



# New Forest Act 1877

1877 CHAPTER cxxi 40 and 41 Vict

**U.K.**

An Act to amend the Administration of the Law relating to the New Forest in the County of Southampton; and for other purposes. [23rd July 1877]

## Modifications etc. (not altering text)

- C1** Act amended as to qualification of elective verderers and electors and holding of elections by [New Forest Act 1949 \(c. 69\), ss. 5, 6](#); excluded by [New Forest Act 1949 \(c. 69\), s. 16\(5\)](#)
- C2** References to Minister of Agriculture, Fisheries and Food under this Act to be construed (W.) as references to Secretary of State: [S.I. 1965/319, arts. 4, 9, 10](#)

## *Preliminary*

### 1 Short title of Act. **U.K.**

This Act may be cited for all purposes as “The New Forest Act 1877.”

### 2 Short titles. Acts relating to the New Forest. **U.K.**

The Acts mentioned in the first and second columns of the following table are in this Act referred to by the short titles set forth in the third column of the said table in reference to such Acts respectively:—

#### TABLE OF ACTS.

Year of Act.	Title of Act.	Short Title by which Act referred to in this Act.
9 & 10 Will. III. c. 36., A.D. 1691.	“An Act for the increase and preservation of Timber	Act of 1698.

*Changes to legislation: There are currently no known outstanding effects for the New Forest Act 1877. (See end of Document for details)*

	in the New Forest, in the County of Southampton.”	
48 Geo. III. c. 72., A.D. 1808.	“An Act for the increase and preservation of Timber in Dean and New Forest.”	Act of 1808.
14 & 15 Vict. c. 76., A.D. 1851	“An Act to extinguish the Right of the Crown to Deer in the New Forest, and to give Compensation in lieu thereof, and for other Purposes relating to the said Forest.”	Act of 1851.

**3 Definition of “Forest” and “Register of common rights.” U.K.**

“The Forest” means, for the purposes of this Act, the uninclosed lands whereof Her Majesty is seised in her domain as of fee, subject to the rights of commoners therein or thereover, situate within the boundaries of the New Forest in the county of Southampton, including all such lands as may at the commencement of this Act be inclosed in pursuance of any commission issued in pursuance of the Act of 1698, the Act of 1808, and the Act of 1851, or any of such Acts.

“Register of common rights made in pursuance of the <sup>M1</sup>Act of 1854” means the register of the decision of claims of rights of common and other rights in and over the New Forest made by the Commissioners acting under the Act of the session of the seventeenth and eighteenth years of the reign of Her present Majesty, chapter forty-nine, intituled “An Act for the settlement of claims upon and over the New Forest.”

**Marginal Citations**

M1 1854 c. 49.

**4 † “Her Majesty,” “Commissioners of Woods.” U.K.**

The expression “Her Majesty” includes the heirs and successors of Her Majesty, and the expression “the Commissioners of Woods” means the Commissioners or Commissioner of Her Majesty’s Woods, Forests, and Land Revenues, or such one of them as may for the time being have the management or direction of the New Forest.

**Modifications etc. (not altering text)**

C3 Unreliable marginal note

C4 The text of the definition of “the Commissioners of Woods”, now spent, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

*Exercise of Right of Inclosure*

**5 ..... F1 U.K.**

*Changes to legislation: There are currently no known outstanding effects for the New Forest Act 1877. (See end of Document for details)*

#### Textual Amendments

**F1** Ss. 5, 10–12 repealed by [Wild Creatures and Forest Laws Act 1971 \(c. 47\)](#), s. 1, [Sch.](#)

### 6 Exercise of rights of Crown within limited area. **U.K.**

With respect to the lands in the Forest which are at the date of the passing of this Act inclosed, or have previously to such date been inclosed by virtue of any such commission as aforesaid, it shall be lawful for Her Majesty, from time to time, without the issue of any commission, and when and in such manner and as often as to Her Majesty seems meet, to cause any part of such lands to be inclosed, planted, laid open, replanted, or re-inclosed; provided that the whole quantity of such lands under inclosure does not exceed at any one time [<sup>F2</sup>6,475 hectares].

