



# National Heritage Act 1983

## 1983 CHAPTER 47

An Act to establish Boards of Trustees of the Victoria and Albert Museum, the Science Museum, the Armouries and the Royal Botanic Gardens, Kew, to transfer property to them and confer functions on them, to make provision in relation to government grants to, and employment by, armed forces museums, to establish a Historic Buildings and Monuments Commission for England, to confer functions on the Commission, to dissolve the Historic Buildings Council for England and the Ancient Monuments Board for England, to amend certain enactments relating to the heritage and for connected purposes. [13th May 1983]

<sup>X1</sup>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:—

### **Editorial Information**

- X1** The text of ss. 32–43 and Schs. 3–6 can also be found in S.I.F. Group 3 (Ancient Monuments and Memorials).

### **Commencement Information**

- II** Act not in force at Royal Assent see [s. 41](#): Act partly in force at 13.7.1983 see [s. 41\(3\)](#): Act wholly in force at 1.4.1984.

### *Victoria and Albert Museum*

#### **1 Establishment of Board of Trustees.**

- (1) There shall be a body known as the Board of Trustees of the Victoria and Albert Museum.
- (2) Part I of Schedule 1 shall have effect with respect to the Board.

*Status: Point in time view as at 23/02/2017.*

*Changes to legislation: National Heritage Act 1983 is up to date with all changes known to be in force on or before 21 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

- C1** Ss. 1-16: functions of the Secretary of State transferred by S.I. 1983/879, 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of S.I. 1986/600, arts. 2(1), 7(1), **Sch 1 Pt. I** and as from 3.7.1992 again exercisable by the Secretary of State by virtue of S.I. 1992/1311, art. 3(1), **Sch. 1 Pt.I** and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of S.I. 1986/600, **art. 7(1)** and S.I. 1992/1311, **art. 12(4)**

## **2 The Board's general functions.**

- (1) So far as practicable and subject to the provisions of this Act, the Board shall—
  - (a) care for, preserve and add to the objects in their collections,
  - (b) secure that the objects are exhibited to the public,
  - (c) secure that the objects are available to persons seeking to inspect them in connection with study or research, and
  - (d) generally promote the public's enjoyment and understanding of art, craft and design, both by means of the Board's collections and by such other means as they consider appropriate.
- (2) For those purposes the Board may, subject to the provisions of this Act—
  - (a) provide education, instruction and advice and carry out research,
  - (b) enter into contracts and other agreements (including agreements for the Board's occupation or management of the building known as the Victoria and Albert Museum or other premises), and
  - (c) acquire and dispose of land and other property.
- (3) Subject to the provisions of this Act, the Board may do such things (including requiring payment for admission or for other services or for goods provided by them) as they think necessary or expedient—
  - (a) for preserving, and increasing the utility of, their collections,
  - (b) for securing the due administration of anything vested in or acquired by them, and any premises occupied or managed by them, under or by virtue of this Act, and
  - (c) otherwise for the purposes of their functions.
- (4) If a Minister of the Crown directs the Board to exercise functions which are exercisable by him (whether by virtue of an enactment or otherwise), which in his opinion can appropriately be exercised by the Board having regard to their functions and resources, and which are specified in the direction, the Board shall exercise them on his behalf in such manner as he may from time to time direct; but nothing in this subsection authorises the Board to exercise a function of making regulations or other instruments of a legislative character.
- (5) The Board shall not acquire or dispose of land without the Secretary of State's consent.
- (6) The Board may allow premises occupied or managed by them to be used by other persons (for payment or otherwise) for purposes not connected with the functions mentioned in subsection (1) if the Board are satisfied that to do so would not conflict unduly with those functions.

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

- C2** Ss. 1-16: functions of the Secretary of State transferred by S.I. 1983/879, 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of S.I. 1986/600, arts. 2(1), 7(1), **Sch 1 Pt. I** and as from 3.7.1992 again exercisable by the Secretary of State by virtue of S.I. 1992/1311, art. 3(1), **Sch. 1 Pt.I** and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of S.I. 1986/600, **art. 7(1)** and S.I. 1992/1311, **art. 12(4)**

### 3 Power of Board to form companies.

- (1) With the consent of the Secretary of State and subject to any conditions he may impose, the Board may form or take part in forming one or more bodies corporate which (or each of which) has as its main object or objects
- [<sup>F1</sup>(a) one or more of the particular objects mentioned in subsection (2), or  
(b) any other object or objects incidental to the Board's functions.]
- (2) The [<sup>F2</sup>particular objects ] are—
- (a) the production and publication of books, films or other informative material relating to art, craft or design,  
(b) the commissioning of works of art, craft or design,  
(c) the production of replicas or reproductions of works of art, craft or design, or of souvenirs,  
(d) the sale of informative material relating to art, craft or design, of works of art, craft or design, of replicas or reproductions of such works, or of souvenirs, and  
(e) the provision of catering or car parking or other services or facilities for the public at any premises occupied or managed by the Board.
- (3) The Board may hold interests in any such body, exercise rights conferred by the holding of interests in it, and provide financial or other assistance to or in respect of it (including assistance by way of guarantee of its obligations).
- (4) In this section references to works of design are to works illustrating the principles of design.
- (5) This section is without prejudice to any power of the Board to undertake anything mentioned in subsection (2) by virtue of section 2.

#### Textual Amendments

- F1** S. 3(1)(a)(b) substituted for words in s. 3(1) (14.2.2012) by **Public Bodies Act 2011 (c. 24), ss. 32(2)(a), 38(1)**
- F2** Words in s. 3(2) substituted (14.2.2012) by **Public Bodies Act 2011 (c. 24), ss. 32(2)(b), 38(1)**

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

- C3** Ss. 1-16: functions of the Secretary of State transferred by S.I. 1983/879, 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of S.I. 1986/600, arts. 2(1), 7(1), **Sch 1 Pt. I** and as from 3.7.1992 again exercisable by the Secretary of State by virtue of S.I. 1992/1311, art. 3(1), **Sch. 1 Pt.I** and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of S.I. 1986/600, **art. 7(1)** and S.I. 1992/1311, **art. 12(4)**

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#### 4 Initial vesting in Board.

- (1) Subject to the provisions of this Act, where the property in an object was vested in a Minister of the Crown immediately before the vesting day, and the object—
  - (a) then formed part of the collections of the institution known as the Victoria and Albert Museum, or
  - (b) was then in use in respect of the collections or solely for the purposes of the administration of the institution,
 then the property shall on that day become vested instead in the Board.
- (2) In the case of an object mentioned in subsection (1)(a), it is immaterial that, immediately before the vesting day, it was situated elsewhere than at premises managed for the purposes of the institution (as where it was on loan).
- (3) Any interest which was vested in a Minister of the Crown immediately before the vesting day, and which then subsisted in a fund or share in a fund (whether or not of money) then held for the purposes of the institution, shall on that day become vested instead in the Board.
- (4) On the vesting day any right, power, duty or liability which was immediately before that day exercisable by or incumbent on a Minister of the Crown—
  - (a) in relation to any object mentioned in subsection (1), or
  - (b) by virtue of his having any interest mentioned in subsection (3),
 shall instead become exercisable by or incumbent on the Board.
- (5) Subsections (1) and (4)(a) do not apply as regards an object excepted from those provisions by an order made by the Secretary of State and coming into force before the vesting day.
- (6) Nothing in subsection (1) or (4)(a) affects chattels vested in the Secretary of State for Education and Science by virtue of the <sup>M1</sup>Wellington Museum Act 1947; but he and the Board may make agreements for the Board to perform, on his behalf, functions exercisable by him in relation to the chattels mentioned in section 2(1) of that Act.
- (7) The power to make an order under subsection (5) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section “the vesting day” means the day appointed under section 41(1) for the coming into force of this section (other than subsections (5) and (7)).

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

- C4** S. 4: functions of the Secretary of State under ss. 1-16 and of the Secretary of State for Education and Science under s. 4(6) transferred by [S.I. 1983/879](#), 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of [S.I. 1986/600](#), [arts. 2\(1\), 7\(1\)](#), [Sch 1 Pt. I](#) and as from 3.7.1992 exercisable, or again exercisable, by the Secretary of State by virtue of [S.I. 1992/1311](#), [art. 3\(1\)](#), [Sch. 1 Pt.I](#) and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of [S.I. 1986/600](#), [art. 7\(1\)](#) and [S.I. 1992/1311](#), [art. 12\(4\)](#).

#### Marginal Citations

- M1** 1947 c. 46.

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## 5 Certain gifts vesting on or after vesting day.

- (1) Subsection (2) applies to a gift (by will or otherwise)—
  - (a) which is contained in an instrument made or executed before the vesting day but coming into effect on or after that day, and
  - (b) which would, apart from this Act, have vested an interest in property (of any nature) in a Minister of the Crown for the purposes of the institution known as the Victoria and Albert Museum.
- (2) The gift shall, in the absence of any contrary intention expressed in that or another instrument made by the testator or donor, have effect so as to vest the interest in the Board in place of the Minister.
- (3) In this section “the vesting day” means the day appointed under section 41(1) for the coming into force of section 4 (other than subsections (5) and (7)).

### Modifications etc. (not altering text)

- C5** *Ss. 1-16*: functions of the Secretary of State transferred by [S.I. 1983/879](#), 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of [S.I. 1986/600](#), [arts. 2\(1\), 7\(1\)](#), [Sch 1 Pt. I](#) and as from 3.7.1992 again exercisable by the Secretary of State by virtue of [S.I. 1992/1311](#), [art. 3\(1\)](#), [Sch. 1 Pt.I](#) and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of [S.I. 1986/600](#), [art. 7\(1\)](#) and [S.I. 1992/1311](#), [art. 12\(4\)](#)

## 6 Acquisition and disposal of objects.

- (1) The Board may acquire (whether by purchase, exchange or gift) any objects which in their opinion it is desirable to add to their collections.
- (2) Without prejudice to any power apart from this subsection, a Minister of the Crown may transfer to the Board any object (whether or not he acquired it before the Board’s establishment) if in his opinion it would appropriately form part of their collections.
- (3) The Board may not dispose of an object the property in which is vested in them and which is comprised in their collections unless—
  - (a) the disposal is by way of sale, exchange or gift of an object which is a duplicate of another object the property in which is so vested and which is so comprised, or
  - (b) the disposal is by way of sale, exchange or gift of an object which in the Board’s opinion is unsuitable for retention in their collections and can be disposed of without detriment to the interests of students or other members of the public, or
  - (c) the disposal is [<sup>F3</sup>an exercise of the power conferred by section 6 of the Museums and Galleries Act 1992], or
  - (d) the disposal (by whatever means, including destruction) is of an object which the Board are satisfied has become useless for the purposes of their collections by reason of damage, physical deterioration, or infestation by destructive organisms.

<sup>F4</sup>(4) .....

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- (5) An object may be disposed of as mentioned in subsection (3)(d) notwithstanding a trust or condition (express or implied) prohibiting or restricting the disposal of the object.
- (6) Money accruing to the Board by virtue of a disposal mentioned in this section shall be applied by the Board in the acquisition of objects to be added to their collections.

#### Textual Amendments

- F3** Words in s. 6(3)(c) substituted (1.9.1992) by Museums and Galleries Act 1992 (c. 44), s. 11(2), **Sch. 8 Pt. II para. 13(1)**; S.I. 1992/1874, **art. 2**
- F4** S. 6(4) repealed (1.9.1992) by Museums and Galleries Act 1992 (c. 44), s. 11(3), **Sch. 9**; S.I. 1992/1874, **art. 2**

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

- C6** **Ss. 1-16**: functions of the Secretary of State transferred by S.I. 1983/879, 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of S.I. 1986/600, arts. 2(1), 7(1), **Sch 1 Pt. I** and as from 3.7.1992 again exercisable by the Secretary of State by virtue of S.I. 1992/1311, art. 3(1), **Sch. 1 Pt. I** and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of S.I. 1986/600, **art. 7(1)** and S.I. 1992/1311, **art. 12(4)**

## 7 Lending and borrowing of objects.

- (1) Subject to subsection (2), the Board may lend any object the property in which is vested in them and which is comprised in their collections (whether or not the loan is for purposes of public exhibition, and whether or not under the terms of the loan the object is to remain in the United Kingdom).
- (2) In deciding whether or not to lend an object, and in determining the time for which and the conditions subject to which an object is to be lent, the Board—
  - (a) shall give special consideration to a request for the loan of an object for public exhibition, and
  - (b) subject to that, shall have regard to the interests of students and other persons visiting the Board's collections, the suitability of the prospective borrower, the purpose of the loan, the physical condition and degree of rarity of the object, and any risks to which it is likely to be exposed.
- (3) Where the property in an object has become vested in the Board subject to a condition, the power conferred by subsection (1) is exercisable in a manner inconsistent with the condition if either—
  - (a) 25 years have elapsed since the date on which the property became vested in the Board (or, where it became vested in them under section 4(1), the Minister), or
  - (b) the person who first imposed the condition or his personal representatives have consented in writing to the exercise of the power in that manner.
- (4) The Board may accept loans of objects for the purpose (depending on the terms of the loan) of exhibiting them, or of study or research by the Board or by persons seeking to inspect them.

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

- C7** Ss. 1-16: functions of the Secretary of State transferred by S.I. 1983/879, 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of S.I. 1986/600, arts. 2(1), 7(1), **Sch 1 Pt. I** and as from 3.7.1992 again exercisable by the Secretary of State by virtue of S.I. 1992/1311, art. 3(1), **Sch. 1 Pt.I** and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of S.I. 1986/600, **art. 7(1)** and S.I. 1992/1311, **art. 12(4)**

**F5**<sup>8</sup> .....

**Textual Amendments**

- F5** S. 8 repealed (1.9.1992) by Museums and Galleries Act 1992 (c. 44), s. 11(3), **Sch. 9**; S.I. 1992/1874, **art. 2**

*Science Museum*

**9 Establishment of Board of Trustees.**

- (1) There shall be a body known as the Board of Trustees of the Science Museum.
- (2) Part II of Schedule 1 shall have effect with respect to the Board.

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

- C8** Ss. 1-16: functions of the Secretary of State transferred by S.I. 1983/879, 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of S.I. 1986/600, arts. 2(1), 7(1), **Sch 1 Pt. I** and as from 3.7.1992 again exercisable by the Secretary of State by virtue of S.I. 1992/1311, art. 3(1), **Sch. 1 Pt.I** and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of S.I. 1986/600, **art. 7(1)** and S.I. 1992/1311, **art. 12(4)**

**10 The Board's general functions.**

- (1) So far as practicable and subject to the provisions of this Act, the Board shall—
  - (a) care for, preserve and add to the objects in their collections,
  - (b) secure that the objects are exhibited to the public,
  - (c) secure that the objects are available to persons seeking to inspect them in connection with study or research, and
  - (d) generally promote the public's enjoyment and understanding of science and technology and of the development of those subjects, both by means of the Board's collections and by such other means as they consider appropriate.
- (2) For those purposes the Board may, subject to the provisions of this Act—
  - (a) provide education, instruction and advice and carry out research,



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- (b) enter into contracts and other agreements (including agreements for the Board's occupation or management of the building known as the Science Museum or other premises), and
  - (c) acquire and dispose of land and other property.
- (3) Subject to the provisions of this Act, the Board may do such things (including requiring payment for admission or for other services or for goods provided by them) as they think necessary or expedient—
- (a) for preserving, and increasing the utility of, their collections,
  - (b) for securing the due administration of anything vested in or acquired by them, and any premises occupied or managed by them, under or by virtue of this Act, and
  - (c) otherwise for the purposes of their functions.
- (4) If a Minister of the Crown directs the Board to exercise functions which are exercisable by him (whether by virtue of an enactment or otherwise), which in his opinion can appropriately be exercised by the Board having regard to their functions and resources, and which are specified in the direction, the Board shall exercise them on his behalf in such manner as he may from time to time direct; but nothing in this subsection authorises the Board to exercise a function of making regulations or other instruments of a legislative character.
- (5) The Board shall not acquire or dispose of land without the Secretary of State's consent.
- (6) The Board may allow premises occupied or managed by them to be used by other persons (for payment or otherwise) for purposes not connected with the functions mentioned in subsection (1) if the Board are satisfied that to do so would not conflict unduly with those functions.

