

Statutory Instrument 2003 No. 3298

The New Forest (Confirmation of the Byelaws of the Verderers of the New Forest) Order 2003

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STATUTORY INSTRUMENTS

2003 No. 3298

NEW FOREST

The New Forest (Confirmation of the Byelaws of the Verderers of the New Forest) Order 2003

Made

17th December 2003

Coming into force

18th December 2003

Whereas -

(1) On 17th September 2003, at a court of swainmote at which not less than five of their number were present, the Verderers of the New Forest, in exercise of the powers conferred on them by section 25 of the New Forest Act 1877[1], made the byelaws set out in the Schedule to this Order; and

(2) Upwards of one month before the date of this Order notice of intention to apply for confirmation of those Byelaws has been given by the Verderers in the manner prescribed by that section;

the Secretary of State for Environment, Food and Rural Affairs, in exercise of the powers conferred by section 9(5) of the New Forest Act 1949[2] and now vested in her[3] hereby makes the following Order:

Title and commencement

1. This Order may be cited as the New Forest (Confirmation of the Byelaws of the Verderers of the New Forest) Order 2003 and shall come into force on the day after the day on which it is made.

Confirmation of Byelaws

2. The byelaws of the Verderers of the New Forest set out in the Schedule to this Order are confirmed.

Revocation

3. The New Forest (Confirmation of the Byelaws of the Verderers of the New Forest) Order 1999[4] is revoked.

Alan Taylor
Head of Forestry, Soils and Uplands Division For and on behalf of the
Secretary of State, Department for Environment, Food and Rural Affairs

17th December 2003

SCHEDULE

Article 2

BYELAWS

1. In these byelaws, unless the context otherwise requires -

"agister" means a person who is for the time being employed as an agister by the Verderers;

"appropriate payment" means the appropriate payment fixed by the Verderers in accordance with section 23(3) of the New Forest Act 1877 as varied by these Byelaws;

"cattle" means bovine animal and includes bull, cow, ox, steer, heifer and calf;

"commoner" means a person owning animals entitled to be in the Forest;

"Divisional Veterinary Manager" means the veterinary inspector appointed for the time being by the Secretary of State to receive information about animals and carcasses affected with or suspected of being affected with specified diseases for the area in which such an animal or carcass is;

"the Forest" means the New Forest as defined in section 3 of the New Forest Act 1877 as read with section 1 of the New Forest Act 1964^[5];

"horse" means equine animal and includes pony, donkey and mule;

"marked" means, in relation to any year, marked by any method of identification approved by the Verderers for that year;

"notifiable disease" means a disease required to be notified under section 15 of the Animal Health Act 1981^[6] or by any order made under that provision;

"pig" means porcine animal and includes boar, sow or piglet;

"sheep" means ovine animal and includes ram, ewe or lamb;

"Verderers" means Verderers of the New Forest and includes their duly authorised servants or agents except in byelaws 2, 4, 9(1), 12, 17, 18, 21(5) and 21(7).

2. All previous byelaws made by the Verderers are hereby revoked.

3. Any person breaking any of the following byelaws shall be liable on summary conviction to a fine not exceeding level one on the standard scale.

4. No person shall cause or allow any horse, cattle, sheep or pig to roam at large or be depastured in the Forest unless such animal is entitled to be in the Forest by virtue of a right of common or a licence granted on behalf of the Secretary of State to a tenant of land in the Forest vested in the said Secretary of State or in pursuance of a licence granted by the Verderers under section 2 of the New Forest Act 1879^[7] as amended.

5. Any commoner whose place of residence is situated outside the Forest at a distance exceeding 24.14 km (15 miles) from the nearest point of the perambulation of the Forest shall appoint a person whose place of residence is situated in the Forest or within three miles of the nearest point of the perambulation of the Forest as his agent in relation to the management, health, care and control of the animals owned by him at large in the Forest and shall give the Verderers in writing not later than the first day of January in every year particulars of the name and address of the person appointed by him as his agent as aforesaid for that year; provided that the appointment of an agent by a commoner pursuant to this byelaw shall not exempt the commoner from personal liability under these byelaws for breach of any of these byelaws in relation to any animals owned by him at large in the Forest.

