



New Forest Act 1964

1964 CHAPTER 83

An Act to alter the perambulation of the New Forest, to make further provision for the New Forest, to amend the New Forest Acts 1877 to 1949 and for purposes connected with the matters aforesaid. [31st July 1964]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Alteration of perambulation of New Forest

- (1) (a) Subject to the provisions of this Act the perambulation of the New Forest shall be altered so as to include the areas shown coloured pink on the deposited plans (hereinafter referred to as " the added areas ") and so as to exclude the areas shown coloured green on the said plans (hereinafter referred to as " the excluded areas ").
(b) The perambulation of the New Forest as altered by paragraph (a) of this subsection shall be that shown by the inner edge of the red line on the deposited plans.
- (2) The powers of the verderers under the New Forest Acts 1877 to 1949 and the provisions of the byelaws made by the verderers under those Acts and for the time being in force shall extend and apply within the added areas and shall cease to apply within the excluded areas.
- (3) The byelaws made from time to time by the Forestry Commissioners under section 2 of the Forestry Act 1927 with respect to the New Forest shall subject to the provisions of that section and of section 16(3) of this Act apply to any lands within the added areas over which rights of common of pasture exist.
- (4) Subject to the provisions of this Act the lands which are designated on the additional plans certified under section 4(4) of the New Forest Act 1949 (hereinafter referred to as " the Act of 1949 ") as extended by section 2(3) of this Act as lands to which are attached rights of common of pasture or a privilege of pasture over any part of the

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added areas shall be treated as lands to which are attached rights of common of pasture within the perambulation of the New Forest as altered by this Act.

- (5) (a) In this Act " the deposited plans " means the plans deposited in connection with the Bill for this Act in the office of the Clerk of the Parliaments House of Lords and in the Private Bill Office of the House of Commons and with the Clerk of the Hampshire County Council and the Clerk of the Wilts County Council on 25th November 1963 and the plan so deposited on 24th February 1964 and "the deposited book of reference " means the book of reference to the deposited plans deposited in the offices and with the Clerks aforesaid on 25th November 1963 containing the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of the land which may be used under the provisions of section 3 of this Act.
- (b) The sheet numbered 2 in the plans deposited in the offices and with the Clerks aforesaid on 25th November 1963, having been superseded by the plan so deposited on 24th February 1964, shall be deemed to be omitted from the said plans.

2 Designation of additional lands entitled to rights of common of pasture, etc.

- (1) In this section " the additional plans " means the plans referred to in subsection (2) of this section.
- (2) The Forestry Commissioners shall, after consultation with the owners of lands within the added areas over which rights of common of pasture exist or over which a privilege of pasture was exercisable on 1st December 1963, prepare additional plans designating the lands to which are attached rights of common of pasture over any part of the added areas, specifying in relation to the lands the rights attached thereto respectively and also designating the lands to which a privilege of pasture over any part of the added areas was attached on 1st December 1963 specifying in relation to the lands the nature of that privilege.
- (3) The provisions of section 4(2), 4(3) and 4(4) of the Act of 1949 shall extend and apply for the purpose of regulating the manner in which the additional plans are to be brought to the notice of persons concerned, the manner in which any objection to the additional plans is to be determined and the manner in which copies of the additional plans are to be certified.
- (4) The copies of the additional plans certified under section 4(4) of the Act of 1949 as extended by the last foregoing subsection shall be conclusive for all purposes whether any, and if so what, rights of common of pasture are attached to any land shown on the additional plans and whether any, and if so what, privilege of pasture is attached to any such land.
- (5) One of the said copies of the additional plans shall be deposited and kept at the Public Record Office, and the other shall be kept at the office of the verderers and shall be available for inspection at all reasonable times on payment of such fee not exceeding one shilling as the verderers may determine.

3 Fencing, etc.

- (1) In this section " the hatched areas " means the lands shown hatched black on the deposited plans and described in the deposited book of reference.

