STATUTORY INSTRUMENTS

1978 No. 1277

NEW FOREST

The New Forest (Confirmation of Byelaws of the Verderers of the New Forest) Order 1978

Made - - - -	30*th August* 1978
Coming into Operation	4*th October* 1978

Whereas the byelaws set out in the Schedule hereto have been made by the Verderers of the New Forest in exercise of the powers conferred on them by section 25 of the New Forest Act 1877**(a)**, as extended by section 9 of the New Forest Act 1949**(b)** and amended by section 12 of the New Forest Act 1964**(c)**, and 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 the first-mentioned section:

Now, therefore, the Minister of Agriculture, Fisheries and Food, in exercise of the power conferred on him by section 9(5) of the New Forest Act 1949, and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and commencement

1. This Order, which may be cited as the New Forest (Confirmation of Byelaws of the Verderers of the New Forest) Order 1978, shall come into operation on 4th October 1978.

2. The byelaws set out in the Schedule hereto and made by the Verderers of the New Forest in exercise of their hereinbefore recited powers are hereby confirmed.

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 30th August 1978.

(L.S.)

John Silkin,
Minister of Agriculture, Fisheries and Food.

(a) 1877 c. cxxi. (b) 1949 c. 69. (c) 1964 c. 83.

SCHEDULE

1.—(1) In these byelaws, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"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 paragraph 2 of the First Schedule to the New Forest Act 1877 as varied by any byelaw for the time being in force;

"Cattle" means any bovine animal, and includes bull, cow, ox, steer, heifer or calf;

"Commoner" (except in the definition of "licence" below and byelaw 5 of these byelaws) means a person entitled to turn out animals in the Forest by virtue of a right of common or a licence granted on behalf of the Minister of Agriculture, Fisheries and Food to a tenant of land in the Forest vested in the said Minister or in pursuance of any licence given under section 2 of the New Forest Act 1879;

"The Forest" means the New Forest as defined by section 3 of the New Forest Act 1877 as read with section 1 of the New Forest Act 1964;

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

"Licence" means a licence issued to persons not being commoners to depasture cattle or other animals pursuant to the New Forest Act 1879;

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

"Verderers" means Verderers of the New Forest and, where the context so admits, includes their duly authorised servants or agents;

(2) The Interpretation Act 1889(a) shall apply to the interpretation of these byelaws as it applies to the interpretation of an Act of Parliament.

2. All previous byelaws made by the Verderers are hereby revoked and subsection (2) of section 38 of the Interpretation Act 1889 shall apply as if the revocation aforesaid were the repeal of an enactment by another Act and any document issued under any provision of the byelaws so revoked shall have effect as if it has been issued under the corresponding provision of these byelaws.

3. Any person breaking any of the under-written byelaws shall, subject to any special provisions contained therein, on summary conviction be liable to a fine not exceeding, for any one offence, the sum of ten pounds.

4. No person other than a person entitled to turn out animals in the Forest by virtue of a right of common or of a licence granted on behalf of the Minister of Agriculture, Fisheries and Food to a tenant of land in the Forest vested in the said Minister shall cause or allow any horse, cattle, sheep or pig to roam at large in the Forest unless a licence from the Verderers has been obtained and such a licence is in force at the time when such animals are so at large.

5. Any commoner entitled to turn out animals in the Forest by virtue of a right of common whose place of residence is situated outside the Forest at a distance exceeding 15 miles from the nearest point of the perambulation of the Forest shall appoint a person whose place of residence is situated in or within three miles of the Forest as his agent in relation to the management, care and control of the animals turned out by him 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 turned out by him in the Forest.

(a) 1889 c. 63.

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

(*a*) in the case of a horse which has been continuously depastured in the Forest since before the beginning of the year, the appropriate payment in respect thereof is made to an agister before the first day of May in that year and it is marked by a date to be declared by the Court of Verderers in each year;

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

(2) This byelaw applies to and includes, as respects any year, any horse born before the beginning of that year and running with its dam.

