effects for the New Forest Act 1877, Cross Heading: Legal Proceedings. (See end of Document for details)*

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**F3** Words substituted by virtue of [Courts Act 1971 \(c. 23\)](#), [Sch. 8 Pt. I para. 2](#)

### **37 Exclusion of certiorari.**

An order or conviction made by a court of swainmote shall not be quashed for want of form, and shall not be removed by certiorari or otherwise, at the instance either of the Crown or of any private party, into any superior court.

Provided that nothing in this section shall prevent the removal of a special case stated for the opinion of a superior court, or of any order or conviction to which such case relates. Moreover, no warrant of commitment shall be held void by reason of any defect therein, provided that there is a valid conviction to maintain such warrant, and it is alleged in the warrant that the party has been convicted.

**Changes to legislation:**

There are currently no known outstanding effects for the New Forest Act 1877, Cross Heading: Legal Proceedings.