

ELIZABETH II



# Ashdown Forest Act 1974

CHAPTER xxi

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ELIZABETH II



1974 CHAPTER xxi

An Act to alter the constitution of, and to incorporate, the Conservators of Ashdown Forest; to alter the arrangements for meeting the expenses of the Conservators; to amend or repeal enactments relating to the Conservators and the forest and to confer further powers upon the Conservators; and for other purposes.

[31st July 1974]

**W**HEREAS

(1) The common lands in the non-metropolitan county of East Sussex known as Ashdown Forest are regulated by an Order (in this Act referred to as "the Order of 1885") made by the Land Commissioners for England in pursuance of the Inclosure Acts 1845 to 1878 and scheduled to and confirmed by the Commons Regulation (Ashdown Forest) Provisional Order Confirmation Act 1885 and by an award made pursuant to the said Inclosure Acts for giving effect to the purposes of the Order of 1885:

(2) The said common lands form part of the manor of Duddleswell and the soil thereof is vested in the lord for the time being of the said manor subject to the commonable rights of the commoners interested in Ashdown Forest (in this Act referred to as "the commoners"):

(3) Provision was made by the Order of 1885 and the said award for the administration of the purposes thereof by a body of conservators (in this Act referred to as "the Conservators"):

(4) By the Ashdown Forest Act 1937 the constitution of the Conservators was altered and the Order of 1885 and the said award were amended and further powers were conferred upon the Conservators:

(5) The said common lands (in this Act referred to as "the forest") are situate in the former rural district of Uckfield which now forms part of the district of Wealden in the said county and constitute an amenity and place of resort subject to existing rights of common and it is expedient that the statutory duty of the Conservators to regulate and manage the forest should be extended so as to ensure its protection from encroachments and its conservation as a quiet and natural area of outstanding beauty:

(6) It is expedient to make provision for the alteration of the constitution of the Conservators and for their incorporation as in this Act provided:

(7) The expenses incurred by the Conservators are as to part thereof defrayed out of the proceeds of rates levied by them from time to time upon the commoners and out of other income and the remainder of such expenses have in the past been met by contributions from the respective councils of the former administrative county of East Sussex, urban district of East Grinstead and rural districts of Cuckfield and Uckfield:

(8) It was agreed between the Conservators and the said councils that the council of the said administrative county should meet the expenses of the Conservators in so far as such expenses were not defrayed out of the proceeds of the said rates and out of other income:

(9) It has been agreed between the Conservators, the county council of the non-metropolitan county of East Sussex (in this Act referred to as "the County Council"), the Mid Sussex District Council (as successor to the councils of the urban district of East Grinstead and of the rural district of Cuckfield) and the Wealden District Council (as successor to the council of the rural district of Uckfield) that the agreement referred to in the preceding paragraph should be carried into effect:

(10) It is expedient that, for the purpose of giving effect to the said agreement and for the better and more efficient administration and regulation of the Forest, the said award should be amended and the Ashdown Forest Act 1937 and the Ashdown Forest Act 1949 should be repealed and further powers conferred upon the Conservators as provided by this Act:

(11) It is expedient that the other provisions in this Act should be enacted:

(12) The purposes of this Act cannot be effected without the authority of Parliament:

(13) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have been observed:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Ashdown Forest Act 1974.

2.—(1) In this Act unless the subject or context otherwise requires—

"the Act of 1972" means the Local Government Act 1972;

"the appointed Conservators " means the persons for the time being holding the office of Conservator under or by virtue of section 8 (Appointed Conservators) of this Act and "appointed Conservator" and "appointed Conservators" shall be construed accordingly;

"the appointed day" means 1st April 1975;

"the Ashdown Forest enactments" means the Order of 1885, the award, and this Act;

"the award" means the award made by William Augustus Raper in the matter of the regulation of the forest and signed by him on 28th March 1887, and sealed and confirmed by the Land Commissioners for England on 31st March 1887;

"the commoners" means (he respective persons entitled to rights of common upon the forest and "commoner" means any one of the commoners;

"the Conservators" means the Conservators of the forest for the purposes of the Ashdown Forest enactments and on and after the appointed day such Conservators as incorporated by this Act and "Conservator" and "Conservators" shall be construed accordingly;

"the county" means the non-metropolitan county of East Sussex;

"the County Council" means the county council of the county;

"the elected Conservators" means the persons for the time being holding the office of Conservator under or by virtue of section 7 (Elected Conservators) of this Act and "elected Conservator" and "elected Conservators" shall be construed accordingly;

"the existing Conservators" means the persons holding the office of Conservator at 31st March 1975, under or by virtue of section 4 (Elected Conservators) or section 5 (Appointed Conservators) respectively of the Act of 1937 and "the existing elected Conservators" and "the existing appointed Conservators" shall be construed accordingly;

"the forest" means so much of the lands called or known as Ashdown Forest situate in the district of Wealden in the county as is for the time being subject to the provisions of the Ashdown Forest enactments and shall include any land added to the forest under the provisions of this Act;

"land" includes any estate or interest in land and land covered by water;