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

- C9** **Ss. 1-16:** functions of the Secretary of State transferred by [S.I. 1983/879](#), 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of [S.I. 1986/600](#), [arts. 2\(1\)](#), [7\(1\)](#), [Sch 1 Pt. I](#) and as from 3.7.1992 again exercisable by the Secretary of State by virtue of [S.I. 1992/1311](#), [art. 3\(1\)](#), [Sch. 1 Pt. I](#) and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of [S.I. 1986/600](#), [art. 7\(1\)](#) and [S.I. 1992/1311](#), [art. 12\(4\)](#)

## **11 Power of Board to form companies.**

- (1) With the consent of the Secretary of State and subject to any conditions he may impose, the Board may form or take part in forming one or more bodies corporate which (or each of which) has as its main object or objects
- [<sup>F6</sup>(a) one or more of the particular objects mentioned in subsection (2), or
  - (b) any other object or objects incidental to the Board's functions.]
- (2) The [<sup>F7</sup>particular objects ] are—
- (a) the production and publication of books, films or other informative material relating to science and technology,
  - (b) the production of replicas or reproduction of objects relating to science and technology, or of souvenirs,



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- (c) the sale of informative material relating to science and technology, or of replicas or reproductions of objects relating to science and technology, or of souvenirs, and
  - (d) the provision of catering or car parking or other services or facilities for the public at any premises occupied or managed by the Board.
- (3) The Board may hold interests in any such body, exercise rights conferred by the holding of interests in it, and provide financial or other assistance to or in respect of it (including assistance by way of guarantee of its obligations).
- (4) In this section references to science and technology include references to the development of those subjects.
- (5) This section is without prejudice to any power of the Board to undertake anything mentioned in subsection (2) by virtue of section 10.

#### Textual Amendments

- F6** S. 11(1)(a)(b) substituted for words in s. 11(1) (14.2.2012) by [Public Bodies Act 2011 \(c. 24\), ss. 32\(3\)\(a\), 38\(1\)](#)
- F7** Words in s. 11(2) substituted (14.2.2012) by [Public Bodies Act 2011 \(c. 24\), ss. 32\(3\)\(b\), 38\(1\)](#)

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

- C10** Ss. 1-16: functions of the Secretary of State transferred by [S.I. 1983/879](#), 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of [S.I. 1986/600, arts. 2\(1\), 7\(1\), Sch 1 Pt. I](#) and as from 3.7.1992 again exercisable by the Secretary of State by virtue of [S.I. 1992/1311, art. 3\(1\), Sch. 1 Pt. I](#) and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of [S.I. 1986/600, art. 7\(1\)](#) and [S.I. 1992/1311, art. 12\(4\)](#)

## 12 Initial vesting in Board.

- (1) Subject to the provisions of this Act, where the property in an object was vested in a Minister of the Crown immediately before the vesting day, and the object—
- (a) then formed part of the collections of the institution known as the Science Museum or the institution known as the Patent Museum, or
  - (b) was then in use in respect of the collections or solely for the purposes of the administration of the institutions,
- then the property shall on that day become vested instead in the Board.
- (2) In the case of an object mentioned in subsection (1)(a), it is immaterial that, immediately before the vesting day, it was situated elsewhere than at premises managed for the purposes of the institutions (as where it was on loan).
- (3) Any interest which was vested in a Minister of the Crown immediately before the vesting day, and which then subsisted in a fund or share in a fund (whether or not of money) then held for the purposes of the institution known as the Science Museum, shall on that day become vested instead in the Board.
- (4) On the vesting day any right, power, duty or liability which was immediately before that day exercisable by or incumbent on a Minister of the Crown—
- (a) in relation to any object mentioned in subsection (1), or

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- (b) by virtue of his having any interest mentioned in subsection (3), shall instead become exercisable by or incumbent on the Board.
- (5) Subsections (1) and (4)(a) do not apply as regards an object excepted from those provisions by an order made by the Secretary of State and coming into force before the vesting day.
- (6) The power to make an order under subsection (5) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section “the vesting day” means the day appointed under section 41(1) for the coming into force of this section (other than subsections (5) and (6)).

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

**C11** *Ss. 1-16:* functions of the Secretary of State transferred by [S.I. 1983/879](#), 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of [S.I. 1986/600](#), [arts. 2\(1\)](#), [7\(1\)](#), [Sch 1 Pt. I](#) and as from 3.7.1992 again exercisable by the Secretary of State by virtue of [S.I. 1992/1311](#), [art. 3\(1\)](#), [Sch. 1 Pt.I](#) and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of [S.I. 1986/600](#), [art. 7\(1\)](#) and [S.I. 1992/1311](#), [art. 12\(4\)](#)

**13 Certain gifts vesting on or after vesting day.**

- (1) Subsection (2) applies to a gift (by will or otherwise)—
- (a) which is contained in an instrument made or executed before the vesting day but coming into effect on or after that day, and
- (b) which would, apart from this Act, have vested an interest in property (of any nature) in a Minister of the Crown for the purposes of the institution known as the Science Museum or the institution known as the Patent Museum.
- (2) The gift shall, in the absence of any contrary intention expressed in that or another instrument made by the testator or donor, have effect so as to vest the interest in the Board in place of the Minister.
- (3) In this section “the vesting day” means the day appointed under section 41(1) for the coming into force of section 12 (other than subsections (5) and (6)).

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

**C12** *Ss. 1-16:* functions of the Secretary of State transferred by [S.I. 1983/879](#), 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of [S.I. 1986/600](#), [arts. 2\(1\)](#), [7\(1\)](#), [Sch 1 Pt. I](#) and as from 3.7.1992 again exercisable by the Secretary of State by virtue of [S.I. 1992/1311](#), [art. 3\(1\)](#), [Sch. 1 Pt.I](#) and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of [S.I. 1986/600](#), [art. 7\(1\)](#) and [S.I. 1992/1311](#), [art. 12\(4\)](#)

**14 Acquisition and disposal of objects.**

- (1) The Board may acquire (whether by purchase, exchange or gift) any objects which in their opinion it is desirable to add to their collections.

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- (2) Without prejudice to any power apart from this subsection, a Minister of the Crown may transfer to the Board any object (whether or not he acquired it before the Board's establishment) if in his opinion it would appropriately form part of their collections.
- (3) The Board may not dispose of an object the property in which is vested in them and which is comprised in their collection unless—
  - (a) the disposal is by way of sale, exchange or gift of an object which is a duplicate of another object the property in which is so vested and which is so comprised, or
  - (b) the disposal is by way of sale, exchange or gift of an object which in the Board's opinion is unsuitable for retention in their collections and can be disposed of without detriment to the interests of students or other members of the public, or
  - (c) the disposal is [<sup>F8</sup>an exercise of the power conferred by section 6 of the Museums and Galleries Act 1992], or
  - (d) the disposal (by whatever means, including destruction) is of an object which the Board are satisfied has become useless for the purposes of their collections by reason of damage, physical deterioration, or infestation by destructive organisms.
- <sup>F9</sup>(4) . . . . .
- (5) An object may be disposed of as mentioned in subsection (3)(d) notwithstanding a trust or condition (express or implied) prohibiting or restricting the disposal of the object.
- (6) Money accruing to the Board by virtue of a disposal mentioned in this section shall be applied by the Board in the acquisition of objects to be added to their collections.

**Textual Amendments**

- F8** Words in s. 14(3) substituted (1.9.1992) by [Museums and Galleries Act 1992 \(c. 44\), s. 11\(2\), Sch. 8 Pt. II para. 13](#) (1); S.I. 1992/1874, [art.2](#)
- F9** S. 14(4) repealed (1.9.1992) by [Museums and Galleries Act 1992 \(c. 44\), s. 11\(3\), Sch. 9](#); S.I. 1992/1874, [art. 2](#)

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

- C13** [Ss. 1-16](#): functions of the Secretary of State transferred by [S.I. 1983/879](#), 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of [S.I. 1986/600, arts. 2\(1\), 7\(1\), Sch 1 Pt. I](#) and as from 3.7.1992 again exercisable by the Secretary of State by virtue of [S.I. 1992/1311, art. 3\(1\), Sch. 1 Pt. I](#) and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of [S.I. 1986/600, art. 7\(1\)](#) and [S.I. 1992/1311, art. 12\(4\)](#)

**15 Lending and borrowing of objects.**

- (1) Subject to subsection (2), the Board may lend any object the property in which is vested in them and which is comprised in their collections (whether or not the loan is for purposes of public exhibition, and whether or not under the terms of the loan the object is to remain in the United Kingdom).
- (2) In deciding whether or not to lend an object, and in determining the time for which and the conditions subject to which an object is to be lent, the Board—

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- (a) shall give special consideration to a request for the loan of an object for public exhibition, and
  - (b) subject to that, shall have regard to the interests of students and other persons visiting the Board's collections, the suitability of the prospective borrower, the purpose of the loan, the physical condition and degree of rarity of the object, and any risks to which it is likely to be exposed.
- (3) Where the property in an object has become vested in the Board subject to a condition, the power conferred by subsection (1) is exercisable in a manner inconsistent with the condition if either—
- (a) 25 years have elapsed since the date on which the property became vested in the Board (or, where it became vested in them under section 12(1), the Minister), or
  - (b) the person who first imposed the condition or his personal representatives have consented in writing to the exercise of the power in that manner.
- (4) The Board may accept loans of objects for the purpose (depending on the terms of the loan) of exhibiting them, or of study or research by the Board or by persons seeking to inspect them.

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

**C14** *Ss. 1-16*: functions of the Secretary of State transferred by [S.I. 1983/879](#), 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of [S.I. 1986/600](#), [arts. 2\(1\), 7\(1\)](#), [Sch 1 Pt. I](#) and as from 3.7.1992 again exercisable by the Secretary of State by virtue of [S.I. 1992/1311](#), [art. 3\(1\)](#), [Sch. 1 Pt.I](#) and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of [S.I. 1986/600](#), [art. 7\(1\)](#) and [S.I. 1992/1311](#), [art. 12\(4\)](#)

**F10**<sup>16</sup> .....

#### **Textual Amendments**

**F10** *S. 16* repealed (1.9.1992) by [Museums and Galleries Act 1992 \(c. 44\)](#), s. 11(3), [Sch.9](#); [S.I. 1992/1874](#), [art. 2](#)

### *Armouries*

#### **17 Establishment of Board of Trustees.**

- (1) There shall be a body known as the Board of Trustees of the Armouries.
- (2) Part III of Schedule 1 shall have effect with respect to the Board.

#### **18 The Board's general functions.**

- (1) The Board shall perform their functions for the general purpose of maintaining and exhibiting a national collection of arms, armour and associated objects, and of maintaining a record relating to arms and armour and to the Tower of London.

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- (2) So far as practicable and subject to the provisions of this Act, the Board shall—
  - (a) care for, preserve and add to the objects in their collection of arms, armour and associated objects,
  - (b) secure that the objects are exhibited to the public,
  - (c) secure that the objects are available to persons seeking to inspect them in connection with study or research,
  - (d) maintain a record (which may include books, pictures and other articles) relating to their collection, to arms and armour generally and to the Tower, and
  - (e) generally promote the public's enjoyment and understanding of arms and armour, both by means of the Board's collection and by such other means as they consider appropriate.
- (3) For the purpose of fulfilling their duties under subsection (2) the Board may, subject to the provisions of this Act—
  - (a) provide education, instruction and advice and carry out research,
  - (b) enter into contracts and other agreements (including agreements for the Board's occupation or management of premises in the Tower or elsewhere),  
F11 . . .
  - (c) acquire and dispose of land and other property [F12 and
  - (d) with the consent of the Secretary of State and subject to such conditions as he may impose, make grants to any person for the purpose of promoting enjoyment, knowledge or understanding of arms and armour.]
- (4) Subject to the provisions of this Act, the Board may do such things as they think necessary or expedient—
  - (a) for preserving, and increasing the utility of, their collection,
  - (b) for securing the due administration of anything vested in or acquired by them, and any premises occupied or managed by them, under or by virtue of this Act, and
  - (c) otherwise for the purposes of their functions.
- (5) For so long as the Board have a right to occupy premises in the Tower, and so far as otherwise practicable, they shall secure that an exhibition of arms, armour and associated objects from among their collection is maintained and open to the public in those premises.
- (6) The Board shall not acquire or dispose of land without the Secretary of State's consent.
- (7) The power mentioned in subsection (4) includes power to require payment for admission to objects in the Board's collection and objects exhibited with them, but only while the objects are exhibited at a place other than the Tower, and includes power to require payment for goods or for services other than admission provided by the Board.
- [F13(8) The Board may, whether or not for the general purpose mentioned in subsection (1), allow premises occupied or managed by them to be used by other persons (for payment or otherwise) for purposes not connected with the functions mentioned in subsection (2), if the Board are satisfied that to do so would not unduly conflict with those functions.]

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#### Textual Amendments

- F11** Word in s. 18(3) repealed (1.9.1992) by [Museums and Galleries Act 1992 \(c. 44\)](#), s. 11(3), [Sch.9](#); S.I. 1992/1874, [art. 2](#)
- F12** S. 18(3)(d) and word 'and' preceding it added (1.9.1992) by [Museums and Galleries Act 1992 \(c. 44\)](#), s. 11(2), [Sch. 8 Pt. II para. 13\(2\)](#); S.I. 1992/1874, [art. 2](#)
- F13** S. 18(8) added (1.9.1992) by [Museums and Galleries Act 1992 \(c. 44\)](#), s. 11(2), [Sch. 8 Pt. II para. 13\(3\)](#); S.I. 1992/1874, [art. 2](#)

### [<sup>F14</sup>18A Power of Board to form companies.

- (1) With the consent of the Secretary of State and subject to any conditions he may impose, the Board may form or take part in forming one or more bodies corporate which (or each of which) has as its main object or objects one or more of those mentioned in subsection (2).
- (2) The objects are—
  - (a) the production and publication of books, films or other informative material relating to the Board's collection and record;
  - (b) the production of replicas or reproductions of objects comprised in their collection or of documents forming part of their record, or of souvenirs;
  - (c) the sale (whether or not at an hour when the collection is open to the public for viewing) of informative material relating to their collection or record, of replicas or reproductions of objects comprised in their collection or of documents forming part of their record, or of souvenirs or other goods;
  - (d) the provision (whether or not at such an hour) of catering or car parking or other services or facilities for the public at any premises occupied or managed by the Board; and
  - (e) any other object or objects incidental to the Board's functions.
- (3) The Board may hold interests in any such body, exercise rights conferred by the holding of interests in it, and provide financial or other assistance to or in respect of it (including assistance by way of guarantee of its obligations).
- (4) This section is without prejudice to any power of the Board to undertake anything mentioned in subsection (2) by virtue of section 18.]

#### Textual Amendments

- F14** S. 18A inserted (1.9.1992) by [Museums and Galleries Act 1992 \(c. 44\)](#), s. 11(2), [Sch. 8 Pt. II para. 13\(4\)](#); S.I. 1992/1874, [art. 2](#)

### 19 Initial vesting in Board.

- (1) Subject to subsection (4), where the property in an object was vested in the Secretary of State for the Environment immediately before the vesting day, and the object—
  - (a) then formed part of the collection of arms, armour and associated objects of the institution known as the Armouries or of their record (including books, pictures and other articles), or

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- (b) was then in use in respect of the collection or solely for the purposes of the administration of the institution,  
then the property shall on that day become vested instead in the Board.
- (2) In the case of an object mentioned in subsection (1)(a), it is immaterial that, immediately before the vesting day, it was situated elsewhere than at premises managed for the purposes of the institution (as where it was on loan).
- (3) On the vesting day any right, power, duty or liability which was immediately before that day exercisable by or incumbent on the Secretary of State for the Environment in relation to any object mentioned in subsection (1) shall instead become exercisable by or incumbent on the Board.
- (4) Subsections (1) and (3) do not apply as regards an object excepted from those provisions by an order made by the Secretary of State and coming into force before the vesting day.
- (5) The power to make an order under subsection (4) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “the vesting day” means the day appointed under section 41(1) for the coming into force of this section (other than subsections (4) and (5)).

