New Forest Act 1970

1970 CHAPTER 21

1 Provision of facilities by Forestry Commissioners in New Forest.

(1) This section applies to any land forming part of the open waste lands of the Forest, and any land for the time being enclosed by virtue of section 18 of the [M1]New Forest Act 1949, as amended by section 6 of the [M2]New Forest Act 1964.

(2) The powers of the Forestry Commissioners (hereinafter referred to as "the Commissioners") under subsection (2) of section 23 of the [M3]Countryside Act 1968 shall not be exercised in relation to land to which this section applies except with the agreement of the verderers.

(3) (a) The Commissioners may with the agreement of the verderers enclose land forming part of the open waste lands of the Forest which is used for any purpose mentioned in the said subsection (2) insofar as its enclosure is necessary to preserve the land for use for that purpose, to preserve buildings, equipment or works erected, provided or constructed under the provisions of that subsection or to protect vehicles parked on any parking place provided thereunder.

(b) Land enclosed by virtue of this subsection shall be held free from all rights of the commoners, and anything authorised to be done under this section may be done notwithstanding that it interferes with such rights.

(4) As soon as may be after the end of each year in which the powers of subsection (3) of this section have been exercised, the Commissioners shall ascertain the area of land in the Forest subject to rights of the commoners which have been abrogated or diminished in consequence of the exercise of such powers during that year, and shall pay to the verderers such compensation in respect of the interference with the said rights of the commoners as the Commissioners may after consultation with the verderers determine.

Marginal Citations

M1 1949 c. 69.

M2 1964 c. 83.

Changes to legislation: *There are currently no known outstanding effects for the New Forest Act 1970. (See end of Document for details)*

M3 1968 c. 41.

2 Fencing of road from Cadnam to Lymington.

(1) At any time after such date as the **[**[F1]Secretary of State for Transport**]** may, on the application of the highway authority and in agreement with the **[**[F2]Secretary of State for Environment, Food and Rural Affairs**]** (hereinafter referred to as "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 Cadnam to Lymington (A.337) as lies within the open waste lands of the Forest and any land transferred to them under section 17 of the [M4]New Forest Act 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 by the highway authority 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 **[**[F3]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 **[**[F1]Secretary of State for 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 [M5]New Forest Act 1949.

Textual Amendments

F1 Words substituted by virtue of S.I. 1981/238, **art. 3(4)**

F2 Words in s. 2(1) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 17(2)** (with arts. 5(3), 6)

F3 Words in s. 2(3) substituted (25.11.2002) by The Transfer of Functions (Transport, Local Government and the Regions) Order 2002 (S.I. 2002/2626), art. 20, **Sch. 2 para. 6**

Marginal Citations

M4 1949 c. 69.

M5 1949 c. 69.

3 Improvement of grazing.

The powers of the verderers under section 23 of the [M6]New Forest Act 1877 shall include power on a presentment and with the agreement of the Commissioners to take such steps as they may consider necessary for the improvement of grazing upon any land forming part of the open waste lands of the Forest.

Marginal Citations

M6 1877 c. cxxi.

4 Amendment of section 5 of Countryside Act 1968.

Section 5 of the [M7]Countryside Act 1968 shall have effect as if in subsection (5) thereof there were inserted after the words "the National Trust"the words "or the Verderers of the New Forest".

Modifications etc. (not altering text)

C1 The text of s. 4 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

M7 1968 c. 41.

5 Expenses.

(1) The expenses of the Minister under this Act shall be defrayed out of moneys provided by Parliament.

(2) The expenses of the Commissioners under this Act shall be defrayed **[**[F4]in accordance with section 41 of the Forestry Act 1967**]**.

(3) Any increase attributable to the provisions of this Act in the sums payable out of moneys provided by Parliament by way of rate support grant under the enactments relating to local government in England and Wales [F5]... shall be defrayed out of moneys so provided.

Textual Amendments

F4 Words in s. 5(2) substituted (16.3.2000) by S.I. 2000/746, art. 2, **Sch. para. 7**

F5 Words in s. 5(3) omitted (1.4.2019) by virtue of The Forestry and Land Management (Scotland) Act 2018 (Consequential Provisions and Modifications) Order 2019 (S.I. 2019/734), reg. 1(2), **Sch. para. 50**; S.S.I. 2019/47, reg. 2

6 Short title, construction and citation.

(1) This Act may be cited as the New Forest Act 1970.

(2) This Act shall be construed as one with the New Forest Act 1877 and this Act and the New Forest Acts 1877 to 1964 may be cited together as the New Forest Acts 1877 to 1970.

Changes to legislation:
There are currently no known outstanding effects for the New Forest Act 1970.