"the local authorities" means the County Council and the Wealden Council and "local authority" means either of those councils or that one of those councils in relation to which the expression is used, as the case may be;

"the lord of the manor" means the lord of the manor of Duddleswell for the time being and, in relation to the lord of the manor, "his nominee" means such person as the lord of the manor shall nominate in writing, such nomination to be deposited with the clerk of the Conservators;

"the Order of 1885" means the Provisional Order of Regulation made by the Land Commissioners for England in pursuance of the Inclosure Acts 1845 to 1878 and scheduled to and confirmed by the Commons Regulation (Ashdown Forest) Provisional Order Confirmation Act 1885;

"the Wealden Council" means the district council of Wealden; and

"year" means a period of twelve months commencing on 1st April

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of any subsequent enactment, including this Act.

**3.—**(1) On 31st March 1975 the existing Conservators Constitution shall go out of office and on and after the appointed day the Conservators shall consist of the lord of the manor or his nominee and ten appointed Conservators and five elected Conservators.

(2) On and after the appointed day the lord of the manor or his nominee and the appointed Conservators and the elected Conservators shall be the Conservators of the forest for all the purposes of the Ashdown Forest enactments.

**4.** On and after the appointed day the several persons who from time to time are under this Act or any subsequent Act amending or extending this Act holding office as Conservators shall (subject to the provisions of any such subsequent Act) be incorporated by the name of "The Conservators of Ashdown Forest" and by that name be a body corporate with perpetual succession and a common seal and by that name may sue and be sued and have power to put into execution the provisions of this Act so far as they are executed by the Conservators.

**5.** Notwithstanding any repeal effected by this Act, all the Property estate, right, title and interest of the existing Conservators in and to all real and personal property which were immediately before the appointed day vested in the existing Conservators shall on the appointed day be and are hereby transferred to and vested in the Conservators but subject and without prejudice to any charges, incumbrances or claims which affect the existing Conservators or their property.

**6.** Notwithstanding any repeal effected by this Act—

(1) all deeds, conveyances, grants, assurances, assignments, leases, purchases, sales, mortgages, bonds, covenants, force, agreements, securities and contracts and all working arrangements entered into or made and subsisting at the appointed day and then in force including any agreement or contract modified or varied by any repealed

enactment and then in force as so modified or varied and all liabilities and obligations incurred before the appointed day and, except where otherwise expressly provided in this Act, all the provisions of any Act of Parliament relating to the existing Conservators or the forest and in force at the appointed day shall be as binding and of as full force and effect in every respect against or in favour of the Conservators as they would or might have been against or in favour of the existing Conservators if this Act had not been passed;

(2) any action, suit, prosecution or other proceeding commenced before the appointed day either by or against the existing Conservators shall not abate or be discontinued or prejudicially affected by this Act but shall continue and take effect both in favour of and against the Conservators in like manner to all intents as if this Act had not been passed;

(3) every officer and servant of the existing Conservators appointed or continued in his employment by virtue of or acting under any of the enactments repealed by this Act shall hold and enjoy his office and employment with the salary and emoluments thereunto annexed and be deemed an officer or servant of the Conservators, as the case may be, until he shall vacate or be removed from such office or employment and he shall have the same rights and privileges and be subject to the same conditions of service, powers of removal, rules, regulations, pains and penalties as he would have had or been subject to if this Act had not been passed, subject nevertheless and without prejudice to any powers, authorities, obligations, pains or penalties vested in him or to which he may be subject under any provisions of this Act;

(4) the Conservators shall for the purposes of this Act be and continue seised and possessed of and entitled to all things in action, claims and demands whatsoever of or to which the existing Conservators were seised, possessed or entitled immediately before the appointed day;

(5) all rates, charges, fees, rents, fines, forfeitures, penalties, damages and other sums of money at the appointed day due or accruing due to the existing Conservators may be collected and recovered by the Conservators as if this Act had not been passed;



(6) all books and documents which if this Act had not been passed would have been receivable in evidence shall be receivable in evidence as if this Act had not been passed;

(7) all byelaws, rules, regulations and rates made or imposed by the existing Conservators under any enactment so repealed and enforceable by the Conservators before the appointed day shall so far as they are not inconsistent with the provisions of this Act and until repealed, altered or superseded remain in force in like manner and to the like extent as if this Act had not been passed;

(8) everything before the appointed day done, suffered and confirmed respectively shall be as valid as if this Act had not been passed.

7.—(1) An election of five persons (in this section referred to as "the first elected Conservators") to take the place as from Conservators. the appointed day of the existing elected Conservators going out of office on 31st March 1975 shall be held by the commoners at a meeting to be held in March 1975.

(2) One of the first elected Conservators shall go out of office on the 31st March in each of the years 1976 to 1980 but any of the first elected Conservators so going out of office shall be eligible for election or re-election as an elected Conservator.

(3) At the meeting of the commoners to be held in March 1975 it shall be determined by lot which one of the first elected Conservators shall go out of office on 31st March in each of the years 1976 to 1980.