Provided also, as respects the lands in this section mentioned, that in cutting timber or trees for improving the woods, or for sale, care shall be taken to maintain the picturesque character of the ground, and not wholly to level or clear the woods, but to leave from time to time a sufficient number of the most ornamental trees; and to keep the woods replenished from time to time by protecting the self-sown plants, or by planting trees in the vacant spaces, having regard to the ornamental as well as the profitable use of the ground.

One month's previous notice shall be given to the verderers by the [<sup>F3</sup>Forestry Commissioners] of their intention to inclose, lay open, or re-inclose any lands which Her Majesty has power to inclose under the provisions of this Act, but the verderers shall have no power to object to any such inclosure, laying open, or re-inclosure.

#### Textual Amendments

**F2** Words substituted by [S.I. 1979/836](#), [Sch. para. 4](#)

**F3** Words substituted by virtue of [Forestry \(Transfer of Woods\) Act 1923 \(c. 21\)](#), s. 1, [Sch.](#) and [S.R. & O. 1924/386 \(Rev. V, p. 443: 1924, p. 454\)](#), art. 2

### 7 Appropriation of inclosures. **U.K.**

Any part of such lands as may for the time being be inclosed shall be appropriated to growing timber and trees, and it shall be lawful for Her Majesty to plant in such inclosed part any timber or trees which may be thought expedient, and during the time that it seems meet to Her Majesty to keep such part inclosed for the growth and preservation of timber and trees such part shall remain in severalty in the actual possession of Her Majesty, free from all rights of common, and from all other rights, privileges, and claims whatsoever, except a right of the public to use any public highway which may traverse the said lands.

#### Modifications etc. (not altering text)

**C5** [S. 7](#) extended by [New Forest Act 1949 \(c. 69\)](#), [s. 12\(2\)](#)

*Changes to legislation: There are currently no known outstanding effects for the New Forest Act 1877. (See end of Document for details)*

**8 Subject to authorised inclosures, Forest to be kept open. U.K.**

The ancient ornamental woods and trees in the Forest shall be preserved, and except in so far as is provided by this Act the Forest shall remain open and uninclosed, and wood shall be provided for the satisfaction of fuel rights, without the sacrifice of ornamental timber.

*Fence Month and Winter Heyning*

**9 Rights of common exerciseable during fence month and winter heyning. U.K.**

.....<sup>F4</sup>, it shall be lawful, until otherwise provided by Parliament, for any person entitled to any right of common of pasture in the Forest, to exercise such right during the time of the fence month and during the time of the winter heyning, subject nevertheless to such limitations and restrictions in respect of such right of pasture during the time of the winter heyning as may be imposed by any byelaws made in pursuance of this Act.  
.....<sup>F5</sup>

**Textual Amendments**  
F4 Words repealed by [Wild Creatures and Forest Laws Act 1971 \(c. 47\), s. 1, Sch.](#)  
F5 Words repealed by [Wild Creatures and Forest Laws Act 1971 \(c. 47, SIF 29:7\), s.1, Sch.](#)

**10, 11. ....<sup>F6</sup> U.K.**

**Textual Amendments**  
F6 [Ss. 5, 10–12](#) repealed by [Wild Creatures and Forest Laws Act 1971 \(c. 47\), s. 1, Sch.](#)

*Saving for Rights of Crown*

**12 .....<sup>F7</sup> U.K.**

**Textual Amendments**  
F7 [Ss. 5, 10–12](#) repealed by [Wild Creatures and Forest Laws Act 1971 \(c. 47\), s. 1, Sch.](#)

**13 Savings of rights to dues on the part of the Crown. U.K.**

Nothing in this Act shall affect or prejudice any right of the Crown to any dues or sums hitherto payable by the commoners or other persons.