7.—(1) No commoner shall in any year cause or allow cattle or sheep to which this byelaw applies to 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 the year, the appropriate payment in respect thereof is made to an agister before the first day of May in that year and it is marked by a date to be declared by the Court of Verderers in each year;

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

(2) This byelaw applies, as respects any year, to any cattle born at any time before the beginning of that year, and to any cattle or sheep born before the first day of May in that year, but does not apply to any cattle or sheep born on or after such last mentioned date.

(3) As respects heifers to which byelaw 11 of these byelaws applies the provisions of that byelaw shall have effect in addition to the provisions of the foregoing paragraphs of this byelaw.

8. No commoner, in exercise of his right of pannage, shall turn out any pig in the Forest in any pannage season until it has been inspected by an agister and marked, either with a visible mark on the skin or with a tag inserted in the ear, ringed to the satisfaction of the Verderers and the appropriate fee has been paid; Provided that for the purpose of this byelaw pigs shall not be marked pursuant thereto earlier than two weeks before the commencement of the pannage season.

9.—(1) No person shall cause or allow any entire male horse of two years or over at the first day of May in any year to be at large in the Forest unless—

(*a*) the Verderers have, in relation to any such horse, granted the owner a licence exempting him from the operation of this byelaw; or

(*b*) 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 specified in a list of such conditions drawn up and kept by the Verderers, 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 so 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 five years no further inspections will be required unless the Verderers specifically decide otherwise.

(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.

10. No person shall cause or allow any male cattle, male pig or male sheep to roam at large in the Forest unless it has previously been castrated effectively to the

satisfaction of the Verderers before, in the case of a male cattle, it has attained the age of six 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 to be depastured in the Forest any cattle not being a castrated male aged six months or over unless it belongs to a herd entered in the register of Brucellosis Accredited Herds kept by the Ministry of Agriculture, Fisheries and Food.

(2) No person shall cause or allow to be depastured in the Forest any heifer aged six months or over without the consent in writing of the Verderers unless—

(*a*) it has been vaccinated against contagious abortion in accordance with this byelaw; and

(*b*) satisfactory evidence of such vaccination is produced to the agister by whom the heifer is marked pursuant to byelaw 7 of these byelaws.

(3) A heifer shall be deemed to be vaccinated in accordance with this byelaw if, and only if,—

(*a*) it is vaccinated with brucella abortus (strain 19), and

(*b*) it is so vaccinated in the period of ninety days between the 91st and 180th days inclusive of its life, and

(*c*) the vaccination is carried out by a veterinary surgeon authorised for the purpose by the Minister.

12. No person shall cause or allow any animal belonging to him or in his charge or on his premises 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.

13. 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 that such premises are not so infected, cause or allow any animal in his charge or control on such premises to go therefrom, either directly or indirectly, into the Forest.

14.—(1) Any person who shall have received notice from the Verderers that any horse, cattle, sheep or pig belonging to him or in his charge is vicious, mischievous or likely to cause injury to any person or animal or damage any property or is in such condition that to allow it to remain at large in the Forest would be likely to cause it unnecessary suffering or has any malformation, injury, growth or other malaise shall remove such animal from the Forest within 24 hours of service of the notice on him or such longer time as the Verderers may specify in the notice or allow and no such animal shall be returned or allowed to return to the Forest without prior inspection on behalf of the Verderers and their written permission.

(2) If the Verderers so require, a person served with a notice under paragraph (1) of this byelaw shall allow an agister to mark with a distinctive mark any animal specified in the notice before its removal from the Forest, such mark being additional to the mark required under byelaw 7.

15. No person shall cause or allow any shod horses to depasture on the Forest.

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* The Protection of Animals (Anaesthetics) Act 1964 prohibits the use of the rubber ring method of castration except during the first week of life and requires the use of an anaesthetic for the castration of bulls and sheep of three months and over and pigs of two months and over.