- (2) Notwithstanding anything in any other enactment or any right of the commoners, the verderers may on a presentment and with the consent of the Minister of Agriculture, Fisheries and Food (hereinafter referred to as " the Minister ") erect a fence or fences along or adjacent to the perambulation of the New Forest as altered by this Act for the purpose of containing animals within the perambulation of the New Forest as so altered and regulating access by animals thereto:

Provided that:—

- (a) the powers conferred upon the verderers by this subsection shall only be exercisable on land forming part of the open waste lands of the Forest or on land within the hatched areas;
 - (b) the verderers shall exercise their powers under this subsection with due regard to the interests of amenity;
 - (c) the verderers shall not exercise their powers under this subsection within the prescribed distance from the centre line of any highway which consists of or comprises a made-up carriageway as defined by the Highways Act 1959 without the consent of the highway authority and otherwise than in accordance with such conditions as they may impose.
 - (d) in exercising their powers under this subsection the verderers shall provide to the satisfaction of the Minister sufficient gates to permit reasonable access by animals to land within the perambulation of the New Forest as so altered and sufficient gates or stiles to permit reasonable public access thereto on foot.
- (3) The verderers may with the consent of the Minister enter into such agreement with a highway authority as may be requisite for the purpose of securing the provision, alteration, improvement and maintenance of cattle-grids by that authority under the powers conferred by Part V of the Highways Act 1959.
- (4) Notwithstanding anything in any other enactment or any right of the commoners, the verderers may with the consent of the Minister erect drift fencing at such places within the open waste lands of the Forest and at such other places within the hatched areas as they consider expedient for reducing danger to animals from vehicular traffic and danger to such traffic from animals:

Provided that:—

- (a) the verderers shall exercise their powers under this subsection with due regard to the interests of amenity;
 - (b) the verderers shall not erect drift fencing within the prescribed distance from the centre line of any highway which consists of or comprises a made-up carriageway as defined by the Highways Act 1959 without the consent of the highway authority and otherwise than in accordance with such conditions as they may impose.
- (5) For the purposes of subsections (2) and (4) of this section the prescribed distance shall be thirty-five feet in the case of a trunk road and twenty-five feet in the case of any other highway.
- (6) Notwithstanding anything in any other enactment or any right of the commoners, where the verderers are satisfied that there is within the perambulation of the New Forest as altered by this Act an unfenced or inadequately fenced source of danger to persons or animals they may with the consent of the Minister erect such fencing as will obviate the danger:

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Provided that nothing in this subsection shall prejudice or derogate from the powers of a local authority under section 144 of the Highways Act 1959.

- (7) (a) In any case in which, under the powers conferred on them by the foregoing subsection, the verderers propose to erect fencing on or adjacent to any land they shall, before applying to the Minister for his consent, serve notice on the owner and occupier of such land (unless, in either case, his identity cannot after reasonable enquiry be ascertained) specifying their proposals and the period, which shall not be less than twenty-eight days, within which notice of objection to the proposals may be sent in writing to the verderers, and including notice of the right of appeal under paragraph (b) of this subsection.
- (b) (i) A person on whom notice is served under the foregoing paragraph may, within twenty-eight days after receiving the notice thereof, appeal to the Minister against the proposals to which the notice relates.
- (ii) An appeal under this paragraph shall be made by notice in writing to the Minister, which shall indicate the grounds of the objection; and on any such appeal the Minister shall,

if either the appellant or the verderers so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

- (8) The highway authority shall not unreasonably withhold their consent under the provisions of subsections (2) and (4) of this section and if any dispute arises as to whether their consent has been unreasonably withheld or as to the reasonableness of any conditions they have imposed the matter shall be referred to arbitration in the manner provided by section 17(8) of the Act of 1949.
- (9) Nothing in this section shall affect the powers and duties of any drainage authority as defined by the Land Drainage Act 1930 or the operation of any byelaw made by any such authority.

4 Fencing of road from Southampton to Christchurch

- (1) At any time after such date as the Minister of Transport may, on the application of the highway authority and in agreement with the Minister and the verderers, appoint by order, the highway authority shall, notwithstanding anything in any enactment or any right of the commoners, have power to enclose so much of the road from Southampton to Christchurch (A.35) as lies within the open waste lands of the Forest and any land transferred to them under section 17 of the Act of 1949 for the purposes of any of their functions as the highway authority for the said road:

Provided that—

- (a) the highway authority shall not under this subsection erect any fence above the level of the road except after consultation with the verderers and with due regard to the interests of amenity ;
- (b) the highway authority shall provide such crossings as appear to them, after consultation with the verderers, to be reasonably necessary for enabling animals at large in the Forest to pass under or round enclosures made in the exercise of their powers under this subsection;

- (c) in exercising their powers under this section the highway authority shall provide to the satisfaction of the Minister sufficient gates or stiles to permit reasonable public access to or across the said road on foot.
- (2) The highway authority in carrying out the enclosure authorised by the last foregoing subsection shall take such steps as appear to them, after consultation with the verderers, reasonably practicable for securing that after the completion of the enclosure animals will be prevented from entering or leaving the Forest along the said road:

Provided that in complying with this subsection the highway authority shall provide reasonable facilities for the passage of driven animals onto and off the Forest.