*Changes to legislation: There are currently no known outstanding effects for the New Forest Act 1877. (See end of Document for details)*

*Amended Constitution of Court of Verderers*

**14 Constitution of verderers. U.K.**

The verderers of the New Forest as constituted under this Act shall consist of [<sup>F8</sup>five elective verderers, one official verderer, and the four appointed verderers provided for by paragraph (c) of section one of the <sup>M2</sup>New Forest Act 1949].

No oath or declaration shall be required to be taken by a verderer on his entering on his office.

The official verderer shall be from time to time nominated by Her Majesty under Her sign manual and shall hold office during Her Majesty's pleasure.

.....<sup>F9</sup>  
The elective verderers shall be elected by the persons and in manner in this Act mentioned.

**Textual Amendments**

**F8** Words substituted by [New Forest Act 1949 \(c. 69\), s. 1](#)

**F9** Words repealed by [New Forest Act 1949 \(c. 69\), s. 22, Sch. 2](#)

---

**Marginal Citations**

**M2** [1949 c. 69.](#)

**15** .....<sup>F10</sup> **U.K.**

**Textual Amendments**

**F10** [Ss. 15, 17, 18, 27, 28, 31, 39, Sch. 2](#) repealed by [New Forest Act 1949 \(c. 69\), s. 22, Sch. 2](#)

**16 Disqualification of elective verderers. U.K.**

A person shall be disqualified from being an elective verderer who—

- (1) Holds any office or place of profit under the verderers; or,
- (2) Participates in the profits of any work done by order of the verderers; or,
- (3) Is concerned in or participates in the profit of any contract entered into by the verderers.

**17, 18.** .....<sup>F11</sup> **U.K.**

**Textual Amendments**

**F11** [Ss. 15, 17, 18, 27, 28, 31, 39, Sch. 2](#) repealed by [New Forest Act 1949 \(c. 69\), s. 22, Sch. 2](#)

**19 Rotation of elective verderers. U.K.**

.....<sup>F12</sup>

---

*Changes to legislation: There are currently no known outstanding effects for the New Forest Act 1877. (See end of Document for details)*

---

The offices of vacating verderers shall be filled up by an equal number of new verderers to be elected in manner in this Act provided, and every newly elected verderer shall hold his office for the term of six years and no longer unless re-elected.

**Textual Amendments**

**F12** Words repealed by [New Forest Act 1949 \(c. 69\)](#), s. 22, [Sch. 2](#)

**20 Vacating elective verderers to be re-eligible. U.K.**

Any person on ceasing to be an elective verderer shall, unless disqualified, be re-eligible.

**21 Resignation and casual vacancies of elective verderers. U.K.**

An elective verderer may resign on notifying in writing his intention so to do to any court of swainmote, and thereupon shall be deemed to create a casual vacancy.

Any casual vacancy in the office of an elective verderer shall be filled up by the elective verderers themselves, but the verderer so chosen shall retain his office so long only as the vacating verderer would have retained the same if such vacancy had not occurred.

An elective verderer dying between the time of his being elected a verderer and the time of his entering his office, shall be deemed to create a casual vacancy.

An elective verderer shall also vacate his office if he absents himself from all courts of swainmote or other meetings of the verderers for not less than six months, unless he is prevented from attending by illness, or unless the verderers resolve that it is expedient that such verderer should not vacate his office.

