



New Forest Act 1964

1964 CHAPTER 83

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

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[^{F1}Secretary of State for 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.

Textual Amendments

F1 Words in s. 4(3) substituted (25.11.2002) by [S.I. 2002/2626](#), art. 20, [Sch. 2 para. 3](#)

Modifications etc. (not altering text)

C1 1.4.1966 appointed under s. 4(1) by [S.I. 1966/182](#)

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