(4) The elected Conservators shall be elected by the commoners, as to four members out of their number and as to the fifth such other person whether a commoner or not as they shall select.

(5) The term of office of the elected Conservators, other than the first elected Conservators going out of office in the years 1976 to 1979, shall be five years.

(6) An election of one person to take the place of the elected Conservator going out of office on 31st March in any year shall be held by the commoners at a meeting to be held in that month.

(7) The provisions of the award relating to the following matters, that is to say:—

the notices of meetings of the commoners for the election of Conservators;

the manner of electing Conservators;

the eligibility for re-election of an outgoing Conservator;

the resignation of a Conservator; and

the filling up of casual vacancies;

shall with all necessary modifications and subject to the provisions of this Act extend and apply to and in relation to the elected Conservators and the election, eligibility, resignation and filling up of casual vacancies in the number of such Conservators but shall not apply to or in relation to the appointed Conservators.

**8.**—(1) Each local authority shall at a meeting to be held on 31st March 1975 and in every fourth year thereafter appoint such number of Conservators as the appointing authority by this Act authorised to appoint to hold office for the period of four years from the 1st April next after their appointment.

(2) The appointed Conservators shall consist of ten persons of whom eight shall be appointed by the County Council and two shall be appointed by the Wealden Council.

(3) An appointed Conservator vacating office shall, subject to the provisions of this Act, be eligible for re-appointment.

(4) An appointed Conservator need not be a member of the local authority by whom he is appointed but if an appointed Conservator, being such a member, ceases to be a member of that local authority he shall cease to be a Conservator:

Provided that for the purposes of this subsection an appointed Conservator shall not be deemed to have ceased by reason of retirement to be a member of such local authority if he has been re-elected a member thereof not later than the day of his retirement.

(5) A person who is a member of both of the local authorities shall not be qualified to represent more than one of them and, if the same person shall be appointed a Conservator by both of the local authorities, he shall within one month after the second appointment choose under which appointment he will serve and the other appointment shall be deemed void.

(6) An appointed Conservator may at any time resign his office as such Conservator by notice in writing signed by him and delivered to the clerk of the Conservators and his resignation shall take effect upon the receipt of such notice by the said clerk. The said clerk shall as soon as practicable after the receipt of any such notice forward a copy thereof to the local authority by whom the Conservator so resigning was appointed.

(7) An appointed Conservator may be removed at any time by resolution of the local authority by whom he was appointed and the proper officer of the local authority shall send to the clerk of the Conservators a copy of such resolution forthwith after the passing thereof.

(8) On any vacancy happening in the number of appointed Conservators owing to an appointed Conservator dying, resigning or otherwise ceasing to be an appointed Conservator the local authority by whom he was appointed may at any time after the happening of such vacancy appoint another person to be an appointed Conservator in his place but such other person shall continue in office only so long as the person in whose place he is appointed would have been entitled to continue in office.

**9.—**(1) Whenever an appointment of an appointed Conservator has been made such Conservator shall, if he accepts the appointment, make a declaration of the acceptance of his appointment in a form prescribed by the Conservators and the proper officer of the conservators local authority by whom the appointment was made shall within 21 days thereafter notify the clerk of the Conservators of the appointment by sending to him the declaration and every such notification shall be conclusive evidence of such appointment.

(2) If such a declaration of acceptance by an appointed Conservator is not sent within the period prescribed by subsection (1) of this section, his appointment shall be void and the local authority shall make a further appointment.

**10.** The proceedings of the Conservators shall not be invalidated by any vacancy among their number or by any defect in the election or appointment of any Conservator.

**11.** In case of an equality of votes at any meeting of the Conservators the chairman of the meeting shall have a second or casting vote.

**12.** The quorum required for a meeting of the Conservators shall be six Conservators.

**13.** The Conservators shall have power to appoint committees of their members and for the better discharge of their duties to co-opt any person to serve on any such committee notwithstanding committees that such person is not a Conservator, a commoner or a member of a local authority and provided that at least two-thirds of the members of every such committee shall be Conservators.

**14.** The provisions set out in Schedule 1 to this Act shall have effect with respect to voting at meetings of the commoners.

**15.** The clerk of the Conservators shall prepare and keep a register of the commoners and shall include therein the names and addresses of all persons entitled to be included in the register together with, where properly is jointly owned, such particulars as may be necessary to determine which of two or more joint owners shall be entitled to vote at meetings of the commoners for the election of Conservators and may require the commoners to provide him with such particulars.

**16.** It shall be the duty of the Conservators at all times as far as possible to regulate and manage the forest as an amenity and place of resort subject to the existing rights of common upon the forest and to protect such rights of common, to protect the forest from encroachments, and to conserve it as a quiet and natural area of outstanding beauty.