## **20 Acquisition and disposal of objects.**

- (1) The Board may acquire (whether by purchase, exchange or gift) any objects which in their opinion it is desirable to add to their collection.
- (2) Without prejudice to any power apart from this subsection, a Minister of the Crown may transfer to the Board any object (whether or not he acquired it before the Board’s establishment) if in his opinion it would appropriately form part of their collection.
- (3) The Board may not dispose of an object the property in which is vested in them and which is comprised in their collection unless—
  - (a) the disposal is by way of sale, exchange or gift of an object which is a duplicate of another object the property in which is so vested and which is so comprised, or
  - (b) the disposal is by way of sale, exchange or gift of an object which in the Board’s opinion is unsuitable for retention in their collection and can be disposed of without detriment to the interests of students or other members of the public, or
  - (c) the disposal is [<sup>F15</sup>an exercise of the power conferred by section 6 of the Museums and Galleries Act 1992], or
  - (d) the disposal (by whatever means, including destruction) is of an object which the Board are satisfied has become useless for the purposes of their collection by reason of damage, physical deterioration, or infestation by destructive organisms.

<sup>F16</sup>(4) .....

- (5) Money accruing to the Board by virtue of a disposal mentioned in this section shall be applied by the Board in the acquisition of objects to be added to their collection.



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### Textual Amendments

- F15** Words in s. 20(3)(c) substituted (1.9.1992) by Museums and Galleries Act 1992 (c. 44), s. 11(2), **Sch. 8 Pt. II para. 13(1)**; S.I. 1992/1874, **art. 2**
- F16** S. 20(4) repealed (1.9.1992) by Museums and Galleries Act 1992 (c. 44), s. 11(3), **Sch. 9**; S.I. 1992/1874, **art. 2**

## 21 Lending and borrowing of objects.

- (1) Subject to subsection (2), the Board may lend any object the property in which is vested in them and which is comprised in their collection (whether or not the loan is for purposes of public exhibition, and whether or not under the terms of the loan the object is to remain in the United Kingdom).
- (2) In deciding whether or not to lend an object, and in determining the time for which and the conditions subject to which an object is to be lent, the Board—
  - (a) shall give special consideration to a request for the loan of an object for public exhibition, and
  - (b) subject to that, shall have regard to the interests of students and other persons visiting the Board's collection, the suitability of the prospective borrower, the purpose of the loan, the physical condition and degree of rarity of the object, and any risks to which it is likely to be exposed.
- (3) Where the property in an object has become vested in the Board subject to a condition, the power conferred by subsection (1) is exercisable in a manner inconsistent with the condition if either—
  - (a) 25 years have elapsed since the date on which the condition was first imposed on any person, or
  - (b) the person who first imposed the condition or his personal representatives have consented in writing to the exercise of the power in that manner.
- (4) The Board may accept loans of objects for the purpose (depending on the terms of the loan) of exhibiting them, or of study or research by the Board or by persons seeking to inspect them.

## 22 Finance.

- (1) The Secretary of State may out of money provided by Parliament pay to the Board such sums towards their expenditure as the Treasury may approve.
- (2) The payment may be made on such conditions as the Secretary of State imposes with the Treasury's approval.

*Royal Botanic Gardens, Kew*

## 23 Establishment of Board of Trustees.

- (1) There shall be a body known as the Board of Trustees of the Royal Botanic Gardens, Kew.
- (2) Part IV of Schedule 1 shall have effect with respect to the Board.

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## 24 The Board's general functions.

- (1) So far as practicable and subject to the provisions of this Act, the Board shall—
  - (a) carry out investigation and research into the science of plants and related subjects, and disseminate the results of the investigation and research,
  - (b) provide advice, instruction and education in relation to those aspects of the science of plants with which the Board are for the time being in fact concerned,
  - (c) provide other services (including quarantine) in relation to plants,
  - (d) care for their collections of plants, preserved plant material other objects relating to plants, books and records,
  - (e) Keep the collections as national reference collections, secure that they are available to persons for the purposes of study, and add to and adapt them as scientific needs and the Board's resources allow, and
  - (f) afford to members of the public opportunities to enter any land occupied or managed by the Board, for the purpose of gaining knowledge and enjoyment from the Board's collections.
- (2) For those purposes the Board may, subject to the provisions of this Act—
  - (a) enter into contracts and other agreements (including agreements for the Board's occupation or management of land),
  - (b) acquire and dispose of land and other property, and
  - (c) require payment for any advice, instruction, education or other service provided by the Board or for any goods provided by them or for entry to any land occupied or managed by them.
- (3) Subject to the provisions of this Act, the Board may do such things as they think necessary or expedient—
  - (a) for preserving, and increasing the utility of, their collections,
  - (b) for securing the due administration of anything vested in or acquired by them, and any land occupied or managed by them, under or by virtue of this Act, and
  - (c) otherwise for the purposes of their functions.
- (4) Subsection (5) applies to functions which are exercisable by a Minister of the Crown (whether by virtue of an enactment or otherwise) in relation to the management of Kew Gardens or other land and which in his opinion can appropriately be exercised by the Board having regard to their functions and resources; but subsection (5) does not apply to a function of making regulations or other instruments of a legislative character.
- (5) If the Minister directs the Board to exercise functions specified in the direction in relation to land so specified, the Board shall exercise them on his behalf in such manner as he may from time to time direct.
- (6) The Board shall not acquire or dispose of land without the consent of the [F17Secretary of State]; but that restriction does not apply to the grant of a lease of, or a licence or concession in respect of, land if the term of the proposed grant is less than one year.
- F18(7) .....
- F19(8) .....
- (9) The Board's name shall not be taken to confine their activities to Kew.

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#### Textual Amendments

- F17** Words in s. 24(6) substituted (27.3.2002) by [S.I. 2002/794, art. 5\(1\), Sch. 1 para. 22\(1\)\(2\)](#) (with arts. 5(3), 6)
- F18** [S. 24\(7\)](#) repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 102, Sch. 12](#); [S.I. 2006/2541, art. 2](#) (with Sch.)
- F19** [S. 24\(8\)](#) repealed (1.10.2006) by [Natural Environment and Rural Communities Act 2006 \(c. 16\), s. 107, Sch. 11 para. 103, Sch. 12](#); [S.I. 2006/2541, art. 2](#) (with Sch.)

## 25 Power of Board to form companies.

- (1) With the consent of the [<sup>F20</sup>Secretary of State] and subject to any conditions he may impose, the Board may form or take part in forming one or more bodies corporate which (or each of which) has as its main object or objects
- [<sup>F21</sup>(a) one or more of the particular objects mentioned in subsection (2), or  
(b) any other object or objects incidental to the Board's functions.]
- (2) The [<sup>F22</sup>particular objects ] are—
- the production and publication of books, films or other informative material relating to the science of plants or related subjects or to the Board and their functions.
  - the production of souvenirs relating to plants or to the Board's activities,
  - the sale of plants produced by the Board or objects relating to plants, of informative material relating to the science of plants or related subjects, or of souvenirs relating to plants or to the Board's activities, and
  - the provision of catering or car parking or other services or facilities for the public at any land occupied or managed by the Board.
- (3) The Board may hold interests in any such body, exercise rights conferred by the holding of interests in it, and provide financial or other assistance to or in respect of it (including assistance by way of guarantee of its obligations).
- (4) This section is without prejudice to any power of the Board to undertake anything mentioned in subsection (2) by virtue of section 24.

#### Textual Amendments

- F20** Words in s. 25(1) substituted (27.3.2002) by [S.I. 2002/794, art. 5\(1\), Sch. 1 para. 23](#) (with arts. 5(3), 6)
- F21** [S. 25\(1\)\(a\)\(b\)](#) substituted for words in s. 25(1) (14.2.2012) by [Public Bodies Act 2011 \(c. 24\), ss. 32\(4\)\(a\), 38\(1\)](#)
- F22** Words in s. 25(2) substituted (14.2.2012) by [Public Bodies Act 2011 \(c. 24\), ss. 32\(4\)\(b\), 38\(1\)](#)

## 26 Initial vesting in Board.

- (1) Where the property in an object was vested in the Minister of Agriculture, Fisheries and Food immediately before the vesting day, and the object—
- then formed part of the collections of plants (other than those growing in land), preserved plant material, other objects relating to plants, or books or records, of the institution known as the Royal Botanic Gardens, or

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- (b) was then in use in respect of the collections or solely for the purposes of the administration of the institution,  
then the property shall on that day become vested instead in the Board.
- (2) In the case of an object mentioned in subsection (1)(a), it is immaterial that, immediately before the vesting day, it was situated elsewhere than at premises managed for the purposes of the institution (as where it was on loan).
- (3) On the vesting day any right, power, duty or liability which was immediately before that day exercisable by or incumbent on that Minister in relation to any object mentioned in subsection (1) shall instead become exercisable by or incumbent on the Board.
- (4) In this section “the vesting day” means the day appointed under section 41(2) for the coming into force of this section.

## **27 Acquisition and disposal of objects.**

- (1) The Board may acquire (whether by purchase, exchange or gift) any objects which in their opinion it is desirable to add to their collections.
- (2) The Board may not dispose of an object the property in which is vested in them and which is comprised in their collections unless—
- (a) the disposal is by way of sale, exchange or gift of an object which is a duplicate of another object the property in which is so vested and which is so comprised, or
  - (b) the disposal is by way of sale, exchange or gift of an object which in the Board’s opinion is unsuitable for retention in their collections and can be disposed of without detriment to the interests of students or other members of the public, or
  - (c) the disposal (by whatever means, including destruction) is of an object which the Board are satisfied has become useless for the purposes of their collections by reason of damage, physical deterioration, or infestation by destructive organisms.
- (3) An object may be disposed of as mentioned in subsection (2)(c) notwithstanding a trust or condition (express or implied) prohibiting or restricting the disposal of the object.

## **28 Lending and borrowing of objects.**

- (1) Subject to subsection (2), the Board may lend any object the property in which is vested in them and which is comprised in their collections (whether or not the loan is for purposes of public exhibition, and whether or not under the terms of the loan the object is to remain in the United Kingdom).
- (2) In deciding whether or not to lend an object, and in determining the time for which and the conditions subject to which an object is to be lent, the Board—
- (a) shall give special consideration to a request for the loan of an object for public exhibition, and
  - (b) subject to that, shall have regard to the interests of students and other persons visiting the Board’s collections, the suitability of the prospective borrower, the purpose of the loan, the physical condition and degree of rarity of the object, and any risks to which it is likely to be exposed.

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- (3) The Board may accept loans of objects for the purpose (depending on the terms of the loan) of exhibiting them, or of study or research by the Board or by persons seeking to inspect them.

## 29 Finance.

- (1) The [<sup>F23</sup>Secretary of State] may out of money provided by Parliament pay to the Board such sums towards their expenditure as the Treasury may approve.
- (2) The payment may be made on such conditions as the [<sup>F24</sup>Secretary of State] imposes with the Treasury's approval.

### Textual Amendments

- F23** Words in s. 29(1) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 24(1)(2)** (with arts. 5(3), 6)
- F24** Word in s. 29(2) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 24(1)(3)** (with arts. 5(3), 6)

### *Armed Forces museums*

## 30 Grants by Secretary of State.

- (1) This section applies to any institution which has as its object or as one of its main objects the collection, exhibition or retention of articles relating to the history and traditions of some section of the armed forces of the Crown.
- (2) The Secretary of State may out of money provided by Parliament pay to the governing body of any such institution such sums towards their expenditure as the Treasury may approve.
- (3) The payment may be made on such conditions as the Secretary of State imposes with the Treasury's approval.

## 31 Designated institutions.

- (1) Schedule 2 shall have effect in relation to any institution which fulfils the conditions mentioned in subsection (2) and which is designated for the purposes of this section by an order made by the Secretary of State.
- (2) The conditions are that—
- (a) the institution is of the kind mentioned in section 30(1), and
  - (b) immediately before the making of the order the institution was staffed by persons at least one of whom was employed in the civil service of the State.
- (3) The power to make an order under subsection (1) shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

*Status: Point in time view as at 23/02/2017.*

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*[<sup>F25</sup> The Royal Naval College]*

**Textual Amendments**

**F25** Cross heading inserted (1.10.1996) by 1996 c. 46, s. 31; S.I. 1996/2474, art. 2

**[<sup>F26</sup>31A Grants for preservation of Royal Naval College site.**

- (1) The Secretary of State may out of money provided by Parliament make grants towards expenditure in connection with the repair or maintenance of—
  - (a) the land and buildings on the site known as the Royal Naval College; or
  - (b) any object of historical interest situated on that land or in those buildings.
- (2) Grants under this section may be paid to such persons and on such conditions as the Secretary of State considers appropriate.]

**Textual Amendments**

**F26** S. 31A inserted (1.10.1996) by 1996 c. 46, s. 31; S.I. 1996/2474, art. 2

*Historic Buildings and Monuments Commission for England*

**32 Establishment of Commission.**

- (1) There shall be a body known as the Historic Buildings and Monuments Commission for England.
- (2) Schedule 3 shall have effect with respect to the Commission.

**33 The Commission's general functions.**

- (1) It shall be the duty of the Commission (so far as practicable)—
  - (a) to secure the preservation of ancient monuments and historic buildings situated in England,
  - (b) to promote the preservation and enhancement of the character and appearance of conservation areas situated in England, and
  - (c) to promote the public's enjoyment of, and advance their knowledge of, ancient monuments and historic buildings situated in England and their preservation, in exercising the functions conferred on them by virtue of subsections (2) to (4) and section 34; but in the event of a conflict between those functions and that duty those functions shall prevail.
- (2) The Commission—
  - (a) shall (so far as practicable) provide educational facilities and services, instruction and information to the public in relation to ancient monuments and historic buildings, with particular reference to those in England, and in relation to conservation areas situated in England;
  - (b) may give advice to any person in relation to ancient monuments, historic buildings and conservation areas situated in England, whether or not they have been consulted;

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- (c) may, for the purpose of exercising their functions, carry out, or defray or contribute towards the cost of, research in relation to ancient monuments, historic buildings and conservation areas situated in England;
  - (d) may, for the purpose of exercising their functions, make and maintain records in relation to ancient monuments and historic buildings situated in England.
  - <sup>F27</sup>(e) may produce souvenirs relating to ancient monuments or historic buildings situated in England and sell souvenirs.]
  - <sup>F28</sup>(f) may defray or contribute to the cost of any activity undertaken by another person if the activity—
    - (i) relates to ancient monuments or historic buildings, and
    - (ii) is of a kind which the Commission may itself undertake.]
- <sup>F29</sup>[(2A) In relation to England, the Commission may—
- (a) prosecute any offence under Part I of the <sup>M2</sup>Ancient Monuments and Archaeological Areas Act 1979<sup>F30</sup>, under section 196D of the Town and Country Planning Act 1990 ] or under the <sup>M3</sup>Planning (Listed Buildings and Conservation Areas) Act 1990, or
  - (b) institute in their own name proceedings for an injunction to restrain any contravention of any provision of <sup>F31</sup>Part 1 of the Ancient Monuments and Archaeological Areas Act 1979 or the Planning (Listed Buildings and Conservation Areas) Act 1990 ].]

<sup>F32</sup>(2AA) In relation to an actual or apprehended breach of planning control in respect of relevant demolition, in section 187B of the Town and Country Planning Act 1990 (injunctions restraining breaches of planning control) reference to a local planning authority includes reference to the Commission.

(2AB) In subsection (2AA)—

    - “breach of planning control” has the same meaning as in the Town and Country Planning Act 1990 (see section 171A of that Act);
    - “relevant demolition” has the same meaning as in section 196D of that Act.]

<sup>F33</sup>(2B) In relation to England, the Commission may make, or join in the making of, applications under section 73(1) of the Leasehold Reform, Housing and Urban Development Act 1993, and may exercise, or participate in the exercise of, any rights or powers conferred by a scheme approved under section 70 of that Act.]

<sup>F34</sup>(2C) In subsection (2B), references to provisions of the <sup>M4</sup>Leasehold Reform, Housing and Urban Development Act 1993 include references to those provisions as they have effect by virtue of section 118(1) of the Housing Act 1996.]