*Status and Powers of Verderers*

**22 Legal status of verderers. U.K.**

- (1) The verderers as constituted under this Act, shall be a body corporate by the name of the Verderers of the New Forest, having a perpetual succession and a common seal, with power to make contracts, and sue and be sued, for the purposes of their constitution, and to hold lands so far as may be necessary for offices or otherwise:
- (2) An act or proceeding of the verderers shall not be questioned on account of any vacancy or vacancies in their body:
- (3) A defect in the qualification or election of any elective verderer shall not vitiate any proceedings of a court of swainmote in which he or they have taken part in cases where the majority of verderers, parties to such proceedings, are duly entitled to act:
- (4) Any minute made of administrative proceedings at meetings of a court of swainmote, if signed either at the meeting of the court or at the next ensuing meeting of the court, by any person purporting for the time being to be chairman of the court, shall be receivable in evidence of such proceedings in all legal proceedings without further proof; and until the contrary is proved every court where minutes have been so made of the proceedings shall be deemed to have been duly convened and held:

---

*Changes to legislation: There are currently no known outstanding effects for the New Forest Act 1877. (See end of Document for details)*

---

- (5) A verderer by being party to, or executing in his capacity of verderer, any contract or other instrument on behalf of the verderers, or otherwise exercising any of the powers of the verderers, shall not be subject individually to any action, suit, trial, prosecution, or other legal proceedings, and the verderers may apply any moneys from time to time coming into their hands to the payment of any costs of legal proceedings or damages they may incur in execution of their powers:
- (6) Any appointment and any contract or other document which is not required by law to be under seal shall be deemed to be well executed if signed by the chairman for the time being of a court of swainmote, such signature being expressed to be by or on behalf of the Verderers of the New Forest.

## 23 Enumeration of powers of verderers. **U.K.**

The verderers as constituted under this Act shall have power,—

- (1) From time to time to appoint and dismiss, with power to increase or diminish their number, such officers and servants as they may deem necessary for the purpose of carrying into effect their duties as verderers, and to assign to each officer so appointed his duty and salary; and
- (2) To make drifts of the Forest at such time and in such manner as they may think expedient; and
- (3) To levy from the commoners in the Forest [<sup>F13</sup>by means of a rate and payments not exceeding the scales specified in the First Schedule hereto, and to levy from all other persons owning cattle (including horses, donkeys and mules), sheep and pigs entitled to be in the Forest by means of such payments as aforesaid, such sums as the verderers may require for paying the expenses of and incidental to the carrying into effect of their duties as verderers]; and
- (4) To inquire into all unlawful inclosures, . . . <sup>F14</sup>, encroachments, and trespasses whatsoever within the Forest, and to impose on any person or persons offending for every such offence any fine not exceeding ten pounds, and by summary order to direct every such inclosure, . . . <sup>F14</sup>, encroachment, and trespass to be abated; and
- (5) To punish all such offences, and perform all such acts, powers, authorities, matters, and things, and exercise all such jurisdiction, as the verderers or any two of them, or the verderers in their court of attachments or swainmote, are by any law, statute, or custom directed, authorised, or empowered to punish, do, exercise, or perform.

### Textual Amendments

**F13** Words substituted by [New Forest Act 1949 \(c. 69\), s. 9\(3\)](#)

**F14** Word repealed by [Wild Creatures and Forest Laws Act 1971 \(c. 47\), s. 1, Sch.](#)

### Modifications etc. (not altering text)

**C6** [S. 23](#) extended by [New Forest Act 1970 \(c. 21\), s. 3](#)

## 24 Courts of swainmote to be held by verderers. **U.K.**

The verderers as constituted under this Act shall hold courts of swainmote for the despatch of the administrative and judicial business to be transacted by them, and

*Changes to legislation: There are currently no known outstanding effects for the New Forest Act 1877. (See end of Document for details)*

shall from time to time make such regulations with respect to the summoning, notice, place, and adjournment of such courts, and generally with respect to the transaction and management of business, as they think fit, subject to the following conditions:

- (a) .....<sup>F15</sup>
- (b) A court may be summoned at any time on the requisition in writing of any three verderers, or of the official verderer; and,
- (c) Every question shall be decided by a majority of votes of the verderers present and voting on that question; and,
- (d) A court, where another number is not prescribed by this Act, shall be constituted by the presence of three verderers; and,
- (e) The official verderer shall be chairman of the court; and,
- (f) If at any court the chairman is not present at the time appointed for holding the same, or within a quarter of an hour afterwards, the verderers present shall choose some one of their number to be chairman of the court; and,
- (g) In case of an equality of votes at any court when transacting administrative business, the chairman for the time being of such court shall have a second or casting vote.