16. No person shall cause or allow to depasture on the Forest—

(*a*) any cattle or horse unless it is marked to the satisfaction of the Verderers with a visible mark on the skin, or

(*b*) any sheep unless it is marked to the satisfaction of the Verderers either with a visible mark on the skin or with a tag inserted in the ear,

such mark or tag showing the owner's mark as approved 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.

17. No person shall cause or allow to depasture 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.

18. No person shall without the permission of an agister impound or conduct any drift or rounding-up within the Forest or drive in or remove from the Forest any horse, cattle, pig or sheep between the hours of half an hour after sunset and half an hour before sunrise.

19. No commoner shall place any straw, hay or other feedstuffs in the Forest for the benefit of horses, cattle, pigs or sheep except in such places as shall have been previously approved by the Verderers.

20. 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 and keep closed any gates to such land.

21. The owner of any animal lying dead in the Forest shall if required to do so by notice given by or on behalf of the Verderers forthwith dispose of the carcass by removal from the Forest or by burial in such manner and in such place as may be agreed by the Forestry Commissioners.

22. 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.

23.—(1) If it appears to the Verderers that an offence under byelaws 4, 6, 13, 15, 17, 20, 22 of these byelaws has been committed 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 offence, specifying the offence and requiring him to remove the animal from the Forest forthwith or by such later time as the Verderers may specify.

(2) If the person on whom any such notice or any notice pursuant to byelaws 14 and 21 is served fails to comply with the terms thereof within the period therein specified, then, without prejudice to any proceedings for an offence against any of these byelaws, the Verderers may direct an agister in writing to 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 bury or otherwise dispose of the carcass and where any such direction is given it shall be complied with.

24. Any person intending to exercise the right of turbary shall before proceeding to exercise such right provide to an agister the ticket which has been issued to such commoner by a forest keeper and shall allow the agister to countersign such ticket and after the same has been countersigned shall make forthwith to the agister the appropriate payment.

25.—(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*) Ten pounds in respect of cattle depastured by virtue of a right of common and cattle belonging to tenants of land vested in the Minister of Agriculture, Fisheries and Food which are depastured by virtue of a licence granted on behalf of that Minister;

(*b*) Twenty 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 in pannage time shall be two pounds.

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

EXPLANATORY NOTE

(This Note is not part of the Order.)

By this Order the Minister of Agriculture, Fisheries and Food confirms byelaws made by the Verderers of the New Forest amending and extending byelaws previously confirmed by the New Forest (Confirmation of Byelaws) Orders 1954 to 1976.

The byelaws contain provisions for the licensing, control, management, working, feeding and vaccination of animals turned out or depastured in the New Forest, for the payment of marking and other fees in respect of such animals and for dealing with offences against the byelaws.

The main changes in these byelaws compared with the previous byelaws are:—

(i) A wider measure of control is vested in the Verderers in relation to the control of horses, pigs and sheep depastured in the Forest, including prohibitions on the depasturing of shod horses, on the depositing of food-stuffs for animals except at places approved by the Verderers, and on the depasturing of animals on land enclosed by the Verderers for the purposes of cultivation or improvement of grazing.

(ii) The provisions for vaccination against contagious abortion are modified and all cattle depastured in the Forest, apart from castrated males aged six months or over, must belong to herds entered in the Ministry of Agriculture, Fisheries and Food register of Brucellosis Accredited Herds.

(iii) Provision is made for the disposal of dead animals in the Forest.

(iv) Damage to, or leaving open of, fences or gates erected by the Verderers is prohibited.

(v) Commoners resident more than 15 miles from the Forest must appoint as agent for the management, care and control of animals turned out in the Forest a person resident within three miles of the Forest.

(vi) The fee for every pig turned out in pannage time is increased to £2.

(vii) The fine on summary conviction for contravention of the byelaws is increased to £10 for each offence.

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NEW FOREST

The New Forest (Confirmation of Byelaws of the Verderers of the New Forest) Order 1978

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