**17.—(1)** Subject to the provisions of section 16 (Duty of Conservators) of this Act and of subsection (2) of this section and for the proper discharge of their duty under the said section 16 the Conservators shall have power in and in relation to the forest from time to time—

*(a)* subject to the consent of the lord of the manor, to engage in tree conservation which shall include the planting, felling, cutting and lopping of trees and shrubs, the enclosing of newly planted trees or groups of trees, and the selling and disposing of timber:

Provided that no more than ten acres of land shall be newly planted with trees and shrubs in any year and no plantation shall cover more than one acre of land;

*(b)* to protect any part of the forest and erect fences therefor;

*(c)* to conserve fauna and flora and (so far as consistent therewith) to improve grazing;

*(d)* to conserve and maintain those parts of the forest which are of historical, archaeological and physiographical interest;

*(e)* to provide and maintain vehicles, plant, machinery, apparatus and equipment and buildings required in connection therewith;

*(f)* provide and maintain recreational facilities which (except with the consent of the Wealden Council in respect of buildings or structures on village recreation grounds) do not involve the erection of new buildings or structures of any kind, the siting of caravans or the provision of camp sites;

*(g)* to make, provide, maintain and extend parking places for vehicles with means of access thereto and sanitary facilities for the convenience of the public;

*(h)* to appoint officers and staff for the purpose of more efficiently and properly carrying out the duties of the Conservators and for the proper regulation and management of the forest and to allow or pay to them such fees or salaries as the Conservators shall think fit.

(2) The Conservators shall not under the powers conferred on them by subsection (1) of this section keep enclosed at any onetime more than 100 acres of the forest without the consent of the Secretary of State.

(3) *(a)* In this subsection "the agreement" means the agreement dated 28th November 1940 and made between the Right Honourable Herbrand Edward Dundonald Brassey (Ninth) Earl De La Warr of the first part, the Right Honourable Helena Diana Countess De La Warr and Romilly Southwood Ouvry of the second part, the Conservators of the third part, the County Council of the fourth part and the Rural District Council of Uckfield of the fifth part.

*(b)* In so far as the provisions of the agreement may in any way inhibit the exercise by the Conservators of the powers conferred by this section the agreement shall be ineffective and incapable of being enforced.

**18.**—(1) Subject to the provisions of section 16 (Duty of Conservators) of this Act and to the provisions of subsection (3) powers of this section the following provisions shall have effect:—

*(a)* subject to the consent of the lord of the manor the Conservators shall have power to authorise by licence or consent the exercise by any person (including the lord of the manor) of any right or privilege in relation to the forest other than rights of common and to collect and retain all moneys due and derived from the grant of such licence or consent;

*(b)* the Conservators shall have power to control any activity upon the forest and if they think fit to issue licences for the carrying on in the forest of activities consistent with the quiet enjoyment of the countryside:

Provided that, save for the purposes of paragraph *(a)* of subsection (1) of section 19 (Byelaws) and section 21 (Access by public to forest) of this Act, such control shall not be exercised in respect of existing rights of common or the access of individual members of the public on foot;

*(c)* the Conservators shall have power to issue licences for the sale of refreshments in the forest from not more than six vehicles, such refreshments being limited to ice-cream and non-alcoholic beverages;

*(d)* any licence issued under the powers of paragraphs (b) and (c) of this subsection may be issued subject to such terms and conditions including a fee therefor as the Conservators shall from time to time determine;

*(e)* the Conservators shall have power to make reasonable charges for the parking of vehicles in the forest;

*(f)* the Conservators shall indemnify the lord of the manor against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against, recovered from or incurred by the lord of the manor arising from—

*(i)* the exercise of rights and privileges of or enjoyed by him in respect of which licences or consents have been granted by the Conservators to other persons under the powers conferred on the Conservators by this section; and

*(ii)* in relation to his interest in the forest, his liability under any enactment or rule of law;

and the Conservators shall have power to effect such insurance as they may consider appropriate to provide adequate cover in respect of such indemnity.

(2) *(a)* Before exercising the power conferred by paragraph (e) of subsection (1) of this section the Conservators shall submit details of their proposed charges to the County Council for approval and shall at the same time send a copy of such details to the Wealden Council, the Royal Automobile Club and the Automobile Association.

*(b)* Before approving the proposed charges the County Council shall have regard to any written representations made to the County Council by the Wealden Council, the Royal Automobile Club and the Automobile Association or any of them within one month of the date of the sending to them of details of the proposed charges.

(3) Nothing in this section shall authorise the Conservators to grant any licence or consent in relation to the rights of the lord of the manor in respect of minerals or any golf course existing at the passing of this Act.

**19.**—(1) Subject to the provisions of this Act the Conservators may from time to time make, alter or repeal byelaws for the regulation and better administration of the forest, including byelaws for all or any of the following purposes:—

- (a) the protection and regulation of the rights of the commoners;
- (b) the prevention of fires and nuisance and for regulating and prohibiting the lighting of fires;
- (c) the protection of the forest from encroachments and its conservation as a quiet and natural area of outstanding beauty;
- (d) the prevention of damage to land and property;
- (e) the regulation, restriction or prohibition of the use of land for any particular purpose;
- (f) the preservation of order and the regulation of the conduct and the securing of the safety of persons resorting to the forest;
- (g) the regulation of the speed of vehicles on any road in the forest not being a road within the meaning of the Road Traffic Act 1972;
- (h) the imposition of fines on persons offending against the byelaws, not exceeding the sum of £100 recoverable on summary conviction and, in the case of a continuing offence, a further fine not exceeding £20 for each day during which the offence continues after conviction therefor:

Provided that the provisions of subsections (3) to (8) of section 236 and section 238 of the Act of 1972 (which relate to the procedure for making, and evidence of, byelaws) shall apply to byelaws made by the Conservators as if the Conservators were a local authority within the meaning of the Act of 1972 and the clerk of the Conservators for the purposes of the certificate mentioned in the said section 238 were the proper officer of the local authority.

