

2009 No.

NEW FOREST

**The New Forest (Confirmation of the Byelaws of the Verderers
of the New Forest) Order 2009**

Made - - - - - ***

Coming into force ***

On , 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(a), made the byelaws set out in the Schedule to this Order.

In accordance with section 25 of that Act, the date of this Order is more than one month after the Verderers gave notice of intention to apply for confirmation of those byelaws.

The Secretary of State for Environment, Food and Rural Affairs, in whom the powers conferred by section 9(5) of the New Forest Act 1949(b) are now vested(c), makes the following Order in exercise of those powers.

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 2009 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 2003(d) is revoked.

Name

(a) 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).
(b) 1949 c. 69.
(c) By virtue of article 3(1)(a) of the Ministry of Agriculture, Fisheries and Food (Dissolution) Order 2002 (S.I. 2002/794).
(d) S.I. 2003/3298.

Date

SCHEDULE BYELAWS

Article 2

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

“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;

“bovine animal” includes, unless the context otherwise requires, bull, cow, ox, steer, heifer and calf;

“commoner” means a person owning animals entitled to be in the Forest in the circumstances set out in byelaw 4 below;

“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(a);

“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;

“pig” means porcine animal and includes boar, sow and piglet;

“sheep” means ovine animal and includes ram, ewe and lamb; and

“Verderers” means Verderers of the Forest and includes their duly authorised servants or agents except in byelaws 2, 4, 8(1), 11, 16(2), 17, 20(5) and 20(7).

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

3. Any person breaching or failing to comply with 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, bovine animal, 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) a right of common;
- (b) a licence granted on behalf of the Secretary of State to a tenant of land vested in the Secretary of State; or
- (c) the exercise of the Verderers’ discretion under section 2 of the New Forest Act 1879(b).

5.—(1) 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—

- (a) appoint a person whose place of residence is situated within the perambulation of the Forest or within three miles of the nearest point of the perambulation of the Forest as their agent in relation to the management, health, care and control of the animals owned by them at large in the Forest; and
- (b) 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 them as their agent for that year.

(a) 1964 c. 83.

(b) 1879 c. xciv; section 2 was extended and amended by section 9(2) of the New Forest Act 1949 (c. 69).

(2) 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 them at large in the Forest.

6.—(1) A commoner shall make the appropriate payment to the Verderers in respect of any horse, bovine animal or sheep they have caused or allowed to be depastured in the Forest on January 1st of any year before the first day of April in that year.

(2) In respect of any other horse, bovine animal or sheep a commoner shall make the appropriate payment to the Verderers before they cause or allow it to be depastured in the Forest.

(3) No commoner shall cause or allow any sheep or bovine animal to roam or be depastured in the Forest after the 31st of March unless it has been marked by the Verderers to demonstrate that the appropriate payment has been made in respect of that year.

(4) No commoner shall cause or allow any horse to roam or be depastured in the Forest after 15th November unless it has been marked by the Verderers to demonstrate that the appropriate payment has been made for that year.

(5) This byelaw applies, as respects any calendar year—

(a) to any horse or bovine animal except any such animal born on or after the first day of January in that year;

(b) to any sheep except any sheep born on or after the first day of April in that year.

7. No commoner shall turn out or allow to roam at large any pig in the Forest until fourteen days after—

(a) it has been inspected and marked and ringed to the satisfaction of the verderers; and

(b) the appropriate payment has been made.

8.—(1) No person shall cause or allow any entire male horse, which on the first day of February in any year is in the second or subsequent calendar year after its birth, to be at large in the Forest unless—

(a) it is, at that time, approved by the Verderers for release into the Forest; and

(b) it has been certified by a veterinary surgeon appointed by the Verderers 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.

(2) 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.

9. No person shall cause or allow any entire bull, entire male sheep or entire male pig to roam at large in the Forest if, in the case of bull, it has attained the age of three months or if, in the case of a male sheep or male pig, it has attained the age of one week.