- (3) In respect of the power conferred by subsection (1) of this section, compensation shall be payable to the verderers for the interference with the exercise of the rights of the commoners, whether over the land authorised to be enclosed or other land, being compensation of such amount as may be determined by the Minister and the Minister of Transport after consultation with the verderers and the highway authority to represent the capital loss from the said interference, and in determining the said amount regard shall be had, among other matters, to the extent to which that interference will be lessened by the provision of crossings.
- (4) Compensation payable under the last foregoing subsection shall be payable on the date appointed under subsection (1) of this section.
- (5) The power to make an order conferred by subsection (1) of this section on the Minister of Transport shall be exercisable by statutory instrument.
- (6) The verderers shall not unreasonably withhold their agreement under the provisions of subsection (1) of this section and if any dispute arises as to whether their agreement has been unreasonably withheld the matter shall be referred to arbitration in the manner provided by section 17(8) of the Act of 1949.

5 Means of access to New Forest

- (1) In this section the expression " structure " means a wall, fence or similar erection and the expression " means of access " has the same meaning as in section 221 of the Town and Country Planning Act 1962.
- (2) Without prejudice to the provisions of any other enactment, where a structure or hedge is for the time being situated along or adjacent to or forms part of the perambulation of the New Forest as altered by this Act no such structure or hedge shall be altered so as to provide or enlarge a means of access to places within the said perambulation unless there shall have been provided in connection with such means of access to the satisfaction of the verderers and in accordance with such conditions as they may impose a cattle-grid or such other works (if any) for preventing or restricting the passage of animals as may be required by the verderers.
- (3) Any cattle-grid or other works provided under the provisions of the foregoing subsection shall be maintained to the satisfaction of the verderers.
- (4) If any person contravenes the foregoing provisions of this section he shall be liable to a fine not exceeding fifty pounds; and the verderers may themselves provide or, as the case may be, maintain the cattle-grid or other works which should have been provided or maintained and recover the expenses of so doing from that person.

6 Amendment of section 18 of Act of 1949

Section 18(1) of the Act of 1949 shall have effect as if the following paragraph were added at the end thereof:—

“(e) with the agreement of the verderers authorise the appropriation by the Forestry Commissioners of land forming part of the open waste lands of the Forest for camping sites, the provision by the Forestry Commissioners or their agents on such land for the use of those occupying such camping sites of any services or facilities for their health or convenience, the erection by the Forestry Commissioners on such land of buildings or other works for use in connection with the provision of such services or facilities and the enclosure by the Forestry Commissioners of land so appropriated in so far as its enclosure is necessary to preserve the land for use for those purposes.”

7 Pannage time

Notwithstanding anything in any other enactment or in any decision given thereunder, the time of pannage in the Forest shall as from the passing of this Act cease to be the period from 25th September to 22nd November inclusive in each year but shall be such period not being less than sixty consecutive days as may be fixed by the Forestry Commissioners annually after consultation with the verderers.

8 Extension of section 15 of Act of 1949

The provisions of section 15 of the Act of 1949 shall extend so as to authorise the verderers to make arrangements for enclosing land in the Forest for the purpose of keeping in animals where by reason of severe weather conditions it is desirable to do so for the prevention of suffering and any land so enclosed shall be laid open so soon as it appears to the verderers that the severe weather conditions have come to an end.

9 Travelling expenses

The reasonable travelling expenses incurred by any verderer appointed under paragraph (c) of section 1 of the Act of 1949 in attending a court of swainmote or a court of verderers or any meeting of a committee thereof may be paid by the Minister or by the body making the appointment.

10 Creation, etc., of new ornamental woods

- (1) The verderers may on a presentment authorise the Forestry Commissioners to enclose any part of the open waste lands of the Forest for the purpose of creating new ornamental woods therein and of preserving and regenerating them from time to time and to carry out in enclosures made by virtue of this section such forestry operations as appear to them to be requisite:

Provided that no one enclosure made by virtue of this section shall exceed twenty acres in area and the total area of land enclosed under this section shall not exceed five hundred acres.

