



New Forest Act 1949

1949 CHAPTER 69 12 13 and 14 Geo 6

16 Trunk roads.

- (1) The Minister may with the agreement of the verderers transfer to the [^{F1}Secretary of State for Transport] land in the Forest which is required by that [^{F1}Secretary of State] for the purposes of the Trunk Roads Acts, 1936 and 1946, in connection with any improvement or diversion of the trunk road from Cadnam to Ringwood as existing at the commencement of this Act (hereinafter referred to as “the existing trunk road”).
- (2) Where a transfer for which the agreement of the verderers is sought under the last foregoing subsection is of land exceeding [^{F2}0.40 hectare] in area, application for the agreement of the verderers shall be made by presentment.
- (3) The existing trunk road, and any land transferred to the [^{F1}Secretary of State for Transport] under this section, shall be deemed for the purposes of the said Acts of 1936 and 1946 to have been acquired by him under those Acts, and may be used by him in any manner requisite for the purpose of his functions under those Acts notwithstanding that the use thereof in that manner interferes with rights of the commoners.
- (4) In respect of the transfer of land under this section, compensation shall be paid to the Minister and to the verderers of such amount as may be determined by the [^{F3}the Secretary of State for Transport] after consultation with the verderers, being, in the case of compensation to the verderers, the amount so determined to represent the capital loss from the interference with the rights of the commoners.
- (5) At any time after such date as the [^{F1}Secretary of State for Transport] may by order appoint he shall, notwithstanding anything in the Act of 1877 or any right of the commoners, have power to enclose the existing trunk road and any land transferred to him under this section, whether it was transferred before or after the said date:
Provided that—
 - (a) the [^{F1}Secretary of State for Transport] shall not under this subsection erect any fence above the level of the road except after consultation with the verderers and the local planning authority for the purposes of the [^{F4M1}Town and Country Planning Act 1971], and with due regard to the interests of amenity;
 - (b) the [^{F1}Secretary for State for Transport] shall provide such crossings as appear to him, after consultation with the verderers and the said local planning

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authority, to be reasonably necessary for enabling animals at large in the Forest to pass under or round enclosures made in the exercise of his powers under this subsection.

- (6) The [^{F1}Secretary of State for Transport] shall in carrying out the enclosure authorised by the last foregoing subsection take such steps as appear to him, after consultation with the verderers and the said local planning authority, reasonably practicable for securing that after the completion of the enclosure animals will be prevented from entering and leaving the Forest along the road:
Provided that in complying with this subsection the [^{F1}Secretary of State for Transport] shall provide reasonable facilities for the passage of driven animals onto and off the Forest.
- (7) In respect of the power conferred by the last foregoing subsection, 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 [^{F5}the Secretary of State for Transport] after consultation with the verderers 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.
- (8) Compensation payable under subsection (4) of this section shall be payable on the transfer giving rights to the compensation, and compensation payable under the last foregoing subsection shall be payable on the date appointed under subsection (5) of this section.
- (9) If under the said Acts of 1936 and 1946 the existing trunk road is altered so as to include any part of another road in the Forest, and thereby any land in the Forest vests in the [^{F1}Secretary of State for Transport], the foregoing provisions of this section shall apply as if the land had then been transferred to him under subsection (1) of this section:
Provided that—
- (a) no compensation shall be payable to the Minister; and
 - (b) in determining compensation to the verderers the [^{F6}the Secretary of State for Transport] shall have regard to the extent to which the rights of the commoners had been interfered with by reason of the existence of the said other road before it became part of the trunk road as well as to the other matters to which under the foregoing provisions of this section they are required to have regard.
- (10) Any compensation payable under this section shall be paid out of [^{F7}moneys provided by Parliament.]

Textual Amendments

- F1** Words substituted by virtue of S.I. 1981/238, **art. 3(4)**
- F2** Words substituted by S.I. 1979/836, **Sch. para. 5(6)**
- F3** Words in s. 16(4) substituted (25.11.2002) by S.I. 2002/2626, art. 20, **Sch. 2 para. 1(2)**
- F4** Words substituted by virtue of Interpretation Act 1889 (c. 63), s. 38(1)
- F5** Words in s. 16(7) substituted (25.11.2002) by S.I. 2002/2626, art. 20, **Sch. 2 para. 1(2)**
- F6** Words in s. 16(9)(b) substituted (25.11.2002) by S.I. 2002/2626, art. 20, **Sch. 2 para. 1(2)**
- F7** Words substituted by Miscellaneous Financial Provisions Act 1955 (4 & 5 Eliz. 2 c. 6), **Sch. 1**

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for the New Forest Act 1949, Section 16. (See end of Document for details)*

Modifications etc. (not altering text)

C1 S. 16 applied (with modifications) (24.3.2005) by [The New Forest National Park Authority \(Establishment\) Order 2005 \(S.I. 2005/421\)](#), arts. 16, 17, **Sch. 3 para. 4(2)** (with Sch. 4)

Marginal Citations

M1 1971 c. 78.

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