(2) The confirming authority in relation to byelaws made under this section shall be the Secretary of State.

(3) Nothing in this section shall affect the operation or validity of any byelaw in force at the passing of this Act.

**20.**—(1) The Conservators may acquire by agreement, whether by means of purchase, exchange, lease, gift or otherwise, any land within or outside the forest and hold such land as part of the forest or otherwise, as the case may be;

Provided that, unless they or the County Council shall otherwise determine at the time of acquisition, the Conservators shall hold land acquired outside the forest without its being subject to any rights or obligations attaching to land acquired within the forest or forming part of the forest.

(2) The Conservators may with the consent of the Secretary of State and the County Council in respect of any land held by the Conservators—

- (a) sell any land which is outside the forest and is not required by them;
- (b) exchange any land which is outside the forest and is not required by them for other land either with or without paying or receiving any money by way of equality of exchange;
- (c) let any land subject to such terms and conditions covenants and arrangements as they think fit;
- (d) charge or mortgage any land.

**21.** Subject to the provisions of the Ashdown Forest enactments and to the regulations made thereunder the public shall have access on foot to and over the forest for quiet recreation and enjoyment.

**22.**— (1) In this section—

"the Secretary of State" means the Secretary of State for Defence; and "the track" means the track leading from the Newbridge to Kidd's Hill road and running in a south-westerly direction towards Birch Wood and Thornhill Farm.

(2) The track may be used by the Secretary of State for the purpose of affording access to land at Pippingford Park by wheeled vehicles of the following classes:—

- (a) civilian vehicles of all types; and
  - (b) military vehicles having a maximum load-carrying capacity of four tons;
- but not any other class or type of vehicle.

(3) For the purposes of subsection (2) of this section the Secretary of State may metal or otherwise make up and from time to time repair so much of the track as is situate in the forest and thereafter maintain it to a standard suitable for such purposes.

(4) If by reason of the use of the track or any part thereof in pursuance of subsection (2) of this section any damage or injury shall be caused to—

- (a) the forest or any part thereof; or



(b) any person lawfully using the forest or any part thereof; or

(c) any animal for the time being thereon by virtue of the exercise of the rights of any commoner or any game or the rights of sporting of the lord of the manor;

the Secretary of State shall make good such damage or injury or pay compensation therefor and if any loss shall be suffered by any person by reason of any interference with his lawful enjoyment and use of the forest or any part thereof the Secretary of State shall pay compensation to the Conservators or any such person as aforesaid for any loss suffered by them or him by reason of any such interference;

Provided that the Secretary of State shall not be liable under this subsection—

(i) for any act or omission of any person who is not a member of the armed forces of the Crown or a servant of the Crown; or

(ii) to pay compensation for any damage, injury or loss due solely to the negligence or wrongful act or omission of the person by whom such damage, injury or loss is suffered:

Provided also that nothing in this subsection shall prejudice or affect the operation of the Law Reform (Contributory Negligence) Act 1945 or of section 10 of the Crown Proceedings Act 1947.

(5) Any compensation payable in respect of damage or injury to the forest or any part thereof shall be paid to the Conservators,

**23.—**(1) In this section "assembly" means the organised Assemblies, gathering or assembly in the forest of not less than 100 persons.

(2) No assembly shall be held without the prior written consent of the Conservators who shall not grant such consent without the approval of the local authorities.

(3) Application by any person for consent under Subsection (2) of this section shall be made in writing to the Conservators at least three months before the date of the proposed assembly and full particulars of the assembly shall be submitted with any such application.

(4) An assembly to which a consent has been given by the Conservators under subsection (i) of this section shall be held in accordance with any terms and conditions prescribed by the Conservators including the payment of a fee for such consent.

(5) Any person organising an assembly either without the consent of the Conservators or in contravention of any terms and conditions prescribed by the Conservators therefor shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

**24.—**(1) The County Council shall pay to the Conservators any amount by which in any year the expenditure of the Conservators in that year as shown by the accounts made up and audited in accordance with section 27 (Accounts of Conservators) of this Act exceeds the income of the Conservators in that year.

(2) For the purposes of subsection (1) of this section "expenditure" shall not include in any year any expenditure in excess of the estimates and supplementary estimates (if any) for that year approved by the County Council under section 25 (Payments by County Council) of this Act or any expenditure defrayed or to be defrayed out of borrowed moneys and income shall not include any amounts paid by the County Council to the Conservators pursuant to the provisions of the said section 25.