**Textual Amendments**  
**F15** S. 24(a) repealed by [New Forest Act 1949 \(c. 69\), s. 22, Sch. 2](#)

---

**Modifications etc. (not altering text)**  
**C7** S. 24 amended by [New Forest Act 1949 \(c. 69\), s. 8](#)

*Byelaws*

**25 Power of verderers to make byelaws. U.K.**

The verderers as constituted under this Act may from time to time, at any court of swainmote at which not less than five of their number are present, if they think fit, make, and when made alter, add to, or repeal byelaws with respect to any of the following matters; (that is to say,)

- (1) The prevention of the spread of contagious or infectious disease in the Forest . . .<sup>F16</sup>; and
- (2) The conditions as to time, breed, and otherwise under which stallions, bulls, or other male entire commonable animals are to be allowed to roam at large in the Forest; and
- (3) The removal from the Forest of the cattle and other animals belonging to persons not being commoners in the Forest; and
- (4) The regulation of the rights of common by the commoners. Fines (to be recovered summarily) may be imposed by any such byelaws on persons breaking the same, provided that no fine exceeds for any one offence the sum of [<sup>F17</sup>ten pounds] . . .<sup>F18</sup>

.....<sup>F16</sup>

A byelaw made under this Act shall not nor shall any alteration therein or addition thereto or repeal thereof be confirmed. . . .<sup>F16</sup> until the expiration of one month after



*Changes to legislation:* There are currently no known outstanding effects for the New Forest Act 1877. (See end of Document for details)

notice of the intention to apply for confirmation of the same has been given by the verderers in one or more newspapers circulating in the said county; . . . <sup>F16</sup>

**Textual Amendments**

- F16** Words repealed by [New Forest Act 1949 \(c. 69\), s. 22, Sch. 2](#)
- F17** Words substituted by [New Forest Act 1964 \(c. 83\), s. 12](#)
- F18** Words repealed by [New Forest Act 1964 \(c. 83\), s. 12](#)

**Modifications etc. (not altering text)**

- C8** [S. 25](#) extended by [New Forest Act 1949 \(c. 69\), s. 9\(1\)](#); amended by *ibid.* s. 9(5)
- C9** So far as conferring power to make a person as regards any summary offence liable on conviction to a maximum fine, s. 40 of the [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#) applies

*Application of Schedules*

**26 Application of provisions in schedules. U.K.**

The provisions contained in the . . . <sup>F19</sup> third schedules hereto with respect to . . . <sup>F19</sup> the election of elective verderers shall be of the same force as if they were enacted in the body of this Act.

**Textual Amendments**

- F19** Words repealed by [New Forest Act 1949 \(c. 69\), s. 22, Sch. 2](#)

*Supplemental Provisions*

**27, 28. . . . . <sup>F20</sup> U.K.**

**Textual Amendments**

- F20** [Ss. 15, 17, 18, 27, 28, 31, 39, Sch. 2](#) repealed by [New Forest Act 1949 \(c. 69\), s. 22, Sch. 2](#)

**29 Appeal to High Court of Justice in respect of invalid election. U.K.**

It shall be the duty of Her Majesty's High Court of Justice, upon the application of any person who may be aggrieved by or complain of the election of any verderer, or any proceeding, act, or matter touching the same (reasonable notice having been given by the adverse party to those affected thereby of such intended application), to proceed forthwith, and in a summary way, to hear the affidavits, proofs, and allegations of the parties, or otherwise to inquire into the matter or cause of complaint, and either to confirm the election so complained of, or to order a new election, or to make such order and give such relief in the premises as right and justice may appear to the court to require; but no such application as aforesaid shall be entertained by the court unless it is made within one month after the election has taken place in respect of which the complaint is made; and no such election shall be declared invalid by reason of any defect in the title of the returning officer.