(3) Schedule 4 shall have effect to amend the enactments there mentioned—

    - (a) for the purpose of conferring functions on the Commission in relation to England (including functions of making grants in relation to historic buildings and conservation areas, acquiring historic buildings, acquiring or becoming guardian of ancient monuments, providing information and other services to the public in connection with affording them access to ancient monuments, and undertaking archaeological investigation and publishing the results), and
    - (b) for connected purposes (which include allowing the Secretary of State to approve lists of historic buildings compiled by the Commission, and imposing requirements for him to consult with the Commission before he includes a monument in the schedule of monuments or grants scheduled monument consent or designates an area of archaeological importance).



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- (4) Without prejudice to the generality of subsection (2)(b), the Commission may advise the Secretary of State with regard to the exercise of functions exercisable by him in relation to England under the <sup>M5</sup>Historic Buildings and Ancient Monuments Act 1953 and the <sup>M6</sup>Ancient Monuments and Archaeological Areas Act 1979, whether or not they have been consulted.
- (5) For the purpose of exercising their functions the Commission may, subject to the provisions of this and any other Act—
- (a) enter into contracts and other agreements;
  - (b) acquire and dispose of property other than land;
  - (c) with the consent of the Secretary of State, acquire land for providing the Commission with office or other accommodation and dispose of the land when no longer required for such accommodation;
  - (d) do such other things as the Commission think necessary or expedient.
- (6) The Commission may make such charges as they may from time to time determine in respect of anything provided under subsection (2)(a) or given under subsection (2)(b) to any person other than a Minister of the Crown.
- (7) With the consent of the Secretary of State, the Commission may borrow temporarily by way of overdraft such sums as they may require for meeting their obligations and discharging their functions.
- (8) In subsections (1) and (2)—
- “ancient monument” means any structure, work, site, [<sup>F35</sup>(including any site comprising, or comprising the remains of, any vehicle, vessel, aircraft or other movable structure or part thereof)] garden or area which in the Commission’s opinion is of historic, architectural, traditional, artistic or archaeological interest;
  - “conservation area” means an area designated as a conservation area under [<sup>F36</sup>section 67 of the Planning (Listed Buildings and Conservation Areas) Act 1990];
  - “historic building” means any building which in the Commission’s opinion is of historic or architectural interest.
- <sup>F37</sup>(9) In this section references to ancient monuments in England include ancient monuments in, on or under the seabed within the seaward limits of the United Kingdom territorial waters adjacent to England.
- <sup>F37</sup>(10) For this purpose the Secretary of State may, by order, determine (or make provision for determining) any boundary between—
- (a) the parts of the United Kingdom territorial waters which are to be treated as adjacent to England, and
  - (b) those which are not.
- <sup>F37</sup>(11) The power to make an order under subsection (10) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F27** S. 33(2)(e) inserted (1.7.2002) by 2002 c. 14, ss. 4(1), 8(2)

**F28** S. 33(2)(f) inserted (1.7.2002) by 2002 c. 14, ss. 7, 8(2)

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- F29** S. 33(2A) inserted (25.09.1991) by Planning and Compensation Act 1991 (c. 34, SIF 23:1), **s. 29(1)** (with s. 84(5)); S.I. 1991/2067, **art. 3**.
- F30** Words in s. 33(2A)(a) inserted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 17 para. 1(2)(a)**; S.I. 2013/2227, art. 2(m)
- F31** Words in s. 33(2A)(b) substituted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 17 para. 1(2)(b)**; S.I. 2013/2227, art. 2(m)
- F32** S. 33(2AA)(2AB) inserted (1.10.2013) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 17 para. 1(3)**; S.I. 2013/2227, art. 2(m)
- F33** S. 33(2B) inserted (1.11.1993) by 1993 c. 28, s. 187(1), **Sch. 21 para. 9**; S.I. 1993/2134, **arts. 2, 5(a)**.
- F34** S. 33(2C) inserted (1.4.1997) by 1996 c. 52, **s. 118(6)**; S.I. 1997/618, **art. 2**
- F35** Words in s. 33(8) inserted (1.7.2002) by 2002 c. 14, **ss. 1(2), 8(2)**
- F36** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1), s. 4, **Sch. 2 para. 60**
- F37** S. 33(9)-(11) inserted (1.7.2002) by 2002 c. 14, **s. 1(3)**

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

- C15** S. 33(2A)(a)(b) transitional provisions for effects of 2003 c. 24, s. 63 Sch. 17 para. 1-6 (2.10.2013) by The Town and Country Planning (Isles of Scilly) Order 2013 (S.I. 2013/2148), **arts. 1(1), 5(4)(b)**
- C16** S. 33(2AA)(2AB) transitional provisions for effects of 2003 c. 24, s. 63 Sch. 17 para. 1-6 (2.10.2013) by The Town and Country Planning (Isles of Scilly) Order 2013 (S.I. 2013/2148), **arts. 1(1), 5(4)(b)**

#### Marginal Citations

- M2** 1979 c.46
- M3** 1990 c.9
- M4** 1993 c. 28.
- M5** 1953 c. 49.
- M6** 1979 c. 46.

### [<sup>F38</sup>33A Functions relating to foreign monuments and buildings

- (1) The Commission may—
- (a) produce and publish, or sell, books, films or other informative material relating to foreign ancient monuments or foreign historic buildings;
  - (b) produce or sell souvenirs relating to such monuments or buildings;
  - (c) provide (whether on payment or otherwise) advice, assistance or other services in respect of, or information relating to, such monuments or buildings.
- (2) For this purpose—
- (a) “ancient monument” and “historic building” have the meaning given in section 33(8), and
  - (b) an ancient monument or historic building is “foreign” if it is not situated—
    - (i) in the United Kingdom, or
    - (ii) in the case of a monument, in, on or under the seabed within the seaward limits of the territorial waters of the United Kingdom.]

#### Textual Amendments

- F38** Ss. 33A-33B inserted (1.7.2002) by 2002 c. 14, **ss. 4(2), 8(2)**

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### [<sup>F39</sup>33B Powers to exploit intangible assets

- (1) The Commission may exploit any intellectual property, or any other intangible asset, relating to ancient monuments or historic buildings.
- (2) In subsection (1) the references to “ancient monuments” and “historic buildings” are to ancient monuments and historic buildings within the meaning of section 33(8) that—
  - (a) are situated—
    - (i) in England, or
    - (ii) in the case of monuments, in, on or under the seabed within the seaward limits of the United Kingdom territorial waters adjacent to England, or
  - (b) are foreign ancient monuments or foreign historic buildings within the meaning of section 33A(2)(b).
- (3) An order under section 33(10) applies for the purposes of subsection (2) as it applies for the purposes of section 33(9).
- (4) In this section “intellectual property” means—
  - (a) any patent, trade mark, registered design, copyright, design right, right in performance or plant breeder’s right, and
  - (b) any rights under the law of a country outside the United Kingdom which correspond or are similar to those falling within paragraph (a).
- (5) This section is without prejudice to any power of the Commission to do anything authorised by this section by virtue of section 33 or 33A.]

#### Textual Amendments

**F39** Ss. 33A-33B inserted (1.7.2002) by 2002 c. 14, ss. 4(2), 8(2)

### [<sup>F40</sup>33C Assistance in relation to protected wrecks

- (1) The Commission may defray or contribute towards the cost of—
  - (a) any survey, excavation or other investigation undertaken in respect of any protected wreck;
  - (b) the removal of any protected wreck or of any part of any protected wreck to another place for the purpose of preserving it; or
  - (c) the preservation and maintenance of any protected wreck.
- (2) In this section—

“maintenance” includes repairing and covering in of a protected wreck and the doing of any other act or thing which may be required for the purpose of repairing the wreck or protecting it from decay or injury; and

“protected wreck” means any site which—

  - (a) comprises, or comprises the remains of, any vessel or part thereof which is protected by an order under section 1 of the Protection of Wrecks Act 1973 (c. 33) designating an area round the site as a restricted area, and
  - (b) is in, on or under the seabed within the seaward limits of the United Kingdom territorial waters adjacent to England.

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- (3) An order under section 33(10) applies for the purposes of paragraph (b) of the definition of “protected wreck” in subsection (2) as it applies for the purposes of section 33(9).]

#### Textual Amendments

**F40** S. 33C inserted (1.7.2002) by 2002 c. 14, ss. 6, 8(2)

### 34 Commission to exercise certain ministerial functions.

- (1) Subject to subsection (4), this section applies to—
- (a) functions of management exercisable by the Secretary of State for the Environment (whether by virtue of an enactment or otherwise) in relation to any ancient monument or historic building situated in England;
  - (b) functions of management exercisable by the Secretary of State for the Environment (whether by virtue of an enactment or otherwise), for purposes connected with such a monument or building, in relation to any land which is situated in England and which adjoins or is in the vicinity of the monument or building.

- (2) If the Secretary of State for the Environment directs the Commission to exercise functions to which this section applies and which are specified in the direction, in relation to any monument, building or land so specified, the Commission shall exercise them on his behalf in such manner as he may from time to time direct.

- (3) In subsection (1) “ancient monument” means any structure, work, site, [<sup>F41</sup>(including any site comprising, or comprising the remains of, any vehicle, vessel, aircraft or other movable structure or part thereof)] garden or area which in the opinion of the Secretary of State for the Environment is of historic, architectural, traditional, artistic or archaeological interest and “historic building” means any building which in his opinion is of historic or architectural interest.

[<sup>F42</sup>(3A) In this section references to ancient monuments in England include ancient monuments in, on or under the seabed within the seaward limits of the United Kingdom territorial waters adjacent to England; and an order under section 33(10) applies for the purposes of this subsection as it applies for the purposes of section 33(9).]

- (4) This section does not apply to—
- (a) a function of making regulations or other instruments of a legislative character;
  - (b) a function exercisable in relation to any royal palace or land adjoining it or in its vicinity.

#### Textual Amendments

**F41** Words in s. 34(3) inserted (1.7.2002) by 2002 c. 14, ss. 2(1)(a), 8(2)

**F42** S. 34(3A) inserted (1.7.2002) by 2002 c. 14, ss. 2(1)(b), 8(2)

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

**C17** S. 34: functions of the Secretary of State for the Environment transferred (3.7.1992) to Secretary of State for National Heritage by S.I. 1992/1311, art. 6(1)

**35 Power of Commission to form companies.**

(1) The Commission may form or take part in forming one or more bodies corporate which (or each of which) has as its main object or objects

- [<sup>F43</sup>(a) one or more of the particular objects mentioned in subsection (2), or  
(b) any other object or objects incidental to the Commission's functions.]

(2) The [<sup>F44</sup>particular objects ] are—

- (a) the production and publication [<sup>F45</sup>,or sale,] of books, films or other informative material relating to ancient monuments or historic buildings,  
[<sup>F46</sup>(ab) the provision (whether on payment or otherwise) of advice, assistance or other services in respect of, or information relating to, ancient monuments or historic buildings,]  
(b) the production [<sup>F47</sup>. . . of souvenirs relating to ancient monuments or historic buildings [<sup>F48</sup>, or sale of souvenirs],  
[<sup>F49</sup>(ca) the exploitation of any intellectual property, or any other intangible asset, relating to ancient monuments or historic buildings, and]  
(d) the provision in England of catering or car parking or other services or facilities for members of the public visiting ancient monuments or historic buildings.

(3) The Commission may hold interests in any such body, exercise rights conferred by the holding of interests in it, and provide financial or other assistance to or in respect of it (including assistance by way of guarantee of its obligations).

[<sup>F50</sup>(3A) In subsection (2), the references to “ ancient monuments ” and “ historic buildings ” are to those which—

- (a) are situated—  
(i) in England, or  
(ii) in the case of monuments, in, on or under the seabed within the seaward limits of the United Kingdom territorial waters adjacent to England, or  
(b) are foreign ancient monuments or foreign historic buildings within the meaning of section 33A(2)(b).

<sup>F50</sup>( 3B ) An order under section 33(10) applies for the purposes of subsection (3A) as it applies for the purposes of section 33(9).

<sup>F50</sup>( 3C ) In this section “ intellectual property ” means—

- (a) any patent, trade mark, registered design, copyright, design right, right in performance or plant breeder’s right, and  
(b) any rights under the law of a country outside the United Kingdom which correspond or are similar to those falling within paragraph (a).]

(4) In this section “ancient monument” and “historic building” have the same meanings as in section 33.

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- (5) This section is without prejudice to any power of the Commission to undertake anything mentioned in subsection (2) by virtue of section 33.

#### Textual Amendments

- F43** S. 35(1)(a)(b) substituted for words in s. 35(1) (14.2.2012) by [Public Bodies Act 2011 \(c. 24\)](#), **ss. 32(5)(a)**, 38(1)
- F44** Words in s. 35(2) substituted (14.2.2012) by [Public Bodies Act 2011 \(c. 24\)](#), **ss. 32(5)(b)**, 38(1)
- F45** Words in s. 35(2)(a) substituted (1.7.2002) by [2002 c. 14](#), **ss. 5(1)(2)(a)**, 8(2)
- F46** S. 35(2)(ab) inserted (1.7.2002) by [2002 c. 14](#), **ss. 5(1)(2)(b)**, 8(2)
- F47** Words in s. 35(2)(b) repealed (1.7.2002) by [2002 c. 14](#), **ss. 5(1)(2)(c)(i)**, 8(2)
- F48** Words in s. 35(2)(c) inserted (1.7.2002) by [2002 c. 14](#), **ss. 5(1)(2)(c)(ii)**, 8(2)
- F49** S. 35(2)(ca) substituted (1.7.2002) by [2002 c. 14](#), **ss. 5(1)(2)(d)**, 8(2)
- F50** S. 35(3A)-(3C) inserted (1.7.2002) by [2002 c. 14](#), **ss. 5(1)(3)**, 8(2)

### 36 Records: powers of entry.

- (1) Any person duly authorised in writing by the Commission may at any reasonable time enter any land in England for the purpose of inspecting it with a view to obtaining information for inclusion in the Commission's records made under section 33(2)(d); and the following provisions of this section shall apply to any such power of entry.
- (2) The power includes power for any person entering any land in exercise of the power to take with him any assistance or equipment reasonably required for the purpose to which the entry relates and to do there anything reasonably necessary for carrying out the purpose.
- (3) The Commission may not authorise the power to be exercised in relation to any land unless they know or have reason to believe there is in, on or under the land an ancient monument or historic building; and in this subsection "ancient monument" and "historic building" have the meanings given by section 33(8).
- (4) A person may not in the exercise of the power—
- (a) enter any building or part of a building occupied as a dwelling-house without the consent of the occupier;
  - (b) demand admission as of right to any land which is occupied unless prior notice of the intended entry has been given to the occupier not less than 24 hours before admission is demanded.
- (5) A person seeking to enter any land in exercise of the power shall, if so required by or on behalf of the owner or occupier of the land, produce evidence of his authority before entering.
- (6) Where any works are being carried out on any land in relation to which the power is exercisable, a person acting in the exercise of the power shall comply with any reasonable requirements or conditions imposed by the person by whom the works are being carried out for the purpose of preventing interference with or delay to the works; but any requirements or conditions so imposed shall not be regarded as reasonable for the purposes of this subsection if compliance with them would in effect frustrate the exercise of the power or the purpose of the entry.



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- (7) Any person who intentionally obstructs a person acting in the exercise of the power shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale <sup>F51</sup>. . . .
- (8) Where in the exercise of the power damage has been caused to land or chattels on land, any person interested in the land or chattels may recover compensation in respect of the damage from the Commission.
- (9) Any claim for compensation under subsection (8) shall be made within the time and in the manner prescribed by regulations made by the Secretary of State for that purpose; and the power to make regulations under this subsection shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) Any question of disputed compensation under subsection (8) shall be referred to and determined by the [<sup>F52</sup>Upper Tribunal]; and in relation to the determination of any such question [<sup>F53</sup>section] 4 of the <sup>M7</sup>Land Compensation Act 1961 shall apply (construing the references in section 4 to the acquiring authority as references to the Commission).