**25.—**(1) The Conservators shall prepare and send to the County Council in such form and on such dates in any year as Council. The County Council may prescribe, estimates of the expenditure and income of the Conservators for the following year in respect of both capital and revenue and the County Council shall inform the Conservators of the approval or disapproval by the County Council of such estimates.

(2) The Conservators may incur in any year the expenditure provided for in the estimates approved by the County Council for that year in accordance with the provisions of subsection (1) of this section and any further expenditure approved by the County Council provided that such further expenditure is included in a supplementary estimate sent to and approved by the County Council.

(3) The County Council shall pay the Conservators by four instalments on the 15th April, 15th July, 15th October and 15th January in each year the amount by which the annual revenue estimates approved by the County Council show expenditure as exceeding income in that year.

(4) If the amount paid in respect of any year commencing on or after the appointed day by the County Council to the Conservators pursuant to subsection (3) of this section exceeds the amount payable by the County Council in respect of that year pursuant to section 24 of this Act the amount of such excess shall be carried forward by the Conservators in their accounts to the credit of the County Council and shall be deducted from the amount due by the County Council in respect of the next year in respect of which a sum is payable by the County Council to the Conservators pursuant to this Act.

**26.** Subject to the consent of the County Council, capital money received from the sale of land by the Conservators may be applied by them for any purpose for which capital money may be properly applied:

Provided that such consent shall not be required in respect of the application of money received from the sale of land given to the Conservators or purchased out of money (other than public money) given to the Conservators.

**27.—(1) (a)** As from the appointed day the accounts of the Accounts of Conservators shall be audited either by the district auditor or by Conservators, an auditor appointed by the Conservators according as the Conservators shall determine by resolution passed not later than four months after the appointed day but if the resolution provides for the accounts to be audited by an auditor appointed by the Conservators it shall be of no effect unless the appointment is approved by the Secretary of State under section 164 of the Act of 1972 as applied to the audit of the accounts of the Conservators by paragraph *(b)* of this subsection.

*(b)* The provisions of Part VIII of the Act of 1972 relating to accounts and audit (except subsections (1) and (2) of section 154) shall with any necessary modifications and so far as they are applicable and are not inconsistent with the provisions of this Act apply to the audit of the accounts of the Conservators as they apply to the audit of the accounts of a local authority.

(2) As soon as practicable after the completion of the audit the clerk of the Conservators shall forward to the proper officer of the County Council a copy of the accounts of the Conservators and of any report to the Conservators made by the auditor.

(3) Any accounts of the Conservators and of their officers for the period 1st January 1975 to 31st March 1975 shall be subject to audit by a district auditor in accordance with the provisions of section 18 of the Act of 1937 notwithstanding the reference to each year in subsection (1) of that section.

**28.** Any sum payable to the Conservators by the County Expenses Council under or in pursuance of this Act shall be defrayed out of the county fund as expenses for general county purposes.

**29.—(1)** The provisions of section 172 of, and Part I of Borrowing Schedule 13 to, the Act of 1972 and of the regulations made thereunder so far as they are not inconsistent with the provisions of this Act shall extend and apply to the Conservators and to money borrowed by the Conservators as if—

*(a)* the Conservators were a local authority within the meaning of the Act of 1972;

*(b)* the money so borrowed were borrowed under Part 1 of the said schedule;

*(c)* the revenues of the Conservators and any sums payable to the Conservators by the County Council pursuant to this Act were the revenues of such a local authority as aforesaid;

and subject to any other modifications which may be necessary to adapt the said Part 1 and regulations for the purposes of this section.

(2) It shall not be lawful to exercise the powers of borrowing conferred by subsection (1) of this section except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946.

(3) The Secretary of State before giving his consent to the borrowing of any sum by the Conservators shall consider any representations in writing which may be made to him with respect thereto by the County Council within twenty-one days after the receipt by him of the application of the Conservators for his consent.

**30.** The rates levied upon the respective owners of the rights of common upon the forest shall be subject to the approval of the Secretary of State and notwithstanding anything contained in any enactment any arrears of rates levied by the Conservators may be recovered by them as a debt in any court of competent jurisdiction.

**31.** The provisions of sections 94 to 98 of the Act of 1972 shall extend and apply to the Conservators as if—

*(a)* the Conservators were a local authority (other than a parish council or community council) within the meaning of the Act of 1972;

*(b)* a Conservator were a member of the local authority;

*(c)* a meeting of the Conservators or a committee of the Conservators were a meeting of the local authority;

*(d)* the clerk of the Conservators were the appropriate officer of the local authority:

Provided that, for the purposes of this section, any estate, right, interest, privilege, exemption or authority of or enjoyed by the lord of the manor over the forest or any part thereof or the soil or any part of the soil thereof and any right of common upon the forest to which a commoner is entitled shall not be treated as a pecuniary interest in a contract, proposed contract or other matter.