---

*Changes to legislation:* There are currently no known outstanding effects for the New Forest Act 1877. (See end of Document for details)

---

**30 Fine on neglect of duty by returning officer. U.K.**

If the returning officer refuses or neglects to comply with any enactment of this Act relating to the election of verderers he shall be liable, on summary conviction before two justices of the peace, to a fine not exceeding [<sup>F21</sup>level 2 on the standard scale].

**Textual Amendments**

**F21** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46

**31** .....<sup>F22</sup> **U.K.**

**Textual Amendments**

**F22** [Ss. 15, 17, 18, 27, 28, 31, 39, Sch. 2](#) repealed by [New Forest Act 1949 \(c. 69\)](#), s. 22, [Sch. 2](#)

**32 Mandamus to verderers making default in duty. U.K.**

If the verderers make default in causing any act or thing to be done which may be required or authorised to be done . . .<sup>F23</sup> for the purpose of the election of verderers in pursuance of this Act, Her Majesty's High Court of Justice may, upon the application of any person entitled or claiming to be entitled to vote at the election of the verderers, made in a summary manner, issue a mandamus for remedying each default.

**Textual Amendments**

**F23** Words repealed by [New Forest Act 1949 \(c. 69\)](#), s. 22, [Sch. 2](#)

*Legal Proceedings*

**33 Every verderer to have powers, &c. as if he were a justice of the peace, and court of swainmote to be deemed court of petty sessions. U.K.**

Each of the verderers as constituted under this Act shall, for all the purposes of his office, have the same powers and jurisdiction as if he were a justice of the peace acting in and for the Forest, and such Forest were a county; and a court of swainmote when transacting judicial business shall have the same power and jurisdiction as if it were a court consisting of two or more justices of the peace, sitting for the transaction of business within the purview of their commissions as justices at some court or other public place at which justices are for the time being accustomed to assemble for holding special or petty sessions, and as if the Forest were a petty sessional division. Where any seal is required to be affixed to any summons, warrant, conviction, or other document in pursuance of the Summary Jurisdiction Act in this Act mentioned, the seal of the verderers shall be deemed to be a proper and sufficient seal.

*Changes to legislation: There are currently no known outstanding effects for the New Forest Act 1877. (See end of Document for details)*

### 34 Recovery of fines. **U.K.**

Every sum of money which the verderers are empowered to collect or levy under this Act may be recovered as a fine, and all offences and fines capable of being prosecuted or recovered before a court of swainmote or before the verderers or any two of them, or the verderers in their court of attachments, shall be prosecuted and recovered in manner provided by the [<sup>F24M3</sup>Magistrates' Courts Act 1980].

The expression "the Summary Jurisdiction Act" means the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," inclusive of any Acts amending the same.

#### Textual Amendments

**F24** Words substituted by virtue of [Magistrates' Courts Act 1980 \(c. 43\)](#), [Sch. 8 para. 5](#)

#### Modifications etc. (not altering text)

**C10** The text of the definition of "the Summary Jurisdiction Act", now spent, is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

#### Marginal Citations

**M3** [1980 c. 43](#).

### 35 Disobedience to order of court of swainmote. **U.K.**

Any person disobeying any summary order of a court of swainmote made in pursuance of this Act shall incur a fine not exceeding one pound for every day during which such disobedience continues; moreover, if any person so in default persists in disobeying any requirement of any such order for a period of not less than seven days or such other period less than seven days as may be prescribed by such order, the court may, in addition to any fine it may impose, appoint any person or persons to carry into effect such order, and all expenses incurred by any such person or persons to such amount as may be allowed by the court shall be deemed to be a debt due from the person in default to the person or persons executing such order, and may be recovered accordingly as a fine in the court of swainmote.