#### Textual Amendments

- F51** Words in s. 36(7) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Gp. 2.
- F52** Words in s. 36(10) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 163(a)** (with Sch. 5)
- F53** Word in s. 36(10) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 163(b)** (with Sch. 5)

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

- C18** S. 36(1) restricted (18.12.1996) by 1996 c. 61, s. 12, **Sch. 7 para. 5(1)**
- C19** S. 36(1) restricted (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 9 para. 5(1)**
- C20** S. 36(1) restricted (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), s. 70(1), **Sch. 19 para. 2(1)**
- C21** S. 36(6) excluded (18.12.1996) by 1996 c. 61, s. 12, **Sch. 7 para. 5(3)**
- C22** S. 36(6) excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 9 para. 5(3)**
- C23** S. 36(6) excluded (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), s. 70(1), **Sch. 19 para. 2(3)**

#### Marginal Citations

- M7** 1961 c. 33.

### 37 Monuments etc. partly situated in England.

- (1) The Secretary of State may by order provide that the Commission shall have such functions as—
  - (a) he thinks appropriate (having regard to their functions in relation to monuments, buildings, gardens, areas or sites situated in England), and
  - (b) are specified in the order,in relation to the parts situated in England of any monuments, buildings, gardens, areas or sites which are only partly so situated and which are specified in the order.
- (2) For the purpose of making such provision, any such order may contain—
  - (a) amendments of section 33 or 34, and



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- (b) amendments of any section or Schedule amended by Schedule 4 (including consequential amendments relating to the parts of monuments, buildings, gardens, areas or sites not situated in England).
- (3) Any such order shall have effect subject to such supplementary provisions (which may include savings and transitionals) as may be specified in the order.
- (4) Nothing in this section permits the Commission to be given a function of making regulations or other instruments of a legislative character.
- (5) The power to make an order under this section shall be exercisable by statutory instrument, and no such order shall be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

#### Extent Information

**E1** For extent see [s. 42](#)

### 38 Finance.

- (1) The Secretary of State may out of money provided by Parliament—
  - (a) pay to the Commission such sums towards their expenditure as the Treasury may approve;
  - (b) defray such expenditure of the Commission as the Treasury may approve.
- (2) The payment may be made on such conditions as the Secretary of State imposes with the Treasury's approval.

#### *General*

### <sup>F54</sup>39 Dissolution of certain bodies.

.....

#### Textual Amendments

**F54** [S. 39](#) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 5](#) Group 10

### 40 Amendments and repeals.

- (1) Schedule 5 contains amendments relating to the preceding provisions of this Act and other aspects of the national heritage.
- (2) The enactments mentioned in Schedule 6 are repealed to the extent specified in column 3.

### 41 Commencement.

- (1) Subject to subsections (2) and (3), this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint.

*Status: Point in time view as at 23/02/2017.*

*Changes to legislation: National Heritage Act 1983 is up to date with all changes known to be in force on or before 21 July 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) Sections 23 to 29, Part IV of Schedule 1 and so much of Schedule 5 as relates to those provisions shall come into force on such day as the Minister of Agriculture, Fisheries and Food may by order made by statutory instrument appoint.
- (3) Sections 4(5) and (7), 12(5) and (6), 19(4) and (5), 30 and 31, this section, sections 42 and 43 and Schedule 2 shall come into force on the expiry of the period of 2 months beginning with the day on which this Act is passed.
- (4) An order under this section may appoint different days for different provisions or different purposes.
- (5) A provision brought into force by an order under this section shall have effect subject to any saving or transitional specified in the order.
- (6) Subsection (5) applies to the provisions of Schedule 4 notwithstanding the savings there specified, but nothing shall be specified under that subsection if it would conflict with any such saving.

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

- C24** By [S.I. 1983/879](#), [art. 6\(1\)](#) the Secretary of State's function of making orders under s. 41 is transferred to the Lord President of the Council so far as the bringing into force of the following provisions of the Act is concerned namely:— (a) sections 1 to 16 and Parts I and II of Schedule 1; (b) paragraphs 1, 2, 5 and 7 of Schedule 5; (c) paragraphs 3 and 4 of that Schedule, so far as they relate to the Science Museum of the Victoria and Albert Museum; (d) Schedule 6, so far as it relates to the Patents and Designs Act 1907, the National Gallery and Tate Gallery Act 1954 and the Public Records Act 1958.
- C25** By [S.I. 1983/879](#), [art. 6\(2\)](#) the Secretary of State's function of making orders under s. 41 is, so far as the bringing into force of s. 40 of the Act is concerned, exercisable by the Lord President of the Council concurrently with the Secretary of State.
- C26** Power of appointment conferred by s. 41(1)(4)(5) fully exercised (Act, except Sch. 4 para. 15 which comes into force on 1.10.1984, fully in force 1.4.1984): [S.I. 1983/1062](#), 1183, 1437; 1984/208, 217 and 225

#### **42 Extent.**

This Act does not extend to Scotland or Northern Ireland, except so far as it amends or repeals any enactment which extends to Scotland or Northern Ireland (as the case may be) and except so far as section 37 gives power to amend any enactment which extends to Scotland.

#### **43 Short title.**

This Act may be cited as the National Heritage Act 1983.

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## SCHEDULES

### SCHEDULE 1

Sections 1, 9, 17 and 23.

#### THE BOARDS

#### PART I

#### VICTORIA AND ALBERT MUSEUM

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

**C27** *Sch. 1 Pt. I*: functions of the Secretary of State transferred by *S.I. 1983/879*, 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of *S.I. 1986/600*, *arts. 2(1), 7(1)*, **Sch 1 Pt. I** and as from 3.7.1992 again exercisable by the Secretary of State by virtue of *S.I. 1992/1311*, *art. 3(1)*, **Sch. 1 Pt.I** and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of *S.I. 1986/600*, **art. 7(1)** and *S.I. 1992/1311*, **art. 12(4)**

##### *Status*

- 1 The Board of Trustees of the Victoria and Albert Museum shall be a body corporate.
- 2 (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 2(4), 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 [<sup>F55</sup>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).

<sup>F56</sup>(5) .....

##### Textual Amendments

- F55** Words in *Sch. 1 para. 2(4)* substituted (1.4.2000) by 1997 c. 29, s. 33(1), **Sch. 3 para. 18(2)(a)**; *S.I. 1998/2329*, **art. 3**
- F56** *Sch. 1 para. 2(5)* repealed (1.4.2000) by 1997 c. 29, s. 33(1)(2), *Sch. 3 para. 18(2)(b)*, **Sch. 4**; *S.I. 1998/2329*, **art. 3**

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### *Membership*

- 3
- (1) The Board shall consist of not less than 12 nor more than 20 members (referred to in this Part of this Schedule as “trustees”).
  - (2) The trustees shall be appointed by the Prime Minister, who shall appoint one of them to be chairman.
  - (3) In appointing any trustee, the Prime Minister shall have regard to the desirability of the person’s having knowledge or experience of art, craft, design, management, industrial relations, administration, or any other subject knowledge or experience of which would be of use to the Board in exercising their functions.
  - (4) 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.
  - (5) A chairman or trustee may resign his office by notice in writing addressed to the Prime Minister.
  - (6) If a chairman ceases to be a trustee he shall also cease to be chairman.
  - (7) A person who ceases to be a trustee, or ceases to be chairman, shall be eligible for re-appointment.

### *Staff*

- 4
- (1) There shall be a Director of the Victoria and Albert Museum who shall be appointed by the Board with the approval of the Prime Minister.
  - (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 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 <sup>M8</sup>Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) “Victoria and Albert Museum” shall be inserted after “Tate Gallery”.

#### **Marginal Citations**

**M8** 1972 c. 11.

- 5
- (1) The Board shall make, not later than such date as the Secretary of State 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 Victoria and Albert Museum.

*Status: Point in time view as at 23/02/2017.*

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- (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 [F57the 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 [F58employment tribunal].
- (7) An [F58employment 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 [F58employment tribunal] under this paragraph; and no appeal shall lie except to the Employment Appeal Tribunal from any decision of an [F58employment tribunal] under this paragraph.

#### Textual Amendments

- F57** Words in Sch. 1 Pt. I para. 5 substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, Sch. 1 para. 23(a) (with ss. 191, 192, 193, 194, 195, 202)
- F58** Words in Sch. 1 para. 5(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

#### Proceedings

- 6 (1) The Board may regulate their own procedure (including, subject to sub-paragraph (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.

*Status: Point in time view as at 23/02/2017.*

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- (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 the greater of—
  - (a) four, and
  - (b) the number equal to one third of the number of trustees at the time concerned (treating any fraction as one).
- (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*

- 7 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 Secretary of State may determine with the Treasury's approval.

#### *Instruments*

- 8 (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.

#### *Finance*

F599 .....

#### **Textual Amendments**

**F59** Sch. 1 para. 9 repealed (1.9.1992) by [Museums and Galleries Act 1992 \(c. 44\)](#), s. 11(3); S.I. 1992/1874, art. 2

#### *Reports*

- 10 (1) The Board shall make to the 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 Secretary of State 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 Secretary of State may direct) since the last was made.

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- (4) 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.
- (5) Each report shall include a statement of the total amount received by the Board by way of admission charges in the period covered by the report, and shall include information (in such detail as the Board think fit) about rates of, exemptions from and reductions in admission charges made by the Board.
- (6) The Secretary of State shall lay a copy of each report before each House of Parliament.

## PART II

### SCIENCE MUSEUM

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

**C28** Sch. 1 Pt. II: functions of the Secretary of State transferred by S.I. 1983/879, 1984/1814, 1986/600, 1992/1311 and as from 29.4.1986 to 2.7.1992 exercisable by the Lord President of the Council by virtue of S.I. 1986/600, arts. 2(1), 7(1), Sch 1 Pt. I and as from 3.7.1992 again exercisable by the Secretary of State by virtue of S.I. 1992/1311, art. 3(1), Sch. 1 Pt.I and references to the Secretary of State from 29.4.1986 to 2.7.1992 and from 3.7.1992 to be construed accordingly by virtue of S.I. 1986/600, art. 7(1) and S.I. 1992/1311, art. 12(4)

#### Status

- 11 The Board of Trustees of the Science Museum shall be a body corporate.
- 12 (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 10(4), 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 [F60 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).
- F61(5) .....

#### Textual Amendments

- F60** Words in Sch. 1 para. 12(4) substituted (1.4.2000) by 1997 c. 29, s. 33(1), Sch. 3 para. 18(3)(a); S.I. 1998/2329, art. 3
- F61** Sch. 1 para. 12(5) repealed (1.4.2000) by 1997 c. 29, s. 33(1)(2), Sch. 3 para. 18(3)(b), Sch. 4; S.I. 1998/2329, art. 3



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### *Membership*

- 13 (1) The Board shall consist of not less than 12 nor more than 20 members (referred to in this Part of this Schedule as “trustees”).
- (2) The trustees shall be appointed by the Prime Minister, who shall appoint one of them to be chairman.
- (3) In appointing any trustee, the Prime Minister shall have regard to the desirability of the person’s having knowledge or experience of the development of science and technology, management, industrial relations, administration, or any other subject knowledge or experience of which would be of use to the Board in exercising their functions.
- (4) 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.
- (5) A chairman or trustee may resign his office by notice in writing addressed to the Prime Minister.
- (6) If a chairman ceases to be a trustee he shall also cease to be chairman.
- (7) A person who ceases to be a trustee, or ceases to be chairman, shall be eligible for re-appointment.

### *Staff*

- 14 (1) There shall be a Director of the Science Museum who shall be appointed by the Board with the approval of the Prime Minister.
- (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 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 Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) “Science Museum” shall be inserted after “ National Portrait Gallery ”.
- 15 (1) The Board shall make, not later than such date as the Secretary of State 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 Science Museum or that known as the Patent Museum.
- (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.

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- (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 [<sup>F62</sup>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 [<sup>F63</sup>employment tribunal].
- (7) An [<sup>F63</sup>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 [<sup>F63</sup>employment tribunal] under this paragraph; and no appeal shall lie except to the Employment Appeal Tribunal from any decision of an [<sup>F63</sup>employment tribunal] under this paragraph.

#### Textual Amendments

- F62** Words in Sch. 1 Pt. II para. 15(5) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, Sch. 1 para. 23(b) (with ss. 191, 192, 193, 194, 195, 202)
- F63** Words in Sch. 1 para. 15(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

#### Proceedings

- 16 (1) The Board may regulate their own procedure (including, subject to sub-paragraph (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.

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- (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 the greater of—
  - (a) four, and
  - (b) the number equal to one third of the number of trustees at the time concerned (treating any fraction as one).
- (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*

- 17 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 Secretary of State may determine with the Treasury's approval.

#### *Instruments*

- 18 (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.

#### *Finance*

<sup>F64</sup>19 .....

#### **Textual Amendments**

**F64** Sch. 1 para. 19 repealed (1.9.1992) by [Museums and Galleries Act 1992 \(c. 44\)](#), s. 11(3), [Sch. 9](#); S.I. 1992/1874, [art.2](#)

#### *Reports*

- 20 (1) The Board shall make to the 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 Secretary of State 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 Secretary of State may direct) since the last was made.
- (4) 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.

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- (5) Each report shall include a statement of the total amount received by the Board by way of admission charges in the period covered by the report, and shall include information (in such detail as the Board think fit) about rates of, exemptions from and reductions in admission charges made by the Board.
- (6) The Secretary of State shall lay a copy of each report before each House of Parliament.

### PART III

#### ARMOURIES

##### *Status*

- 21 The Board of Trustees of the Armouries shall be a body corporate.
- 22 (1) 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, 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.
- (2) Subject to [<sup>F65</sup>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).
- <sup>F66</sup>(3) .....

#### Textual Amendments

**F65** Words substituted (1.4.2000) by 1997 c. 29, s. 33(1), **Sch. 3 para. 18(4)(a)**; S.I. 1998/2329, **art. 3**

**F66** **Sch. 1 para. 22(3)** repealed (1.4.2000) by 1997 c. 29, s. 33(1)(2), **Sch. 3 para. 18(4)(b)**, **Sch. 4**; S.I. 1998/2329, **art. 3**

##### *Membership*

- 23 (1) The Board shall consist of not less than 6 nor more than 11 members (referred to in this Part of this Schedule as "trustees").
- (2) Subject to sub-paragraphs (3) and (4), the trustees shall be appointed by the Secretary of State.
- (3) One of the trustees shall be appointed by Her Majesty.
- (4) The Constable of the Tower of London for the time being shall, by virtue of his office, be a trustee.
- (5) In appointing any trustee, the Secretary of State shall have regard to the desirability of the person's having knowledge or experience of arms, armour, the Tower, management, industrial relations, administration, or any other subject knowledge or experience of which would be of use to the Board in exercising their functions.
- (6) The Secretary of State shall appoint one of the trustees to be chairman.

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- (7) 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.
- (8) A trustee may resign his office by notice in writing addressed to the Secretary of State or, in the case of a person appointed by Her Majesty, to Her Majesty; but this sub-paragraph does not apply to a person who is a trustee by virtue of sub-paragraph (4).
- (9) A chairman may resign his office as chairman by notice in writing addressed to the Secretary of State.
- (10) If a chairman ceases to be a trustee he shall also cease to be chairman.
- (11) A person who ceases to be a trustee, or ceases to be chairman, shall be eligible for re-appointment.

#### *Staff*

- 24
- (1) There shall be a Master of the Armouries who shall be appointed by the Board with the approval of the Secretary of State.
  - (2) The Master 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 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 <sup>M9</sup>Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) "Armouries" shall be inserted before "British Museum".

#### **Marginal Citations**

**M9** 1972 c. 11.

- 25
- (1) The Board shall make, not later than such date as the Secretary of State 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 Armouries.
  - (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

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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 [<sup>F67</sup>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 [<sup>F68</sup>employment tribunal].
- (7) An [<sup>F68</sup>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 [<sup>F68</sup>employment tribunal] under this paragraph; and no appeal shall lie except to the Employment Appeal Tribunal from any decision of an [<sup>F68</sup>employment tribunal] under this paragraph.