- (2) Any enclosure made by virtue of this section shall be laid open so soon as the verderers with the agreement of the Forestry Commissioners determine that to do so will not prejudice the purposes for which the enclosure was made.

- (3) For the purposes of giving effect to the requirements of section 8 of the New Forest Act 1877 that the ancient and ornamental woods in the Forest shall be preserved, the Forestry Commissioners shall after consultation with the verderers carry out in the unenclosed parts of those woods all such silvicultural maintenance works as may from time to time be necessary.

11 As to byelaws of Forestry Commissioners

The byelaws made from time to time by the Forestry Commissioners under section 2 of the Forestry Act 1927 with respect to the New Forest shall continue to apply—

- (a) to any land which has been or may be transferred under section 16 or section 17 of the Act of 1949 as if the transfer had never taken place ;
- (b) to any other land which may be enclosed under section 4 of this Act:

Provided that nothing in this section shall prejudice or derogate from any powers of a highway authority.

12 Amendment of New Forest Act 1877

Section 25 of the New Forest Act 1877 shall have effect as if for the words " two pounds " there were substituted the words " ten pounds " and as if the words " or in the case of a continuing offence the sum of ten shillings for every day during which such offence is continued after conviction for the first offence " were omitted therefrom.

13 Amendment of section 2 of Forestry Act 1927

Section 2(4) of the Forestry Act 1927 shall have effect in relation to byelaws made by the Forestry Commissioners with respect to the New Forest as if for the words " five pounds there were substituted the words " ten pounds ".

14 Expenses

- (1) The expenses of the Minister under this Act shall be defrayed out of moneys provided by Parliament.
- (2) The expenses of the Forestry Commissioners under this Act shall be defrayed out of the Forestry Fund.
- (3) Any increase attributable to the provisions of this Act in the sums payable out of moneys provided by Parliament by way of Rate-Deficiency Grant or Exchequer Equalisation Grant under the enactments relating to local government in England and Wales or in Scotland shall be defrayed out of moneys so provided.

- 15** (1) In the performance of their functions under the New Forest Acts 1877 to 1964 the Forestry Commissioners and the verderers shall have regard to the desirability of conserving flora, fauna and geological or physiographical features of special interest.
- (2) In this section " functions " includes powers and duties.

16 Saving for National Trust

- (1) In this section "The National Trust" means The National Trust for Places of Historic Interest or Natural Beauty.

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- (2) Except as provided by section 3 of this Act, nothing in this Act shall prejudice or derogate from any of the provisions of the National Trust Acts 1907 to 1953 or any byelaw made thereunder.
- (3) No byelaws made by the verderers Under the New Forest Acts 1877 to 1949 or by the Forestry Commissioners under section 2 of the Forestry Act 1927 and for the time being in force shall take away or injuriously affect any estate, interest, right of common or other right in, over or affecting any land held by The National Trust within the added areas without the consent of The National Trust.
- (4) In carrying out their duties under section 2(2) of this Act in relation to lands held by The National Trust within the added areas over which rights of common of pasture exist or over which a privilege of pasture was exercisable on 1st December 1963, the Forestry Commissioners shall not designate any lands without the consent of The National Trust, but such consent shall not be unreasonably withheld and if any dispute arises as to whether such consent has been unreasonably withheld the matter shall be determined by the Minister.
- (5) In exercising their powers under section 3(2) of this Act in relation to lands held by The National Trust the verderers shall provide to the satisfaction of The National Trust sufficient stiles to permit reasonable public access to such lands on foot.
- (6) The verderers shall not exercise their powers under section 3(4) or 3(6) of this Act on lands held by The National Trust without the consent of The National Trust.

17 Short title, construction and citation

- (1) This Act may be cited as the New Forest Act 1964.
- (2) This Act shall be construed as one with the New Forest Act 1877 and this Act and the New Forest Acts 1877 to 1949 may be cited together as the New Forest Acts 1877 to 1964.

TABLE OF STATUTES REFERRED TO IN THIS ACT

Short Title	Session and Chapter
New Forest Act 1877	40 & 41 Vict. c. cxxi.
Forestry Act 1927	17 & 18 Geo. 5. c. 6.
Land Drainage Act 1930	20 & 21 Geo. 5. c. 8.
New. Forest Act 1949	12, 13 & 14 Geo. 6. c. 69.
Highways Act 1959	7 & 8 Eliz. 2. c. 25.
Town and Country Planning Act 1962	10 & 11 Eliz. 2. c. 38.