### 36 Appeal from decision of court of swainmote. **U.K.**

Any person aggrieved by a decision of a court of swainmote under this Act may appeal therefrom, subject to the conditions and regulations following:

- (1) The appeal shall be made to [<sup>F25</sup>the Crown Court] not less than twenty-one days after the giving of the decision from which the appeal is made; and
- (2) The appellant shall, within ten days after the giving of the decision from which the appeal is made, give notice in manner prescribed by the verderers to the other party and to the court of swainmote of his intention to appeal, and the ground thereof; and
- (3) The appellant shall, within three days after giving such notice, enter into a recognizance before a justice of the peace, with two sufficient sureties, conditioned to try such appeal, and to abide the judgment of the court thereon, and to pay such costs

---

*Changes to legislation: There are currently no known outstanding effects for the New Forest Act 1877. (See end of Document for details)*

---

as may be awarded by the court, or give such other security, by deposit of money or otherwise, as the justice may allow; and

- (4) Where the appellant is in custody the justice may, if he think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody:
- (5) The [<sup>F26</sup>Crown Court] may adjourn the appeal, and upon the hearing thereof [<sup>F26</sup>the Court] may confirm, reverse, or modify the decision of the court of swainmote, or remit the matter to the court, with the opinion of [<sup>F26</sup>the Crown Court] thereon, or make such other order in the matter as the court thinks just. The [<sup>F26</sup>Crown Court] may also make such order as to costs to be paid by either party as the court thinks just.

#### Textual Amendments

**F25** Words substituted by virtue of [Courts Act 1971 \(c. 23\)](#), [Sch. 8 Pt. I para. 2](#)

**F26** Words substituted by virtue of [Courts Act 1971 \(c. 23\)](#), [Sch. 8 Pt. I para. 2](#)

### 37 Exclusion of certiorari. **U.K.**

An order or conviction made by a court of swainmote shall not be quashed for want of form, and shall not be removed by certiorari or otherwise, at the instance either of the Crown or of any private party, into any superior court.

Provided that nothing in this section shall prevent the removal of a special case stated for the opinion of a superior court, or of any order or conviction to which such case relates. Moreover, no warrant of commitment shall be held void by reason of any defect therein, provided that there is a valid conviction to maintain such warrant, and it is alleged in the warrant that the party has been convicted.

#### *Application of Moneys*

### 38 Application of fines and other moneys received by verderers. **U.K.**

All fines and other moneys recovered in the court of the verderers, or received by the verderers under this Act, shall be carried by them to the account of a general fund, and shall be applied in payment of the salaries of the officers and servants employed by them, and in defraying their other expenses under this Act.

An account of the moneys paid into such fund and of the application thereof shall be made out annually, and shall be audited by a person to be annually appointed by [<sup>F27</sup>the County Council of Hampshire], and there shall be paid to such auditor in respect of his services by the verderers such sum as may be fixed by the said council.]

[<sup>F28</sup>On the completion of the audit of the annual accounts of the verderers they shall publish in some newspaper circulating in [<sup>F27</sup>the county of Hampshire] a notice stating that the audit has been completed, and specifying a place where, in accordance with the next following paragraph, the commoners may inspect the accounts and take copies thereof or extracts therefrom.]

Any commoner may on payment of such sum, not exceeding [<sup>F29</sup>25p], as may be prescribed by the verderers, inspect at any reasonable hour the accounts of the verderers, and take copies of or extracts from such accounts on payment of

---

*Changes to legislation: There are currently no known outstanding effects for the New Forest Act 1877. (See end of Document for details)*

---

a further sum not exceeding [<sup>F30</sup>25p] for every hour during which he may be occupied in taking such copies or extracts.