#### Textual Amendments

- F67** Words in Sch. 1 Pt. III para. 25(5) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, Sch. 1 para. 23(c) (with ss. 191, 192, 193, 194, 195, 202)
- F68** Words in Sch. 1 Pt. III para. 25(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

#### Proceedings

- 26 (1) The Board may regulate their own procedure (including, subject to sub-paragraph (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.

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*Status: Point in time view as at 23/02/2017.*

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- (7) The quorum for meetings of the Board shall not at any time be less than the greater of—
- (a) three, and
  - (b) the number equal to one third of the number of trustees at the time concerned (treating any fraction as one).
- (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*

- 27 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 Secretary of State may determine with the Treasury's approval.

#### *Instruments*

- 28 (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*

- 29 (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.
- (4) The statement shall comply with any directions given by the 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 Secretary of State at such time as he may direct.
- (6) The 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.

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### *Information*

- 30 (1) The Board shall make to the 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 Secretary of State 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 Secretary of State may direct) since the last was made.
- (4) The 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) Each report shall include a statement of the total amount received by the Board by way of admission charges in the period covered by the report, and shall include information (in such detail as the Board think fit) about rates of, exemptions from and reductions in admission charges made by the Board.
- (7) The Board shall furnish the 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 Secretary of State may require.

## **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 [<sup>F69</sup>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).

<sup>F70</sup>(5) . . . . .



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#### Textual Amendments

- F69** 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](#)
- F70** [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 [<sup>F71</sup>Secretary of State].
- (3) In appointing any trustee, the [<sup>F72</sup>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 subject knowledge or experience of which would be of use to the Board in exercising their functions.
- (4) The [<sup>F72</sup>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 [<sup>F72</sup>Secretary of State] may resign his office by notice in writing addressed to the [<sup>F72</sup>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

- F71** 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)
- F72** 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 [<sup>F73</sup>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.

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- (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 [<sup>F73</sup>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 <sup>M10</sup>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

**F73** 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)

#### Marginal Citations

**M10** 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 [<sup>F74</sup>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 [<sup>F75</sup>employment tribunal].
- (7) An [<sup>F75</sup>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

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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 [<sup>F75</sup>employment tribunal] under this paragraph; and no appeal shall lie except to the Employment Appeal Tribunal from any decision of an [<sup>F75</sup>employment tribunal] under this paragraph.

#### Textual Amendments

- F74** 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)
- F75** 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

#### 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 [<sup>F76</sup>Secretary of State] may determine with the Treasury's approval.

#### Textual Amendments

- F76** 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)

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### *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.
- (4) The statement shall comply with any directions given by the [<sup>F77</sup>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 [<sup>F77</sup>Secretary of State] at such time as he may direct.
- (6) The [<sup>F77</sup>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**

**F77** 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 [<sup>F78</sup>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.

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- (3) Each subsequent report shall be made not later than 3 years (or such shorter period as the [<sup>F78</sup>Secretary of State] may direct) since the last was made.
- (4) The [<sup>F78</sup>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 [<sup>F78</sup>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 [<sup>F78</sup>Secretary of State] may require.

#### Textual Amendments

**F78** 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)

## SCHEDULE 2

Section 31.

### ARMED FORCES MUSEUMS

#### *Introduction*

- 1 In this Schedule references to a designated institution are to an institution designated by an order under section 31(1), and references to the governing body of such an institution are to the trustees, Council or other governing body of the institution concerned.

#### *Offer of employment*

- 2 (1) The governing body of a designated institution shall make, not later than such date as the Secretary of State may determine, an offer of employment by the body concerned to each person employed immediately before that date in the civil service of the State for the purposes of the institution concerned.
- (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 body 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.

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- (5) Where a person becomes an employee of the governing body of a designated institution in consequence of this paragraph, then, for the purposes of [F79]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 body 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 a body 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 [F80]employment tribunal].
- (7) An [F80]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 [F80]employment tribunal] under this paragraph; and no appeal shall lie except to the Employment Appeal Tribunal from any decision of an [F80]employment tribunal] under this paragraph.

#### Textual Amendments

- F79** Words in Sch. 2 para. 2(5) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, Sch. 1 para. 23(e) (with ss. 191, 192, 193, 194, 195, 202)
- F80** Words in Sch. 2 para. 2(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

#### *Superannuation*

- 3 Employment with the governing body of a designated institution shall be included among the kinds of employment to which a scheme under section 1 of the M11 Superannuation Act 1972 can apply, and accordingly Schedule 1 to that Act (in which those kinds of employment are listed) shall be construed as if it included a reference to any designated institution.

#### Marginal Citations

- M11** 1972 c. 11.

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## SCHEDULE 3

Section 32.

### THE COMMISSION

#### *Status*

- 1 The Historic Buildings and Monuments Commission for England shall be a body corporate.
- 2 (1) Subject to sub-paragraph (3), the Commission 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 members of the Commission and of their staff shall not be regarded as civil servants and the Commission'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 Commission act by virtue of a direction under section 34(2), the Commission shall enjoy the same privileges, immunities and exemptions as those enjoyed in relation to that matter by the Secretary of State for the Environment.  
(4) Subject to [<sup>F81</sup>the provisions of any] enactment, the Commission shall not be exempt from any tax, duty, rate, levy or other charge whatever (whether general or local).  
<sup>F82</sup>(5) . . . . .

#### **Textual Amendments**

- F81** Words in Sch. 3 para. 2(4) substituted (1.4.2000) by 1997 c. 29, s. 33(1), **Sch. 3 para. 19(a)**; S.I. 1998/2329, **art. 3**
- F82** Sch. 3 para. 2(5) repealed (1.4.2000) by 1997 c. 29, s. 33(1)(2), Sch. 3 para. 19(b), **Sch. 4**; S.I. 1998/2329, **art. 3**

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

- C29** Sch. 3 para. 2(1) restricted (1.7.2002) by 2002 c. 14, **ss. 3(6)**, 8(2)

#### *Membership*

- 3 (1) The Commission shall consist of not less than 8 nor more than 17 members.  
(2) The members shall be appointed by the Secretary of State, who shall appoint one of them to be chairman and may appoint another of them to be deputy chairman.  
(3) In appointing any member, the Secretary of State shall have regard to the desirability of the person's having knowledge or experience of one or more of the following, namely, history, archaeology, architecture, the preservation or conservation of monuments or buildings, town and country planning, tourism, commerce and finance.  
(4) In appointing members, the Secretary of State shall have regard to the desirability of at least one of them having knowledge of local government (as well as knowledge or experience of one or more of the subjects mentioned in sub-paragraph (3)).



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- (5) Subject to the following provisions of this paragraph, a chairman, deputy chairman or other member shall hold and vacate office in accordance with the terms of his appointment, but no member shall be appointed for a period of more than 5 years.
- (6) A chairman, deputy chairman or member may resign his office by notice in writing addressed to the Secretary of State.
- (7) If the Secretary of State is satisfied that a member—
  - (a) has been absent from meetings of the Commission for a period longer than 3 consecutive months without the consent of the Commission, or
  - (b) has become bankrupt or [<sup>F83</sup>has had a debt relief order (under Part 7A of the Insolvency Act 1986) made in respect of him or has] made an arrangement with his creditors, or
  - (c) is incapacitated by physical or mental illness, or
  - (d) is otherwise unable or unfit to discharge the functions of a member, the Secretary of State may remove him from his office.
- (8) If a chairman or deputy chairman ceases to be a member he shall also cease to be chairman or deputy chairman; and if a chairman or deputy chairman ceases to be chairman or deputy chairman he shall also cease to be a member.
- (9) A person who ceases to be a member, otherwise than by virtue of sub-paragraph (7), or ceases to be chairman or deputy chairman, shall be eligible for re-appointment.

#### Textual Amendments

**F83** Words in Sch. 3 para. 3(7)(b) inserted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012 \(S.I. 2012/2404\)](#), art. 1, [Sch. 2 para. 18](#) (with art. 5)

#### Staff

- 4 (1) There shall be a chief officer of the Commission who shall be appointed by the Commission with the approval of the Secretary of State.
- (2) The chief officer shall be responsible to the Commission for the general exercise of the Commission's functions.
- (3) The Commission may appoint such other employees as the Commission think fit.
- (4) The Commission shall pay to their employees such remuneration and allowances as the Commission may determine.
- (5) The employees shall be appointed on such other terms and conditions as the Commission may determine.
- (6) The Commission may pay such pensions, allowances or gratuities as they may determine to or in respect of any of their employees, make such payments as they may determine towards the provision of pensions, allowances or gratuities to or in respect of any of their employees or provide and maintain such schemes as they may determine (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of any of their employees.
- (7) The references in sub-paragraph (6) to pensions, allowances or gratuities to or in respect of any employees include references to pensions, allowances or gratuities



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by way of compensation to or in respect of employees who suffer loss of office or employment.

- (8) A determination under sub-paragraph (4), (5) or (6) is ineffective unless made with the approval of the Secretary of State given with the Treasury's consent.
- 5 (1) The Commission shall make, not later than such date as the Secretary of State may determine, an offer of employment by the Commission to each person employed in the civil service of the State whose name is notified to the Commission by the Secretary of State for the purposes of this paragraph.
- (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 Commission 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 beginning with the date on which it is made.
- (5) Where a person becomes an employee of the Commission in consequence of this paragraph, then, for the purposes of [<sup>F84</sup>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 Commission 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 Commission 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 [<sup>F85</sup>employment tribunal].
- (7) An [<sup>F85</sup>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 [<sup>F85</sup>employment tribunal] under this paragraph; and no appeal shall lie except to the Employment Appeal Tribunal from any decision of an [<sup>F85</sup>employment tribunal] under this paragraph.

#### Textual Amendments

**F84** Words in Sch. 3 para. 5(5) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, Sch. 1 para. 23(f) (with ss. 191, 192, 193, 194, 195, 202)

**F85** Words in Sch. 3 para. 5 (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*

- 6 Subject to the following provisions of this Schedule, the Commission may regulate their own procedure (including quorum).
- 7 (1) A member of the Commission who is in any way directly or indirectly interested in a contract made or proposed to be made by the Commission, or in any other matter which falls to be considered by the Commission, shall disclose the nature of his interest at a meeting of the Commission.
- (2) The disclosure shall be recorded in the minutes of the meeting.
- (3) A member shall not—
- (a) where a contract in which the member is interested is under consideration, take part in the deliberations on or decision about the contract; and
  - (b) where any other matter in which the member is interested is under consideration, take part in the deliberations on or decision about the matter if the Commission decide that the member's interest might prejudicially affect his consideration of the matter.
- (4) For the purposes of this paragraph, a notice given by a member at a meeting of the Commission to the effect that he is a member of a specified body corporate or firm and is to be regarded as interested in any contract which is made with the body corporate or firm after the date of the notice, and in any other matter concerning the body corporate or firm which falls to be considered after that date, shall be a sufficient disclosure of his interest.
- (5) A member need not attend in person at a meeting of the Commission in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration and read at such a meeting.
- 8 The validity of any proceedings of the Commission shall not be affected by any vacancy among the members, or by any defect in the appointment of any person as a member or chairman or deputy chairman, or by a failure to comply with paragraph 7.

### *Committees*

- 9 (1) The Commission shall constitute at least one committee to advise them on ancient monuments and at least one to advise them on historic buildings, and may constitute other committees to advise them on those or other aspects of their functions.
- (2) The Commission may include as members of committees persons who are not members of the Commission.
- (3) The Commission may regulate the proceedings (including quorum) of committees.
- (4) The Commission may pay to the members of any committee such reasonable allowances in respect of expenses or loss of remuneration as the Secretary of State may determine with the Treasury's approval.

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### *Instruments*

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

### *Members' remuneration*

- 11 (1) The Commission shall pay to members of the Commission such remuneration and such allowances in respect of expenses as the Secretary of State may determine with the Treasury's approval.
- (2) In the case of any such member or past member of the Commission as the Secretary of State may with the Treasury's approval determine, the Commission shall pay such pension, allowance or gratuity to or in respect of him, or make such payment towards the provision of such a pension, allowance or gratuity, as the Secretary of State may so determine.
- (3) Where a person ceases to be a member of the Commission, and it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation, the Secretary of State may, with the Treasury's approval, direct the Commission to make to that person a payment of such amount as the Secretary of State may determine with the Treasury's approval.

### *Accounts*

- 12 (1) The Commission shall keep proper accounts and proper records in relation to them.
- (2) The Commission 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 Commission's affairs at the end of the financial year and of the Commission's income and expenditure in the financial year.
- (4) The statement shall—
- (a) be prepared within such period as the Secretary of State may direct; and
  - (b) comply with any directions given by the 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 accounts [<sup>F86</sup>in respect of each financial year ending on or before 31st March 2004] (including any statement [<sup>F87</sup>of accounts in respect of each such financial year] prepared under this paragraph) shall be audited by persons appointed in respect of each [<sup>F88</sup>such] financial year by the Secretary of State.
- (6) No person [<sup>F89</sup>shall be appointed auditor under this paragraph unless he is—
- (a) eligible for appointment as a [<sup>F90</sup>statutory auditor under Part 42 of the Companies Act 2006]; or]

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- (b) a member of the Chartered Institute of Public Finance and Accountancy; but a firm may be so appointed if each of its members is qualified to be so appointed.
- [<sup>F91</sup>(6A) Where the Commission has prepared a statement of accounts in respect of a financial year ending on or after 31st March 2005, it must, as soon as reasonably practicable after the end of the financial year to which the statement relates, send a copy of the statement to the Comptroller and Auditor General.
- (6B) The Comptroller and Auditor General shall examine, certify and report on any statement of accounts sent to him under sub-paragraph (6A).]
- (7) In this paragraph “financial year” means the period commencing with the day of the Commission’s establishment and ending with the second 31 March following that day, and each successive period of 12 months.

#### Textual Amendments

- F86** Words in Sch. 3 para. 12(5) inserted (23.5.2003) by [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2003 \(S.I. 2003/1326\)](#), arts. 1, **14(2)(a)(i)**
- F87** Words in Sch. 3 para. 12(5) inserted (23.5.2003) by [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2003 \(S.I. 2003/1326\)](#), arts. 1, **14(2)(a)(ii)**
- F88** Word in Sch. 3 para. 12(5) inserted (23.5.2003) by [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2003 \(S.I. 2003/1326\)](#), arts. 1, **14(2)(a)(iii)**
- F89** Sch. 3 para. 12(6)(a) and the words preceding substituted by [S.I. 1991/1997](#), reg. 2, **Sch. para.49** (with reg. 4)
- F90** Words in [Sch. 3 para. 12\(6\)\(a\)](#) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), **Sch. 1 para. 1(cc)** (with arts. 6, 11, 12)
- F91** Sch. 3 para. 12(6A)(6B) inserted (23.5.2003) by [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2003 \(S.I. 2003/1326\)](#), arts. 1, **14(2)(b)**

#### Information

- 13 (1) The Commission shall make to the Secretary of State, as soon as may be after the end of each financial year, a report on the exercise of their functions since the last report was made or (in the case of the first) since the Commission’s establishment.
- (2) Each report shall include a copy of the statement of accounts prepared and audited under paragraph 12 in respect of the financial year [<sup>F92</sup>and, where the statement has been audited by the Comptroller and Auditor General, a copy of his report on it].
- (3) Each report [<sup>F93</sup>of the Commission] shall include a statement of action taken by the Commission to promote the enjoyment of ancient monuments and historic buildings by disabled members of the public.
- (4) The Secretary of State shall lay a copy of each report [<sup>F94</sup>of the Commission] before each House of Parliament.
- (5) As soon as may be after receiving any report made by the auditors on any accounts audited under paragraph 12 [<sup>F95</sup>or, as the case may be, made by the Comptroller and Auditor General on any statement of accounts prepared under that paragraph], the Commission shall send a copy of the report to the Secretary of State.

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- (6) The Commission shall furnish the 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 Commission and shall give such explanation of them as that person or the Secretary of State may require.
- (7) In this paragraph “financial year” has the same meaning as in paragraph 12.