6. - (1) No commoner shall in any calendar year cause or allow any horse to which this byelaw applies to roam at large or be depastured in the Forest unless

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(a) in the case of a horse which has been continuously depastured in the Forest since before the beginning of that year, and in respect of which the

appropriate payment was made in the previous calendar year, the appropriate payment in respect thereof is made to the Verderers before the first day of May in that year; or

(b) in the case of a horse which has not been so depastured as aforesaid, it has been marked by, and the appropriate payment in respect thereof is made to, the Verderers before it is depastured in the Forest.

(2) This byelaw applies to, as respects any calendar year, any horse except a horse born after the beginning of that year.

7. - (1) No commoner shall in any calendar year cause or allow cattle or sheep to which this byelaw applies to roam at large or be depastured in the Forest unless -

(a) in the case of such an animal which has been continuously depastured in the Forest since before the beginning of that year, and in respect of which the appropriate payment was made in the previous calendar year, the appropriate payment in respect thereof is made to the Verderers before the first day of May in that year;

(b) in the case of such an animal which has not been so depastured as aforesaid, it has been marked by, and the appropriate payment in respect thereof is made to, the Verderers before it is depastured in the Forest.

(2) This byelaw applies to, as respects any calendar year, any cattle or sheep except any such animal born on or after the first day of May in that year.

8. No commoner, in exercise of his right of common of mast, shall turn out or allow to roam at large any pig in the Forest until it has been -

(a) inspected; and

(b) marked and ringed,

to the satisfaction of the Verderers and the appropriate payment has been made to them; provided that for the purpose of this byelaw pigs shall not be marked pursuant thereto earlier than two weeks before the date on which the pigs are to be turned out or allowed to roam at large.

9. - (1) No person shall cause or allow any entire male horse of two years or over at the first day of February in any year to be at large in the Forest unless it has been certified by a veterinary surgeon that it does not, at the time of the examination, show any clinical sign of any hereditary condition which would adversely affect the condition of any offspring and thereafter has been inspected and approved by not less than two Verderers or persons appointed in writing by them and marked. Any entire male horse so inspected and approved and marked shall again be inspected and approved before it may be caused or allowed to roam at large in the Forest in a subsequent year provided that after attaining the age of six years no further inspections will be required unless the Verderers specifically decide otherwise.

(2) The Verderers may change the date specified in paragraph (1) on giving

no less than four months' public notice of such change.

(3) The owner of any entire male horse roaming at large in any part of the Forest shall, if so required by the Verderers, forthwith or within a period specified by them, remove the horse to another part of the Forest specified by the Verderers.

10. No person shall cause or allow any entire male cattle, male pig or male sheep to roam at large in the Forest if, in the case of male cattle, it has attained the age of three months and, in the case of a male pig or male sheep, it has attained the age of four months.

11. - (1) No person shall cause or allow any horse, cattle, pig or sheep belonging to him or in his charge to enter or be at large in the Forest at any time

(a) when he knows or has reason to suspect that the animal is infected with a contagious or infectious disease; or

(b) after he has been notified in writing by the Verderers that they have reasonable grounds for suspecting that the animal is so infected; or

(c) after the Verderers, having determined that it is necessary for the purpose of preventing the spread of contagious or infectious disease in the forest, have issued a notice requiring all animals to be removed from the Forest; or

(d) when he knows or has reason to suspect, or he has been notified in writing by the Verderers that they know or have reason to suspect, that the animal is vicious, mischievous, or likely to cause injury to any person or animal or damage property; or

(e) when he knows or has reason to suspect, or he has been notified in writing by the Verderers that they know or have reason to suspect, that to allow the animal to remain in the Forest would be likely to cause it unnecessary suffering or distress.

(2) A notice under paragraph (1)(c) shall take effect subject to any provisions governing the movement of animals contained in an Order made under the Animal Health Act 1981 and, in the case of a notifiable disease, shall not be issued without the prior consent of the Divisional Veterinary Manager.