.....  
**Textual Amendments**

- F27** Words substituted by [S.I. 1978/440, art. 6\(1\)](#)
- F28** Para. substituted by [New Forest Act 1949 \(c. 69\), s. 10](#)
- F29** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)
- F30** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

**39** .....<sup>F31</sup> **U.K.**

.....  
**Textual Amendments**

- F31** [Ss. 15, 17, 18, 27, 28, 31, 39, Sch. 2](#) repealed by [New Forest Act 1949 \(c. 69\), s. 22, Sch. 2](#)

*Changes to legislation: There are currently no known outstanding effects for the New Forest Act 1877. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1 **U.K.**

#### *Maximum Rate and Scale of Contributions to be levied by Verderers*

- 1 An annual rate upon property to which rights of common of pasture, turbary, or pannage attach, not exceeding one penny in the pound on the rateable value of such property; and
- 2 Payments for the following matters, viz.:—
- The contributions in this schedule mentioned are independent of any dues or sums payable to the Crown.

#### Not to exceed

- |   |                              |
|---|------------------------------|
| (a) For marking every head of cattle, including horses, donkeys, and mules, entitled to be in the Forest) | [ <sup>F32</sup> 12½p]       |
| For marking every sheep entitled to be in the Forest)   | [ <sup>F32</sup> 5p]         |
| (b) For every thousand turves   | [ <sup>F32</sup> 2½p]        |
| (c) For every pig turned out in pannage time  | [ <sup>F33</sup> two pounds] |

#### Textual Amendments

- F32** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)
- F33** Words substituted by [S.I. 1981/550, Sch.](#)

#### Modifications etc. (not altering text)

- C11** [Sch. 1 para. 2\(a\)](#) amended by [S.I. 1981/550, Sch.](#)

### <sup>F34</sup><sup>F34</sup>SCHEDULE 2 **U.K.**

#### Textual Amendments

- F34** [Ss. 15, 17, 18, 27, 28, 31, 39, Sch. 2](#) repealed by [New Forest Act 1949 \(c. 69\), s. 22, Sch. 2](#)

*Changes to legislation: There are currently no known outstanding effects for the New Forest Act 1877. (See end of Document for details)*

## SCHEDULE 3 U.K.

### *Election of Verderers*

#### *Regulations as to election of verderers.*

... <sup>F35</sup>[<sup>F36</sup>The high sheriff of Hampshire] shall be the returning officer. ... <sup>F35</sup>

#### **Textual Amendments**

**F35** Words repealed by [New Forest Act 1949 \(c. 69\), s. 22, Sch. 2](#)

**F36** Words substituted by [S.I. 1978/440, art. 6\(1\)](#)

#### **Textual Amendments**

**F35** Words repealed by [New Forest Act 1949 \(c. 69\), s. 22, Sch. 2](#)

**F36** Words substituted by [S.I. 1978/440, art. 6\(1\)](#)

#### *Mode of taking poll.*

... <sup>F37</sup> Where an equality of votes is found to exist between any candidates the returning officer may give a casting vote, but the returning officer shall not in any other case be entitled to vote at the election.

#### **Textual Amendments**

**F37** Words repealed by [New Forest Act 1949 \(c. 69\), s. 22, Sch. 2](#)

#### **Textual Amendments**

**F37** Words repealed by [New Forest Act 1949 \(c. 69\), s. 22, Sch. 2](#)

#### *General provisions as to elections.*

Whenever the day appointed for the performance of any act in relation to any election is a Sunday, a bank holiday, or any day appointed for public fast or thanksgiving, such act shall be performed on the day next following, unless it is one of the days excluded as aforesaid, and in that case on the day following such excluded day The expenses of an election of verderers shall be paid out of any funds in the hands of the verderers, and if and so far as those funds prove deficient, the deficiency shall be borne rateably by all the candidates nominated with their own consent at such election. If from any cause whatever an election of verderers does not take place on the day appointed for such election, the retiring verderers, if any, shall continue in office during the time for which their successors would have continued in office. If from any cause whatever on the occurrence of an election where two verderers ought to be elected one only is elected, such one of the retiring verderers as the other verderers may select shall continue in office during the term for which his successor would if elected have held his office.

**Changes to legislation:**

There are currently no known outstanding effects for the New Forest Act 1877.