

Changes to legislation: There are currently no known outstanding effects for the National Heritage Act 1983, Part IV. (See end of Document for details)

SCHEDULES

SCHEDULE 1

THE BOARDS

PART IV

ROYAL BOTANIC GARDENS, KEW

Status

- 31 The Board of Trustees of the Royal Botanic Gardens, Kew shall be a body corporate.
- 32 (1) Subject to sub-paragraph (3), the Board shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) The trustees and their staff shall not be regarded as civil servants and the Board's property shall not be regarded as property of, or held on behalf of, the Crown.
- (3) In relation to any matter as respects which the Board act by virtue of a direction under section 24(5), the Board shall enjoy the same privileges, immunities and exemptions as those enjoyed in relation to that matter by the Minister giving the direction.
- (4) Subject to [^{F1}the provisions of any] enactment, the Board shall not be exempt from any tax, duty, rate, levy or other charge whatever (whether general or local).
- ^{F2}(5)

Textual Amendments

- F1** Words in [Sch. 1 para. 32\(4\)](#) substituted (1.4.2000) by [1997 c. 29, s. 33\(1\)](#), [Sch. 3 para. 18\(5\)\(a\)](#); [S.I. 1998/2329, art. 3](#)
- F2** [Sch. 1 para. 32\(5\)](#) repealed (1.4.2000) by [1997 c. 29, s. 33\(1\)\(2\)](#), [Sch. 3 para. 18\(5\)\(b\)](#), [Sch. 4](#); [S.I. 1998/2329, art. 3](#)

Membership

- 33 (1) The Board shall consist of 12 members (referred to in this Part of this Schedule as "trustees").
- (2) One of the trustees shall be appointed by Her Majesty and the others shall be appointed by the [^{F3}Secretary of State].
- (3) In appointing any trustee, the [^{F4}Secretary of State] shall have regard to the desirability of the person's having knowledge or experience of the science of plants or any related subject, management, industrial relations, administration, or any other

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subject knowledge or experience of which would be of use to the Board in exercising their functions.

- (4) The [^{F4}Secretary of State] shall appoint one of the trustees to be chairman.
- (5) Subject to the following provisions of this paragraph, a trustee or chairman shall hold and vacate office in accordance with the terms of his appointment, but no trustee shall be appointed for a period of more than 5 years.
- (6) A chairman or a trustee appointed by the [^{F4}Secretary of State] may resign his office by notice in writing addressed to the [^{F4}Secretary of State], and a trustee appointed by Her Majesty may resign his office by notice in writing addressed to Her Majesty.
- (7) If a chairman ceases to be a trustee he shall also cease to be chairman.
- (8) A person who ceases to be a trustee, or ceases to be chairman, shall be eligible for re-appointment.

Textual Amendments

- F3** Words in Sch. 1 para. 33(2) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), Sch. 1 para. 25(1)(2) (with arts. 5(3) and 6)
- F4** Words in Sch. 1 para. 33(3)(4)(6) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), Sch. 1 para. 25(1)(3)(a) (with arts. 5(3), 6)

Staff

- 34 (1) There shall be a Director of the Royal Botanic Gardens, Kew who shall be appointed by the Board with the approval of the [^{F5}Secretary of State].
- (2) The Director shall be responsible to the Board for the general exercise of the Board's functions.
- (3) The Board may appoint such other employees as the Board think fit.
- (4) The Board shall pay to their employees such remuneration and allowances as the Board may determine.
- (5) The employees shall be appointed on such other terms and conditions as the Board may determine.
- (6) A determination under sub-paragraph (4) or (5) is ineffective unless made with the approval of the [^{F5}Secretary of State] given with the Treasury's consent.
- (7) Employment with the Board shall be included among the kinds of employment to which a scheme under section 1 of the ^{M1}Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) "Royal Botanic Gardens, Kew" shall be inserted after "National Portrait Gallery".

Textual Amendments

- F5** Words in Sch. 1 para. 34(1)(6) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), Sch. 1 para. 25(1)(3)(b) (with arts. 5(3), 6)

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Marginal Citations

M1 1972 c. 11

- 35 (1) The Board shall make, not later than such date as the Minister may determine, an offer of employment by the Board to each person employed immediately before that date in the civil service of the State for the purposes of the institution known as the Royal Botanic Gardens.
- (2) The terms of the offer shall be such that they are, taken as a whole, not less favourable to the person to whom the offer is made than the terms on which he is employed on the date on which the offer is made.
- (3) In determining whether the terms of the offer are more or less favourable to that person than those enjoyed by him on the date of the offer no account shall be taken of the fact that employment with the Board is not employment in the service of the Crown.
- (4) An offer made in pursuance of this paragraph shall not be revocable during the period of 3 months commencing with the date on which it is made.
- (5) Where a person becomes an employee of the Board in consequence of this paragraph, then, for the purposes of [^{F6}the Employment Rights Act 1996], his period of employment in the civil service of the State shall count as a period of employment by the Board and the change of employment shall not break the continuity of the period of employment.
- (6) Any dispute arising under this paragraph as to whether or not the terms of any employment offered by the Board are, taken as a whole, less favourable than those applying to a person's employment in the civil service of the State shall be referred to and determined by an [^{F7}employment tribunal].
- (7) An [^{F7}employment tribunal] shall not consider a complaint whereby a dispute mentioned in sub-paragraph (6) is referred to it unless the complaint is presented to the tribunal before the end of the period of 3 months beginning with the date of the offer of employment or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of the period of 3 months.
- (8) An appeal shall lie to the Employment Appeal Tribunal on a question of law arising from any decision of, or arising in proceedings before, an [^{F7}employment tribunal] under this paragraph; and no appeal shall lie except to the Employment Appeal Tribunal from any decision of an [^{F7}employment tribunal] under this paragraph.