#### Textual Amendments

- F92** Words in Sch. 3 para. 13(2) inserted (23.5.2003) by Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2003 (S.I. 2003/1326), arts. 1, **14(3)(a)**
- F93** Words in Sch. 3 para. 13(3) inserted (23.5.2003) by Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2003 (S.I. 2003/1326), arts. 1, **14(3)(b)**
- F94** Words in Sch. 3 para. 13(4) inserted (23.5.2003) by Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2003 (S.I. 2003/1326), arts. 1, **14(3)(c)**
- F95** Words in Sch. 3 para. 13(5) inserted (23.5.2003) by Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2003 (S.I. 2003/1326), arts. 1, **14(3)(d)**

#### *House of Commons disqualification*

- 14 In Part III of Schedule 1 to the <sup>M12</sup>House of Commons Disqualification Act 1975 (disqualifying offices), there shall be inserted at the appropriate place in alphabetical order—

“Any member, in receipt of remuneration, of the Historic Buildings and Monuments Commission for England.”

#### Marginal Citations

- M12** 1975 c. 24.

## SCHEDULE 4

Section 33.

### THE COMMISSION: AMENDMENTS

#### *Historic Buildings and Ancient Monuments Act 1953 (c. 49)*

- 1 In the Historic Buildings and Ancient Monuments Act 1953 (“the 1953 Act”) at the end of section 2 (Historic Buildings Council for Scotland) there shall be inserted—

“(4) The said Council shall consist of a chairman appointed by the Secretary of State and such number of other members so appointed as the Secretary of State may from time to time determine, and the chairman and other members of the Council shall hold and vacate office in accordance with the terms of their appointments.

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- (5) The Secretary of State may out of moneys provided by Parliament pay to the chairman of the said Council such remuneration and allowances as the Secretary of State may with the approval of the Treasury determine.

No person shall be disqualified from being elected to, or sitting and voting as, a member of the House of Commons by reason of his being the chairman of the said Council; but, in relation to a chairman of the Council who is a Member of the House of Commons, this subsection shall have effect with the substitution, for the words “remuneration and allowances”, of the words “allowances in respect of travelling and subsistence expenses, and in respect of other expenses (if any) necessarily incurred by him for the purpose of enabling him to perform his duties as chairman,”.

- (6) The Secretary of State may out of moneys provided by Parliament pay to the other members of the said Council such allowances as he may with the approval of the Treasury determine in respect of travelling and subsistence expenses and in respect of other expenses (if any) necessarily incurred by them for the purpose of enabling them to perform their duties as members of the Council.
- (7) Subject to any directions of the Secretary of State as to quorum or other matters, the procedure of the said Council shall be such as the Council may determine.
- (8) The said Council shall, before such date in every year as the Secretary of State may fix, send to the Secretary of State a report in respect of the matters on which they have advised the Secretary of State during the previous year, and the Secretary of State shall lay a copy of the report before each House of Parliament.
- (9) Without prejudice to the last preceding subsection, if at any time it appears to the said Council that there is need for action to be taken by the Secretary of State under this Part of this Act, they shall forthwith make to the Secretary of State such representations as they may think appropriate in the circumstances.”

2 At the end of section 3 of the 1953 Act (Historic Buildings Council for Wales) there shall be inserted—

“(3) Subsections (4) to (9) of section 2 of this Act shall apply to the said Council as they apply to the Historic Buildings Council for Scotland.”

3 After section 3 of the 1953 Act there shall be inserted—

**“3A Grants and loans for preservation of historic buildings etc.**

4 In section 4(1) of the 1953 Act (grants and loans for preservation of historic buildings etc.) for “appearing” there shall be substituted “ which is not situated in England and which appears ” and after “land which” there shall be inserted “ is not situated in England and which ”.

5 (1) Section 4A of the 1953 Act (recovery of grants) shall be amended as follows.

(2) In subsection (1) for “section 4” there shall be substituted “ section 3A or 4 ”.

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- (3) In subsections (1), (3), (4) and (8) for “the Secretary of State” there shall be substituted “ the Commission or (as the case may be) the Secretary of State ”.
- (4) In subsections (3) and (4) for “he thinks” there shall be substituted “ they think or (as the case may be) he thinks ”.
- 6 (1) Section 5 of the 1953 Act (acquisition by Secretary of State of historic buildings etc.) shall be amended as follows.
- (2) After subsection (3) there shall be inserted—
- “(3A) The Commission may be a party to such arrangements as are mentioned in subsection (3) of this section if the arrangements relate to property situated in England.”
- (3) In subsection (4) after “the appropriate” and after “the said” there shall be inserted “ Commission or ”.
- 7 After section 5 of the 1953 Act there shall be inserted—

**“5A Acquisition by the Commission of historic buildings, etc.**

- (1) Subject to subsection (4) of this section, the Commission shall have power to acquire by agreement, whether by purchase, lease or otherwise, or to accept a gift of—
- (a) any building which is situated in England and which appears to them to be one of outstanding historic or architectural interest;
  - (b) any building which is situated in England and in an area designated as a conservation area under section 277 of the Town and Country Planning Act 1971 and which appears to the Commission to be of special historic or architectural interest;
  - (c) any land which is situated in England and which comprises, or is contiguous or adjacent to, any building mentioned in paragraph (a) or (b) of this subsection;
  - (d) any garden or other land which is situated in England and which appears to the Commission to be of outstanding historic interest but which is not contiguous or adjacent to a building which appears to the Commission to be of outstanding historic or architectural interest.
- (2) The Commission shall have power to purchase by agreement, or to accept a gift of, any objects which it would (within the meaning of subsection (5) of this section) be historically appropriate to keep in—
- (a) a building which, or any interest in which, is vested in the Commission, or a building which is under their management or in their custody, being in either case a building appearing to the Commission to be of outstanding historic or architectural interest; or
  - (b) a building of which the Commission are guardian under the Ancient Monuments and Archaeological Areas Act 1979; or
  - (c) a building situated in England which, or any interest in which, is vested in the National Trust for Places of Historic Interest or Natural Beauty.



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- (3) The Commission may make such arrangements as they may think fit as to the management or custody of any property acquired or accepted by them under this section, and as to the use of any such property, and may dispose of or otherwise deal with any such property as they may from time to time determine.
- (4) The Commission shall not acquire or accept any property under subsection (1) of this section without the consent of the Secretary of State, which may be given subject to such conditions as he thinks fit.
- (5) For the purposes of subsection (2) of this section, an object is one which it would be historically appropriate to keep in a building if—
  - (a) it is or has been ordinarily kept in the building; or
  - (b) it is historically associated with the building or connected with a person or event historically associated with the building; or
  - (c) objects of its kind were produced or used in a period falling within the lifetime of the building; or
  - (d) the Commission are of opinion that it would for some other reason be historically appropriate to keep it in the building.

#### **5B Grants to local authorities and National Trust for acquisition of historic buildings.**

- (1) The Commission may make grants for the purpose of defraying in whole or in part any expenses incurred by a local authority in England in the acquisition of property situated in England under section 114 or 119(1)(b) or (c) of the Town and Country Planning Act 1971 (under which buildings of special architectural or historic interest may in certain cases be acquired by a local authority).
- (2) The Commission may also make grants to the National Trust for Places of Historic Interest or Natural Beauty for the purpose of defraying in whole or in part any expenses incurred by them in the acquisition of—
  - (a) any building which is situated in England and which appears to the Commission to be of outstanding historic or architectural interest;
  - (b) any land which is situated in England and which comprises, or is contiguous or adjacent to, any such building; or
  - (c) any garden or other land which is situated in England and which appears to the Commission to be of outstanding historic interest but which is not contiguous or adjacent to a building which appears to the Commission to be of outstanding historic or architectural interest.”

8 At the end of section 6 of the 1953 Act (grants for acquisition of historic buildings) there shall be inserted—

“(4) This section applies only where the property or buildings are not situated in England.”

9 At the end of section 8 of the 1953 Act (endowments of historic buildings) there shall be inserted—

“(7) Where the Commission are requested in pursuance of subsection (3) of this section to manage any property the income from which is applicable for or

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towards the upkeep of property situated in England, they may undertake the management.”

10 After section 8 of the 1953 Act there shall be inserted—

**“8A Power of Commission to accept endowments.**

- (1) Where any instrument coming into operation after the establishment of the Commission contains a provision purporting to be a gift of property to the Commission upon trust to use the income thereof (either for a limited time or in perpetuity) for or towards the upkeep of—
  - (a) a building acquired or accepted by the Commission under section 5A of this Act, or a building which the Commission propose so to acquire or accept, or
  - (b) a building which at the coming into operation of the trust instrument is or will shortly be vested in or under the management or in the custody of the Commission, being a building which is situated in England and which appears to them to be one of outstanding historic or architectural interest, or
  - (c) a building of which at that time the Commission are or will shortly be guardian under the Ancient Monuments and Archaeological Areas Act 1979.

or for or towards the upkeep of any such building together with other property situated in England, the Commission may accept the gift, and if they do so, and the provision does not constitute a charitable trust, the following provisions of this section shall have effect.

- (2) The validity of the gift and of the trust to use the income as aforesaid (hereinafter referred to as “the endowment trust”) shall be deemed not to be, or ever to have been, affected by any rule of law or equity which would not have affected their validity if the trust had been charitable.
- (3) In relation to the property (of whatsoever nature) comprised in the gift and any property for the time being representing that property (hereinafter collectively referred to as “the trust fund”) the Commission shall during the continuance of the endowment trust have the like powers of management, disposition and investment as, in the case of land held on trust for sale, are conferred by law on the trustees for sale in relation to the land and to the proceeds of sale thereof; but this subsection shall have effect without prejudice to any additional or larger powers conferred on the Commission by the trust instrument.
- (4) If while the endowment trust continues an event happens such that immediately thereafter the Commission are neither entitled to any interest in the building to which the trust relates, nor have the building under their management or in their custody, nor are guardian of the building under the said Act of 1979, and apart from this subsection the endowment trust would not then be determined or be deemed to have failed, then on the happening of that event the endowment trust shall cease by virtue of this subsection and the trust fund shall devolve accordingly as on a failure of the trust.
- (5) If the trust instrument contains a provision whereby on the failure or determination of the endowment trust the trust fund purports to be given, or to be directed to be held, on charitable trusts, the validity of that gift or

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direction shall be deemed not to be, or ever to have been, affected by any rule of law or equity relating to perpetuities.

### **8B Endowment of gardens.**

- (1) Where any instrument coming into operation after the establishment of the Commission contains a provision purporting to be a gift of property to the Commission upon trust to use the income thereof (either for a limited time or in perpetuity) for or towards the upkeep of a garden or other land acquired or accepted by the Commission under section 5A(1)(d) of this Act, or a garden or other land which the Commission propose so to acquire or accept, or for or towards the upkeep of any such garden or other land together with other property situated in England, the Commission may accept the gift, and if they do so, and the provision does not constitute a charitable trust, the following provisions of this section shall have effect.
- (2) The validity of the gift and of the trust to use the income as aforesaid (hereinafter referred to as “the endowment trust”) shall be deemed not to be, or ever to have been, affected by any rule of law or equity which would not have affected their validity if the trust had been charitable.
- (3) In relation to the property (of whatsoever nature) comprised in the gift and any property for the time being representing that property (hereinafter collectively referred to as “the trust fund”) the Commission shall during the continuance of the endowment trust have the like powers of management, disposition and investment as, in the case of land held on trust for sale, are conferred by law on the trustees for sale in relation to the land and to the proceeds of sale thereof; but this subsection shall have effect without prejudice to any additional or larger powers conferred on the Commission by the trust instrument.
- (4) If while the endowment trust continues an event happens such that immediately thereafter the Commission are not entitled to any interest in the garden or other land to which the trust relates, and apart from this subsection the endowment trust would not then be determined or be deemed to have failed, then on the happening of that event the endowment trust shall cease by virtue of this subsection and the trust fund shall devolve accordingly as on a failure of the trust.
- (5) If the trust instrument contains a provision whereby on the failure or determination of the endowment trust the trust fund purports to be given, or to be directed to be held, on charitable trusts, the validity of that gift or direction shall be deemed not to be, or ever to have been, affected by any rule of law or equity relating to perpetuities.

### **8C Register of Gardens.**

- (1) This section applies where the Commission compile a register of gardens and other land situated in England and appearing to them to be of special historic interest.
- (2) The Commission shall, as soon as practicable after including in the register an entry relating to any garden or land, notify the persons mentioned in

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subsection (3) of this section of the inclusion and send to them a copy of the entry.

(3) The persons are—

- (a) the owner and (if the owner is not the occupier) the occupier of the garden or land,
- (b) any county planning authority, and any district planning authority, in whose area the garden or land (or any part of the garden or land) is situated, and
- (c) the Secretary of State.”

11 (1) In section 9(1) of the 1953 Act (meaning of “appropriate Council”) after “appropriate” there shall be inserted “Commission or”, in paragraph (a) for “Historic Buildings Council for England” there shall be substituted “Commission” and after paragraph (c) there shall be inserted “and the expression “the appropriate Council under this Act” shall be construed in accordance with paragraphs (b) and (c) of this subsection”.

(2) After section 9(1) of the 1953 Act there shall be inserted—

“(1A) In this Part of this Act “the Commission” means the Historic Buildings and Monuments Commission for England.”

*Pastoral Measure 1968 (No. 1)*

12 (1) Section 66 of the Pastoral Measure 1968 (transfer of redundant churches) shall be amended as follows.

(2) In subsection (1) after paragraph (b) there shall be inserted—

- “(c) where a redundant building or any part thereof is situated in England and is vested in the Diocesan Board of Finance, whether in pursuance of a pastoral scheme or a redundancy scheme or pending the making of a redundancy scheme, the Board may, with the approval of the bishop and the Commissioners, enter into and carry out an agreement with the Historic Buildings and Monuments Commission for England for the acquisition and preservation by the Commission of the building or part with or without other land so situated and so vested in the Board;
- (d) where a redundant building or any part thereof is situated in England and is vested in the Redundant Churches Fund in pursuance of a redundancy scheme or a pastoral scheme to which section 47 of this Measure applies, the Fund may enter into and carry out an agreement with the Historic Buildings and Monuments Commission for England for the acquisition and preservation by the Commission of the building or part with or without other land so situated and so vested;”

and for “the next two following subsections” there shall be substituted “subsections (2) and (3) of this section”.

(3) After subsection (1) there shall be inserted—

“(1A) The Historic Buildings and Monuments Commission for England shall not enter into an agreement under subsection (1)(c) or (d) of this section without the consent of the Secretary of State.”

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- (4) In subsection (2)(a) after “the Minister” there shall be inserted “ or (as the case may be) the Historic Buildings and Monuments Commission for England ”, after “him” there shall be inserted “ or them ” and after “his” there shall be inserted “ or their ”, and in subsection (2)(c) after “the Minister” there shall be inserted “ or (as the case may be) the Historic Buildings and Monuments Commission for England ”.
- (5) In subsection (3) after “the said Minister” there shall be inserted “ or (as the case may be) the Historic Buildings and Monuments Commission for England ” and after “the Minister” (in both places) there shall be inserted “ or the Commission ”.
- (6) After subsection (3) there shall be inserted—
- “(3A) Before giving his consent under subsection (3) of this section in relation to a building or part situated in England the Minister shall consult with the Historic Buildings and Monuments Commission for England.”
- (7) In subsection (4) after “the Minister” (in the first place) there shall be inserted “ or the Historic Buildings and Monuments Commission for England ” and after “the Minister” (in the second and third places) there shall be inserted “ or the Commission (as the case may be) ”.
- (8) After subsection (4) there shall be inserted—
- “(4A) The Historic Buildings and Monuments Commission for England shall not enter into an agreement under subsection (4) of this section unless—
- (a) the land is situated in England, and
- (b) the Secretary of State has consented.”
- (9) In subsection (5) after “the said Minister” there shall be inserted “ or (as the case may be) the Historic Buildings and Monuments Commission for England ”.
- (10) After subsection (5) there shall be inserted—
- “(6) Where a redundant building (or part) situated in England has been acquired for its preservation by the Minister under subsection (1) of this section either with or without any other land so situated, the Historic Buildings and Monuments Commission for England may by agreement with the Minister undertake on his behalf the management and preservation of the building (or part) together with the other land (if any).
- (7) Where the Minister has under subsection (4) of this section acquired land situated in England for its maintenance with a building (or part), the Commission may undertake, in any agreement made under subsection (6) of this section in relation to the building (or part), the maintenance of the land on behalf of the Minister.
- (8) Where the Minister has under subsection (5) of this section acquired for their preservation the contents of a redundant building (or part), the Commission may undertake, in any agreement made under subsection (6) of this section in relation to the building (or part), the preservation of the contents on behalf of the Minister.”