10.—(1) No person shall cause or allow any horse, bovine animal, sheep or pig belonging to them or in their charge to enter or be at large in the Forest at any time—

(a) when they know or have reason to suspect that the animal is infected with a contagious or infectious disease;

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

(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 animals to be removed from the Forest;

(d) when they know or have reason to suspect, or they have 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 to damage property; or

- (e) when they know or have reason to suspect, or they have 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(a) or in Regulations made under the European Communities Act 1972(b) and, in the case of a disease notifiable under section 15 of the Animal Health Act, shall not be issued without the prior consent of the Secretary of State.

11. No person whose premises are to their knowledge infected, or who has reason to suspect that their 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, bovine animal, sheep or pig in their charge or control on such premises to move from those premises, either directly or indirectly, into the Forest.

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

13. No person shall cause or allow to roam at large or be depastured in the Forest any horse, bovine animal, sheep or pig 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.

14. No person shall cause or allow to roam at large, or be depastured or be in the Forest any horse, bovine animal, sheep or pig 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.

15. No person other than the owner or a person appointed as their 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 or move within the Forest any horse, bovine animal, sheep or pig and no person may do so, other than the owner or their 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.

16.—(1) No person other than the owner, or a person appointed as their agent or an agister shall hand feed or attempt to hand feed any horse, bovine animal, sheep or pig depastured in the Forest.

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

(3) In this byelaw "agister" means a person who is for the time being employed or appointed as an agister by the Verderers.

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

(a) 1981 c. 22.
(b) 1972 c. 68.
(c) 1949 c. 69.

18. The owner, or their agent, of any bovine animal, sheep, pig or horse lying dead in the Forest shall if required to do so by notice given by the Verderers forthwith remove the carcass from the Forest.

19. 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 alongside any highway in the Forest.

20.—(1) If it appears to the Verderers that a breach of any of byelaws 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 has occurred in relation to any horse, bovine animal, 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 them to remove the animal or feedstuffs 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 10 and 18 is served fails to comply with that notice or any person fails to comply with a notice issued under byelaw 10(1)(c) then, without prejudice to any proceedings for an offence against any of these byelaws, the Verderers may remove any feedstuffs from the Forest or remove from the Forest and (if the Verderers think fit) impound and sell any animal to which the notice relates or in the case of a dead animal dispose of the carcass.

(3) The proceeds of any sale made pursuant to paragraph 2 shall, subject to the deduction of the Verderers' reasonable costs of maintaining and selling the animal concerned, be payable to the owner of the animal.

(4) If the Verderers so require, a person served with a notice pursuant to byelaw 10 shall allow any animal specified in the notice to be marked with a distinctive mark before its removal from the Forest, in addition to the mark required by byelaw 6.

(5) Where a notice served under paragraph (1) above or under byelaw 10(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 them and provided that they are 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.

(6) An application for a review under paragraph (5) 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.

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

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

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

21. No person shall exercise the right of turbary unless they have made the appropriate payment to the Verderers.

22.—(1) The payment specified in paragraph 2(a) of the First Schedule to the New Forest Act 1877 shall be varied so that the maximum payment which the Verderers may levy shall be—

- (a) £35 for marking any bovine animal, sheep or horse entitled to be placed in the Forest under a right of common;
- (b) £50 for marking any bovine animal, sheep or horse entitled to be in the Forest under any other right.

(2) The payment specified in paragraph 2(c) of the First Schedule to the New Forest Act 1877 shall be varied so that the maximum payment which the Verderers may levy for every pig entitled to be in the Forest shall be £5.

23. Any notice the Verderers are authorised or required to serve on a person under these byelaws may be served by delivering it to the person or by leaving it at or sending it by post to them at their 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. These byelaws revoke the previous byelaws and substantially re-enact them. The main changes are that the maximum fee for marking a bovine animal, sheep or horse entitled to be in the New Forest is increased from £25 to £35 and the fee for marking pigs entitled to be in the New Forest is increased from £2 to £5.