Textual Amendments

- F6** Words in Sch. 1 Pt. IV para. 35(5) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, Sch. 1 para. 23(d) (with ss. 191, 192, 193, 194, 195, 202)
- F7** Words in Sch. 1 Pt. IV para. 35(6)(7)(8) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

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Proceedings

- 36 (1) The Board may regulate their own procedure (including, subject to subparagraph (7), quorum).
- (2) In doing so, they may make arrangements for any of their functions, other than the power to acquire or dispose of land, to be discharged by committees.
- (3) Any committee shall be appointed, and may be dissolved, by the Board.
- (4) A committee may include as members persons who are not trustees, but at least two of the members (including the committee's chairman) must be trustees.
- (5) A committee shall act in accordance with such directions as the Board may make from time to time.
- (6) Anything done by a committee under the arrangements shall, if the arrangements so provide, have effect as if done by the Board.
- (7) The quorum for meetings of the Board shall not at any time be less than four.
- (8) The validity of any proceedings of the Board shall not be affected by any vacancy among the trustees or by any defect in the appointment of any trustee.

Allowances

- 37 The Board may pay to each of the trustees and the members of any committee such reasonable allowances in respect of expenses or loss of remuneration as the [F8Secretary of State] may determine with the Treasury's approval.

Textual Amendments

- F8** Word in Sch. 1 para. 37 substituted (27.3.2002) by S.I. 2002/794, art. 5(1), Sch. 1 para. 25(1)(3)(c) (with arts. 5(3), 6)

Instruments

- 38 (1) The fixing of the seal of the Board shall be authenticated by the signature of the chairman or of some other person authorised either generally or specially by the Board to act for that purpose.
- (2) A document purporting to be duly executed under the seal of the Board, or to be signed on the Board's behalf, shall be received in evidence and, unless the contrary is proved, be deemed to be so executed or signed.

Accounts

- 39 (1) The Board shall keep proper accounts and proper records in relation to them.
- (2) The Board shall prepare a statement of accounts in respect of each financial year.
- (3) The statement shall give a true and fair view of the state of the Board's affairs at the end of the financial year and of the Board's income and expenditure in the financial year.

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- (4) The statement shall comply with any directions given by the [^{F9}Secretary of State] with the Treasury's consent as to the information to be contained in the statement, the manner in which the information is to be presented or the methods and principles according to which the statement is to be prepared.
- (5) The Board shall send the statement to the [^{F9}Secretary of State] at such time as he may direct.
- (6) The [^{F9}Secretary of State] shall, on or before 31 August in any year, send to the Comptroller and Auditor General the statement prepared by the Board under sub-paragraph (2) for the financial year last ended.
- (7) The Comptroller and Auditor General shall examine, certify and report on the statement sent to him under sub-paragraph (6) and shall lay copies of it and of his report before each House of Parliament.
- (8) In this paragraph "financial year" means the period commencing with the day of the Board's establishment and ending with the second 31 March following that day, and each successive period of 12 months.

Textual Amendments

- F9** Words in Sch. 1 para. 39(4)-(6) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), Sch. 1 para. 25(1) (3)(d) (with arts. 5(3), 6)

Information

- 40
- (1) The Board shall make to the [^{F10}Secretary of State] a report on the exercise of their functions since the last report was made or (in the case of the first) since the Board's establishment.
 - (2) The first report shall be made not later than the expiry of the period of 3 years (or such shorter period as the Minister may direct) commencing with the day of the Board's establishment.
 - (3) Each subsequent report shall be made not later than 3 years (or such shorter period as the [^{F10}Secretary of State] may direct) since the last was made.
 - (4) The [^{F10}Secretary of State] shall lay a copy of each report before each House of Parliament.
 - (5) Each report shall include a statement of action taken by the Board to enable disabled members of the public to use any services or facilities provided by the Board.
 - (6) The Board shall furnish the [^{F10}Secretary of State] with such information relating to their property and the discharge and proposed discharge of their functions as he may require, and for that purpose they shall permit any person authorised by him to inspect and make copies of any accounts or other documents of the Board and shall give such explanation of them as that person or the [^{F10}Secretary of State] may require.

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Textual Amendments

F10 Words in Sch. 1 para. 40(1)(3)(4)(6) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 25(3)(e)** (with arts. 5(3), 6)

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