



New Forest Act 1949

1949 CHAPTER 69 12 13 and 14 Geo 6

17 Roads other than trunk roads.

- (1) Where a highway authority, other than the [^{F1}Secretary of State for Transport], require any land in the Forest for the purposes of any of their functions as a highway authority, they may apply to the verderers for their agreement to the transfer of the land to the highway authority, and if the agreement of the verderers is given the Minister may transfer the land to the authority and thereupon it shall vest in them.
- (2) Land transferred to a highway authority under the last foregoing subsection shall be deemed for the purposes of the enactments relating to their said functions to have been acquired by them under those enactments, and may be used by them in any manner requisite for the purposes of their said functions notwithstanding that the use thereof in that manner interferes with rights of the commoners; but nothing in this section shall authorise the fencing or other enclosure of the land.
- (3) In respect of the transfer of land under subsection (1) of this section compensation shall be paid by the highway authority to the Minister and the verderers respectively of the following amounts, that is to say—
 - (a) in the case of the Minister, of such amount as may be determined by the Minister and the [^{F2}Secretary of State for Transport] after consultation with the verderers and with the highway authority to represent the capital loss from the diminution attributable to the transfer in the revenue arising to the Minister from the granting (whether before or after the transfer) of such licences as are referred to in the next following section or from the granting of similar licences before the commencement of this Act;
 - (b) in the case of the verderers, of such amount as may be so determined to represent the capital loss from the interference with the rights of the commoners.
- (4) In the case of land in the Forest which has been used before the commencement of this Act for the purpose of any of the functions of a highway authority, that authority may apply to the verderers for their agreement to a direction under this subsection, and if the agreement of the verderers is given the Minister may direct that the land shall be deemed to have been transferred to, and vested in, the highway authority at the commencement of this Act.

Changes to legislation: There are currently no known outstanding effects for the New Forest Act 1949, Section 17. (See end of Document for details)

- (5) Subsection (2) of this section shall be deemed to have applied as from the commencement of this Act to any land as to which a direction under the last foregoing subsection is given, and as respects any such land compensation of such amount shall be paid by the highway authority to the verderers as may be determined by the Minister and the [^{F3}Secretary of State for Transport], after consultation with the verderers and highway authority, to represent the capital loss from interference with the rights of the commoners by anything done or to be done on the land after the commencement of this Act.
- (6) Where a transfer or direction for which the agreement of the verderers is sought under this section relates to land exceeding [^{F4}0.40 hectare] in area, application for the agreement of the verderers shall be made by presentment.
- (7) For the purposes of the enactments relating to the defraying of the expenditure of highway authorities and to grants in respect of such expenditure, any compensation payable under this section shall be treated as if it were compensation payable on the acquisition of land.
- (8) The verderers shall not unreasonably withhold their agreement on any application under this section by a highway authority; and if any dispute arises as to whether their agreement has been unreasonably withheld the matter shall be referred to a single arbitrator agreed between the verderers and the authority or, failing agreement, appointed by the President of the Royal Institution of Chartered Surveyors on an application made either by the verderers or by the authority after giving notice in writing to the other of them.

Subject to the foregoing provisions of this subsection, the provisions of the [^{F5M1}Arbitration Act 1950], shall apply to any reference under this subsection.

Textual Amendments

- F1** Words substituted by virtue of S.I. 1981/238, art. 3(4)
- F2** Words in s. 17(3)(a) substituted (25.11.2002) by S.I. 2002/2626, art. 20, Sch. 2 para. 1(3)
- F3** Words in s. 17(5) substituted (25.11.2002) by S.I. 2002/2626, art. 20, Sch. 2 para. 1(3)
- F4** Words substituted by S.I. 1979/836, Sch. para. 5(7)
- F5** Words substituted by virtue of Interpretation Act 1889 (c. 63), s. 38(1)
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Marginal Citations

- M1** 1950 c. 27.

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