12. No person whose premises are to his knowledge infected, or who has reason to suspect that his premises are infected, with a contagious or infectious disease shall, at any time while such premises are infected or, in the case of suspected infection until it is established to the reasonable satisfaction of a veterinary surgeon appointed by the Verderers for that purpose that such premises are not so infected, cause or allow any horse, cattle, sheep or pig in his charge or control on such premises to go therefrom, either directly or indirectly, into the Forest.

13. No person shall cause or allow any shod horse to be depastured in the Forest.

14. No person shall cause or allow to roam at large or be depastured in the Forest any horse, cattle, pig or sheep unless it is marked to the satisfaction of

the Verderers (and so as to show at all times the owner's identification mark as approved by and registered with the Verderers), provided that this byelaw shall not apply to any foal before the first day of January next following the birth of such foal, or to any calf under the age of four months.

15. No person shall cause or allow to roam at large, or be depastured or be in the Forest any horse, cattle, pig or sheep bearing or distinguished by any mark devised by way of copy or in imitation wholly or in part of any mark for the time being used by the Verderers or any owner for marking the same description of animal or shall mark, or be party to the marking of any such animal with any mark devised by way of copy or in imitation as aforesaid.

16. No person other than the owner or his authorised agent shall, without the permission of the Verderers, or other lawful excuse, impound or conduct any drift or rounding up in the Forest or drive in or remove from the Forest any horse, cattle, pig or sheep and no person may do so, other than the owner or his authorised agent who shall have previously obtained the permission of the Verderers, between the hours of half an hour after sunset and half an hour before sunrise.

17. - (1) No person other than the owner, the authorised agent of the owner or an agister shall hand feed or attempt to hand feed any horse, cattle, pig or sheep depastured in the Forest.

(2) No person shall place in the Forest material that might be consumed by horses, cattle, pigs or sheep depastured in the Forest, except that the owner or authorised agent of the owner may place straw, hay or other feedstuffs in the Forest for the benefit of the owner's horses, cattle, pigs or sheep in such places as shall have been previously approved for that purpose by the Verderers.

18. No person shall admit or allow to be admitted on to any land which has been enclosed under section 14 of the New Forest Act 1949 (which empowers the Forestry Commissioners to make enclosures for cultivation and improvement of land for grazing) any horse, cattle, pig or sheep during such periods as the Verderers keep such land enclosed or fenced.

19. The owner of any horse, cattle, sheep or pig lying dead in the Forest shall if required to do so by notice given by the Verderers forthwith dispose of the carcass by removal from the Forest.

20. No person shall damage or leave open any fences or gates of any enclosure made by the Verderers under section 15(1) of the New Forest Act 1949 (temporary enclosures in case of outbreaks of disease) or leave open any gates across any passage or track under or over any highway in the Forest or any gates in any fences erected by the Verderers, the Forestry Commissioners or the highway authority along or alongside any highway in the Forest.

21. - (1) If it appears to the Verderers that a breach of any of byelaws 4, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of these byelaws has occurred in relation to any horse, cattle, sheep or pig in the Forest, they may serve a notice on the owner or other person who appears to them to be responsible for the breach specifying the breach and requiring him to remove the animal from the Forest forthwith or by such later time as the notice may specify.

(2) If the person on whom any such notice or any notice pursuant to byelaws 11 and 19 is served fails to comply with the terms whereof within the time therein specified or any person fails to comply with a notice issued under

byelaw 11(1)(c) then, without prejudice to any proceedings for an offence against any of these byelaws, the Verderers may remove from the Forest and (if the Verderers think fit) impound any animal to which the notice relates or in the case of a dead animal dispose of the carcass.

(3) If the Verderers so require, a person served with a notice pursuant to byelaw 11 shall allow any animal specified in the notice to be marked with a distinctive mark before its removal from the Forest, such mark being additional to the mark required by byelaw 6 or 7.

(4) Where a notice served under paragraph (1) above or under byelaw 11(1)(e) specifies a breach of that byelaw, the person on whom the notice has been served may, within 48 hours of service of the notice on him and provided that he is not in breach of any requirement contained in the notice, apply to the Verderers for a review of the notice on the ground that the condition of the animal which is the subject of the notice is not such that that byelaw is contravened.