**32.** The Secretary of State may cause to be held such inquiries as he may consider necessary in regard to the exercise of any

powers or duties conferred or imposed upon him and the giving of any consent or approval or the making of any order or the confirmation of any byelaw under this Act and section 250 of the Act of 1972 shall apply to any such inquiry as if it were an inquiry - held in pursuance of subsection (1) of that section and the Conservators were a local authority.

**33.**—(1) As from the commencement of this Act the enactment Repeals, specified in Part I of Schedule 2 to this Act is hereby repealed to the extent mentioned in the third column of that Part.

(2) As from the appointed day the enactment specified in Part H of Schedule 2 to this Act is hereby repealed to the extent mentioned in the third column of that Part.

**34.** As from the appointed day the provisions of the award, except those set out in Schedule 3 to this Act (which provisions shall continue to have full force and effect subject to the provisions of this Act) shall be and are hereby annulled.

**35.** Except as otherwise expressly provided in this Act, nothing in this Act shall affect prejudicially or alter any estate, right, interest, privilege, exemption or authority of or enjoyed by the lord of the manor in or over the forest or any part thereof or the soil or any part of the soil thereof.

**36.** Nothing in this Act shall restrict the discretion of the Conservators to assent to or acquiesce in—

(a) the exercise by the County Council of their statutory functions as a highway authority; or

(b) the obtaining of further statutory powers by the County Council for or in connection with the construction or widening of a highway in the forest.

**37.** Section 289 of the Town and Country Planning Act 1971 (which for the avoidance of doubt declares that the provisions of own and that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the Session 10 &11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this Act as if it had been passed during that Session; and accordingly the Town and Country Planning Act 1971 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Act.

**38.** All the costs, charges and expenses preliminary to and of Costs of Act ,and incidental to the preparing, applying for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the County Council out of the county fund of the County Council.

## SCHEDULES

Section 14. SCHEDULE I [NOTE - SUPERSEDED BY EAST SUSSEX ACT 1981 - now reads: "2. (a) At meetings of the commoners votes may be given either personally or by post ..... 3. Where property to which rights of common...is owned by more than one person only one of those persons shall be entitled to vote... either personally or by post..."]

voting at meetings of the commoners

The votes of the commoners at any meeting of the commoners shall be calculated on the basis of the number of votes cast and each of the commoners may have only one vote irrespective of the acreage of the properties in respect of which (he commoners are entitled to exercise rights of common upon the forest,

(a) At meetings of the commoners votes may be given either personally or by proxy, authorised by writing in the following form:—

Form of proxy

I.....of.....in the county of Sussex, being a commoner of Ashdown Forest (Assessment No....), hereby appoint .....in the county of ..... as my proxy to vote for me and on my behalf at the meeting of the commoners to be held on the .....day of .....next and at any adjournment thereof. Date.....19.....Signature.....

(b) A proxy need not be a commoner but no person shall be entitled to vote as a proxy unless the instrument appointing the proxy shall have been received by the clerk of the Conservators not less than 24 hours before the time appointed for holding the meeting at which the proxy is to be used.

(c) The instrument of proxy shall be deemed to authorise the proxy to demand or join in demanding a poll and a vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death of the appointor of the proxy, provided that no intimation in writing of the death shall have been received by the clerk of the Conservators before the commencement of the meeting or adjourned meeting at which the proxy is to be used.3. Where property to which rights of common upon the forest attach is owned by more than one person only one of those persons shall be entitled to vote at meetings of the commoners and such person may vote either personally or by proxy and may appoint as his proxy any other person including another of the joint owners of the property,

## SCHEDULE 2

Repeals Part 1 Enactment repealed as from the commencement of this Act

Chapter 12 & 13 Geo 6 c. xlvii. The Ashdown Forest Act 1949, The whole Act.

Part II Enactment repealed as from the appointed day

Chapter 1 Edw. 8 & Geo. 6. C.lii. The Ashdown Forest Act 1937. The whole Act.

## SCHEDULE 3 Section 34.

Provisions of the award saved from annulment

To all to whom these presents shall come I William Augustus Raper of the Parish of Battle in the County of Sussex Gentlemen Send greeting.

Whereas a Provisional Order for the Regulation under the provisions of the Inclosure Acts 1845 to 1878, of Ashdown Forest (herein after referred to as the Forest) situate in the Parishes of East Grinstead, Hartfield, Withyham, Buxted, Maresfield and Fletching in the County of Sussex has been confirmed by The Commons Regulation (Ashdown Forest) Provisional Order Confirmation Act 1885. And whereas I the said William Augustus Raper have been duly appointed the Valuer in the matter of the said Regulation and having made the declaration required by the said Acts have drawn up and sent to the Land Commissioners for England my Report in writing in the matter of the said Regulation with a map in two parts thereto annexed and in all other respects complied with the provisions of the said Acts. And whereas all such objections as have been made to my said Report having been heard and all such inquiries having been made in relation thereto as the said Commissioners have thought fit the said Commissioners have authorised and directed me to cause to be drawn and engrossed on parchment my Award in the matter of such Regulation.

Now know ye that in pursuance of the provisions of the said Acts and by virtue of the powers and authorities in me vested I the said William Augustus Raper the Valuer as aforesaid do make and declare this to be my Award in the matter of the said Regulation and to this my Award I have annexed the map in two parts referred to by my said Report. And I declare that in pursuance of the said Provisional Order the rights or privileges next hereinafter mentioned are reserved i.e.

1. A right or privilege of free access to the following particular points of view, namely:—

The fir-clump adjacent to the fence of Broadstone Warren;

\* \* \* \* \*

The fir-clump called Camp Hill near Duddleswell House;

The fir-clump a little North of the old inclosure called Crows Nest;

The fir-clump known as King's Standing but subject and without prejudice to the rights secured to the Right Honourable the Earl De La Warr by the judgement of the High Court of Justice dated the sixteenth day of June 1882 in the suit Hale and Others v. Earl de La Warr;

The fir-clump called Gills Lap;

The fir-clump on the highest part of the Forest near the Lodge;

\* \* \* \* \*

all of which clumps are marked on the map part I hereunto annexed.

2. A right or privilege of playing Cricket and other games as follows:—For the inhabitants of Nutley and the neighbourhood upon that part of the Forest at Fords Green which is coloured red upon the said map part I and marked "Cricket Ground";

For the inhabitants of Forest Row and the neighbourhood upon five acres of the Forest at Tompsetts Bank coloured red upon the said map part I and marked "Cricket Ground";

For the inhabitants of Horsted Keynes and Dane Hill and the neighbourhood upon that part of the Forest near Scowlers Gate which is coloured red upon the said map part 1 marked "Cricket Ground";

\* \* \* \* \*

All which said rights or privileges are subject to such byelaws not unduly restricting the enjoyment thereof as may from time to time be made by the Conservators of the Forest and confirmed by the Secretary of State.

And I declare that the trees forming the several clumps hereinbefore mentioned are to be preserved

\* \* \* \* \*

*Notice of meeting and procedure.*

At least fourteen days before the time for election in each year, the Clerk of the Conservators shall by notice on the Church door of each of the Parishes or ecclesiastical districts into which the Forest extends and on such other places as the Conservators shall consider necessary to ensure full notice and by advertisement in two newspapers circulated in the neighbourhood convene a meeting of the Commoners interested in the Forest for the purpose of electing and the majority in respect of interest of those present at such meeting shall elect . . . Conservators in the place of those going out of office and every such election shall be forthwith intimated in writing by the Chairman of the Meeting to the Clerk of the Conservators.

*Eligible for re-election*

Any outgoing Conservator shall be eligible for re-election.

*May resign*

Any Conservator other than the Lord of the said Manor or his nominee may at any time if so desirous resign his office on giving notice in writing under his hand of such desire to the Clerk of the Conservators.

*Filling up casual vacancies*

In the event of any vacancy in the number of elected Conservators by death, resignation or otherwise between the times fixed for nomination as aforesaid the said Commoners may at any meeting convened as aforesaid elect some other person to fill such vacancy but the person so elected shall retain office only so long as the vacating Conservator would have retained the same if no such vacancy had occurred and any election made at such meeting shall be intimated in manner aforesaid to the Clerk of the Conservators.

\* \* \* \* \*

*Servants and officers*

The Conservators may appoint a Clerk, Bailiffs, Servants, and any other Officer or Officers, as they may deem necessary, to act under their directions in the execution of their duties under this Award upon such terms and conditions as they may think fit, and may provide and maintain an Office or Offices for transacting their business.

*Conservators' meetings*

The Conservators shall meet for the transaction of business at least twice in every year, and at such other times as they may deem necessary, and shall elect one of their number to be Chairman to preside at their meetings. . . . The summoning of such meetings and the conduct of business thereat shall be subject to such rules as the Conservators may from time to time determine upon, and any documents purporting to proceed from the Conservators and to be signed by the Chairman and countersigned by the Clerk of the Conservators shall be received as



prima facie evidence in all courts and places whatsoever. A special meeting of the Conservators may at any time be summoned either by the Chairman or on the requisition in writing of any five of the Conservators or of any 20 Commoners interested in the Forest the summoning of such meeting to be subject to such rules as aforesaid, and the purpose or object of the meeting shall be specified in the notice.

\* \* \* \* \*

*Clerk's receipts*

All moneys payable to the Conservators may be paid to their Clerk whose receipt shall be an effectual discharge for the same.

The expenses incurred by the Conservators in the execution of their duties under this Award shall be defrayed out of any moneys applicable to the purpose that may come to their hands and such expenses or any part thereof may be raised by the Conservators by means of rates to be levied upon the respective owners of the rights of common upon the Forest.

\* \* \* \* \*

IN TESTIMONY whereof I the said William Augustus Raper have to this my Award, drawn up and engrossed on parchment set my hand this twenty-eighth day of March in the year of our Lord one thousand eight hundred and eighty seven

W. AUGS RAPER

IN WITNESS and confirmation whereof the Land Commissioners for England have hereunto set their hands and official Seal this thirty-first day of March in the year of our Lord one thousand eight hundred and eighty seven.

JAMES CAIRD      G. A. LEACH

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