(5) An application for a review under paragraph (4) above shall be determined as soon as is reasonably practicable by a Verderer who has had no previous involvement or interest in the matter to which the notice relates or in the issue of the notice.

(6) The Verderers may appoint a veterinary surgeon to advise the Verderer who is conducting the review.

(7) The Verderer conducting a review may confirm or withdraw the notice.

(8) An application for a review of a notice shall not have the effect of suspending the operation of the notice.

22. No person shall exercise the right of turbary unless he has made the appropriate payment to the Verderers.

23. - (1) The payment specified in paragraph 2(a) of the First Schedule to the New Forest Act 1877 shall be varied so that in lieu of the maximum payment there specified the maximum payment which the Verderers may levy for marking every head of cattle entitled to be in the Forest shall be -

(a) twenty five pounds in respect of cattle depastured by virtue of a right of common and cattle belonging to tenants of land vested in the Secretary of State, which are depastured by virtue of a licence granted on behalf of the Secretary of State;

(b) fifty pounds in respect of other cattle.

(2) The payment specified in paragraph 2(c) of the First Schedule to the New Forest Act 1877 shall be varied so that in lieu of the maximum payment there specified the maximum payment which the Verderers may levy for every pig turned out by virtue of a right of common of mast shall be two pounds.

(3) In this byelaw "cattle" includes sheep and horses.

24. Any notice the Verderers are authorised or required to serve on a person in pursuance of these byelaws may be served by delivering it to the person or by leaving it at or sending it by post to him at his last known address or: -

(a) in the case of a body corporate, by giving it to, or sending it by post to the secretary or clerk of the body corporate at the registered or principal office of the body corporate; or

(b) in the case of a partnership by giving it to a partner or a person having the control of the partnership business or sending it by post to the partnership at the principal office of the partnership.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confirms byelaws made by the Verderers of the New Forest in exercise of their powers under section 25 of the New Forest Act 1877. The new byelaws revoke and replace with amendments the previous byelaws made by the Verderers and the Order revokes the order confirming the revoked byelaws.

The byelaws make provision in relation to: -

- (a) prohibiting unauthorised animals from being in the Forest (byelaw 4);
- (b) appointing persons to be responsible for the management of animals (byelaw 5);
- (c) the marking of animals and the making of payments to the Verderers for the exercise of certain rights (byelaws 6 to 8, 22 and 23);
- (d) protection of the health of animals in the Forest (byelaws 9 to 13);
- (e) the identification of animals in the Forest and the use of marks (byelaws 14 and 15);
- (f) drifts or rounding up animals in the Forest (byelaw 16);
- (g) feeding animals in the Forest (byelaw 17);
- (h) prohibiting the admission of animals to land that the Verderers have authorised the Forestry Commissioners (on behalf of the Secretary of State) to enclose (byelaw 18);
- (i) the disposal of carcasses (byelaw 19);
- (j) damage to fences and gates and keeping gates closed (byelaw 20).

By byelaw 3 offences contrary to the byelaws are made punishable by fines not exceeding level one on the standard scale (currently two hundred pounds). Section 25(4) of the New Forest Act 1877, as amended by section 12 of the New Forest Act 1964, provides for the imposition of a fine of up to ten pounds for any breach of the byelaws. By virtue of section 38 of the Criminal Justice Act 1982 the maximum fine for an offence under the byelaws is increased to

level one on the standard scale.

Byelaw 21 makes further provision with respect to enforcement, including the ability for the Verderers to remove animals from the Forest following a breach.

Notes:

[1] 1877 c. cxxi: section 25 was extended by section 9 of the New Forest Act 1949 (c. 69) and amended by section 12 of the New Forest Act 1964 (c. 83).[back](#)

[2] 1949 c. 69.[back](#)

[3] By virtue of article 3(1) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (SI 2002/794).[back](#)

[4] SI 1999/2134.[back](#)

[5] 1964 c. 83.[back](#)

[6] 1981 c. 22.[back](#)

[7] c. cxciv; section 2 was extended and amended by section 9(2) of the New Forest Act 1949 (c. 69).[back](#)

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