*Redundant Churches and Other Religious Buildings Act 1969 (c. 22)*

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**Textual Amendments**

**F96** Sch. 4 para. 13 repealed (1.9.1992) by Charities Act 1992 (c. 41), s. 78(2), Sch. 7; S.I. 1992/1900, art. 2, Sch. 1, Appendix

**F97** 14 . . . . .

**Textual Amendments**

**F97** Sch. 4 para. 14 repealed (1.9.1992) by Charities Act 1992 (c. 41), s. 78(2), Sch. 7; S.I. 1992/1900, art. 2, Sch. 1, Appendix

*Town and Country Planning Act 1971 (c. 78)*

15—17. . . . . **F98**

**Textual Amendments**

**F98** Sch. 4 paras. 15–17, 19–21, 22(1)–(5) (7), 23, 24 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Part I

18 . . . . . **F99**

**Textual Amendments**

**F99** Sch. 4 para. 18, Sch. 5 para. 6 repealed by Housing and Planning Act 1986 (c. 63, SIF 123:1), s. 49(2), Sch. 12 Pt. III

19—21. . . . . **F100**

**Textual Amendments**

**F100** Sch. 4 paras. 15–17, 19–21, 22(1)–(5) (7), 23, 24 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Part I

*Town and Country Planning (Amendment) Act 1972 (c. 42)*

22 (1) . . . . . **F101**

**F102** (6) . . . . .

(7) . . . . . **F101**

**Textual Amendments**

**F101** Sch. 4 paras. 15–17, 19–21, 22(1)–(5) (7), 23, 24 repealed by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Part I

**F102** Sch. 4 para. 22(6) repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. I (with s. 5, Sch. 3)

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23, 24. .... F103

#### Textual Amendments

**F103** Sch. 4 paras. 15–17, 19–21, 22(1)–(5) (7), 23, 24 repealed by [Planning \(Consequential Provisions\) Act 1990](#) (c. 11, SIF 123:1, 2), s. 3, [Sch. 1 Part I](#)

#### *Ancient Monuments and Archaeological Areas Act 1979 (c. 46)*

- 25 (1) In the Ancient Monuments and Archaeological Areas Act 1979 (“the 1979 Act”) section 1 (Schedule of monuments) shall be amended as follows.
- (2) At the end of subsection (3) there shall be inserted—
- “The Secretary of State shall consult the Historic Buildings and Monuments Commission for England (in this Act referred to as “the Commission”) before he includes in the Schedule a monument situated in England.”
- (3) At the end of subsection (5) there shall be inserted—
- “In the case of a monument situated in England, the Secretary of State shall consult with the Commission before he makes an exclusion or amendment.”
- (4) In subsection (6) after “Secretary of State shall” there shall be inserted “ (subject to subsection 6A) below) ”.
- (5) After subsection (6) there shall be inserted—
- “(6A) Subsection (6) above shall not apply as regards a monument situated in England but, as soon as may be after acting as mentioned in paragraph (a), (b) or (c) of that subsection as regards such a monument, the Secretary of State shall inform the Commission of the action taken and, in a case falling within paragraph (a) or (b) of that subsection, shall also send to the Commission a copy of the entry or (as the case may be) of the amended entry in the Schedule relating to that monument.”
- (6) In subsection (7) there shall be inserted at the beginning “ Subject to subsection (7A) below ”.
- (7) After subsection (7) there shall be inserted—
- “(7A) Subsection (7) above shall not apply as regards monuments situated in England, but the Secretary of State shall from time to time supply the Commission with a list of all the monuments which are so situated and are for the time being included in the Schedule, whether as a single list or in sections containing the monuments situated in particular areas; but in the case of a list supplied in sections, all sections of the list need not be supplied simultaneously.”
- (8) After subsection (8) there shall be inserted—
- “(8A) The Secretary of State shall from time to time supply the Commission with amendments of any list supplied under subsection (7A) above.”



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(9) Sub-paragraph (5) does not apply in the case of an inclusion, amendment or exclusion made before the appointed day.

26 After section 1 of the 1979 Act there shall be inserted—

**“1A Commission’s functions as to informing and publishing.**

(1) As soon as may be after the Commission—

- (a) have been informed as mentioned in section 1(6A) of this Act, and
- (b) in a case falling within section 1(6)(a) or (b) of this Act, have received a copy of the entry or (as the case may be) of the amended entry from the Secretary of State,

the Commission shall inform the owner and (if the owner is not the occupier) the occupier of the monument, and any local authority in whose area the monument is situated, of the inclusion, amendment or exclusion and, in a case falling within section 1(6)(a) or (b), shall also send to him or them a copy of the entry or (as the case may be) of the amended entry in the Schedule relating to that monument.

(2) As soon as may be after the Commission receive a list or a section in pursuance of section 1(7A) of this Act, they shall publish the list or section (as the case may be).

(3) The Commission shall from time to time publish amendments of any list published under subsection (2) above, and any such list (as amended) shall be evidence of the inclusion in the Schedule for the time being—

- (a) of the monuments listed; and
- (b) of any matters purporting to be reproduced in the list from the entries in the Schedule relating to monuments listed.”

27 (1) In section 2(5) of the 1979 Act (conditions attached to scheduled monument consent) for “the Secretary of State or a person authorised by the Secretary of State” there shall be substituted—

- “(a) a person authorised by the Commission (in a case where the monument in question is situated in England), or
- (b) the Secretary of State or a person authorised by the Secretary of State (in any other case)”.

(2) This paragraph does not apply to a consent granted before the appointed day.

28 (1) Section 3 of the 1979 Act (grant of scheduled monument consent by order of Secretary of State) shall be amended as follows.

(2) At the end of subsection (1) there shall be inserted—

“Before granting consent in relation to monuments of a class or description which includes monuments situated in England, the Secretary of State shall consult with the Commission in relation to the monuments so situated.”

(3) At the end of subsection (3) there shall be inserted—

“Before making a direction in relation to a monument situated in England, or withdrawing such a direction, the Secretary of State shall consult with the Commission.”

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29 At the end of section 4(3) of the 1979 Act (modification and revocation of scheduled monument consent) there shall be inserted—

“Where a direction would (if given) affect a monument situated in England, the Secretary of State shall consult with the Commission before he gives such a direction.”

30 At the end of section 5 of the 1979 Act (works to preserve scheduled monument) there shall be inserted—

“(3) If it appears to the Secretary of State that any works are urgently necessary for the preservation of a scheduled monument situated in England, he may (instead of acting as mentioned in subsection (1) above) authorise the Commission to enter the site of the monument and execute such works as are specified in the authorisation.

(4) In that case, the Commission may enter the site and execute the works after giving the owner and (if the owner is not the occupier) the occupier of the monument not less than seven days’ notice in writing of their intention to do so.

(5) Where the Secretary of State gives an authorisation under subsection (3) above, subsection (2) above shall have effect with the substitution of "Commission" for "Secretary of State" (in each place) and of "execute" for "executes".”

31 (1) At the end of section 6(5) of the 1979 Act (power of entry to preserve monument from damage) there shall be inserted—

“This subsection does not apply to land in England.”

(2) Nothing in this paragraph affects an authorisation given before the appointed day.

32 After section 6 of the 1979 Act there shall be inserted—

**“6A Commission’s powers of entry in relation to scheduled monuments.**

(1) Any person duly authorised in writing by the Commission may at any reasonable time enter any land in England for the purpose of inspecting any scheduled monument in, on or under the land with a view to ascertaining whether any works affecting the monument have been or are being carried out in contravention of section 2(1) of this Act and so to enabling the Commission to decide whether to institute proceedings in England for an offence under section 2(1).

(2) Any person duly authorised in writing by the Commission may at any reasonable time enter any land in England for the purpose of—

- (a) observing the execution on the land of any works to which a scheduled monument consent relates; and
- (b) inspecting the condition of the land and the scheduled monument in question after the completion of any such works,

with a view to ascertaining whether the works in question are or have been executed in accordance with the terms of the consent and of any conditions attached to the consent, and so to enabling the Commission to decide whether to institute proceedings in England for an offence under section 2(1) or (6) of this Act.

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- (3) Any person duly authorised in writing by the Commission may at any reasonable time enter any land in England for the purpose of inspecting any scheduled monument in, on or under the land in connection with any consultation made in respect of the monument under section 4(3) of this Act or paragraph 3(3)(c) of Schedule 1 to this Act.
- (4) Any person duly authorised in writing by the Commission may enter any land which is in England and in, on or under which a scheduled monument is situated, with the consent of the owner and (if the owner is not the occupier) of the occupier of the land, for the purpose of erecting and maintaining on or near the site of the monument such notice boards and marker posts as appear to the Commission to be desirable with a view to preserving the monument from accidental or deliberate damage.
- (5) References in this section to scheduled monument consent include references to consent granted by order under section 3 of this Act.”
- 33 In section 7(1) of the 1979 Act (compensation payable by Secretary of State for refusal of scheduled monument consent etc.) after “Secretary of State” there shall be inserted “ or (where the monument in question is situated in England) the Commission ”.
- 34 (1) Section 8 of the 1979 Act (recovery of compensation) shall be amended as follows.
- (2) For subsection (2)(b) there shall be substituted—
- “(b) the requirement mentioned in subsection (2A) below is fulfilled”.
- (3) After subsection (2) there shall be inserted—
- “(2A) The requirement is that—
- (a) where the monument in question is situated in England, the Commission have caused notice of the payment of compensation to be deposited with the council of each district or London borough in which the monument is situated or (where it is situated in the City of London, the Inner Temple or the Middle Temple) with the Common Council of the City of London;
- (b) where the monument in question is situated in Scotland, the Secretary of State has caused such notice to be deposited with the local authority of each area in which the monument is situated;
- (c) where the monument in question is situated in Wales, the Secretary of State has caused such notice to be deposited with the council of each district in which the monument is situated.”
- (4) In subsection (3) after “his satisfaction” there shall be inserted “ or (as the case may be) has been repaid to the Commission or secured to their satisfaction ”.
- (5) Nothing in this paragraph affects a case where compensation under section 7 of the 1979 Act was paid before the appointed day.
- 35 In section 9(1) of the 1979 Act (compensation payable by Secretary of State where works cease to be authorised) after “Secretary of State” there shall be inserted “ or (where the monument in question is situated in England) the Commission ”.
- 36 At the end of section 10(1) of the 1979 Act (compulsory acquisition of ancient monuments by Secretary of State) there shall be inserted “ ; but, where the

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- monument in question is situated in England, he shall consult with the Commission before making a compulsory purchase order. ”
- 37 (1) Section 11 of the 1979 Act (acquisition by agreement or gift) shall be amended as follows.
- (2) At the end of subsection (1) there shall be inserted “ but, where the monument in question is situated in England, he shall consult with the Commission before doing so. ”
- (3) After subsection (1) there shall be inserted—
- “(1A) With the consent of the Secretary of State, the Commission may acquire by agreement any ancient monument situated in England.”
- (4) At the end of subsection (3) there shall be inserted “ ; but, where the monument in question is situated in England, the Secretary of State shall consult with the Commission before accepting ”.
- (5) After subsection (3) there shall be inserted—
- “(3A) With the consent of the Secretary of State, the Commission may accept a gift (whether by deed or will) of any ancient monument situated in England.”
- 38 (1) Section 12 of the 1979 Act (power to place ancient monument under guardianship) shall be amended as follows.
- (2) At the end of subsection (1) there shall be inserted—
- “Where the monument in question is situated in England, the Secretary of State shall consult with the Commission before he so consents.”
- (3) After subsection (1) there shall be inserted—
- “(1A) Subject to subsection (4) below, a person who has an interest of any description mentioned in subsection (3) below in an ancient monument situated in England may, with the consent of the Commission, given after obtaining the consent of the Secretary of State, constitute the Commission by deed guardian of the monument.”
- (4) In subsections (3) and (4) after “(1)” there shall be inserted “ or (1A) ”.
- (5) In subsection (6) after “Secretary of State” there shall be inserted “ or the Commission ” and for “(as the case may be) subsection (2) above” there shall be substituted “ (1A) or (2) above (as the case may be) ”.
- (6) In subsection (10) after “Secretary of State” there shall be inserted “ or the Commission ”.
- (7) In subsection (11) for “(as the case may be) the local authority in question” there shall be substituted “ the Commission or the local authority in question (as the case may be) ”.
- 39 (1) Section 13 of the 1979 Act (effect of guardianship) shall be amended as follows.
- (2) In subsections (1) and (2) after “Secretary of State” there shall be inserted “ and the Commission ”.
- (3) In subsections (3), (4) and (5) after “Secretary of State” there shall be inserted “ or the Commission ”.

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- 40 (1) Section 14 of the 1979 Act (termination of guardianship) shall be amended as follows.
- (2) In subsection (1) after “Secretary of State” there shall be inserted “ or the Commission ”.
- (3) At the end of subsection (2) there shall be inserted—
- “Where the monument in question is situated in England, the Secretary of State shall consult with the Commission before entering into any such agreement.
- The Commission shall consult with the Secretary of State before entering into any such agreement.”
- (4) In subsection (3) after “Secretary of State” there shall be inserted “ nor the Commission ”.
- 41 (1) Section 15 of the 1979 Act (acquisition and guardianship of land in vicinity of ancient monument) shall be amended as follows.
- (2) In subsection (1) after “Secretary of State” there shall be inserted “ or the Commission ” and at the end of that subsection there shall be inserted—
- “Land may be acquired, or taken into guardianship, by the Commission by virtue of this section only if the land is situated in England.”
- (3) In subsections (3) and (4) after “Secretary of State” there shall be inserted “ and the Commission ”.
- (4) In subsection (6) after “Secretary of State” there shall be inserted “ or the Commission ”.
- 42 (1) Section 16 of the 1979 Act (acquisition of easements etc. over land in vicinity of ancient monument) shall be amended as follows.
- (2) At the end of subsection (1) there shall be inserted—
- “Where the land in question is situated in England, the Secretary of State shall consult with the Commission before entering into the agreement or making the compulsory purchase order (as the case may be).”
- (3) After subsection (1) there shall be inserted—
- “(1A) The Commission may by agreement acquire over land which is situated in England, and which adjoins or is in the vicinity of any monument under their ownership by virtue of this Act, any such easement as the Secretary of State may acquire by virtue of subsection (1) above.”
- (4) In subsection (3) after “(1)” there shall be inserted “ or (1A) ”.
- (5) In subsection (4) after “Secretary of State” there shall be inserted “ or the Commission ”.
- 43 (1) Section 17 of the 1979 Act (agreements concerning ancient monuments) shall be amended as follows.
- (2) After subsection (1) there shall be inserted—

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“(1A) The Commission may enter into an agreement under this section with the occupier of an ancient monument situated in England or of any land so situated which adjoins or is in the vicinity of an ancient monument so situated.”

(3) In subsection (4) for “(as the case may be) by the local authority” there shall be substituted “the Commission or the local authority (as the case may be)” and for “(as the case may be) to the local authority” there shall be substituted “the Commission or the local authority (as the case may be)”.

(4) At the end of the section there shall be inserted—

“(9) References to an ancient monument in subsection (1A) above, and in subsection (3) above so far as it applies for the purposes of subsection (1A), shall be construed as if the reference in section 61(12)(b) of this Act to the Secretary of State were to the Commission.”

44 (1) Section 18 of the 1979 Act (powers of limited owners) shall be amended as follows.

(2) In subsection (1) after “(1)” there shall be inserted “or (1A)”.

(3) In subsection (2) after “Secretary of State” there shall be inserted “or the Commission”.

45 (1) Section 19 of the 1979 Act (public access to monuments under public control) shall be amended as follows.

(2) In subsection (1) after “Secretary of State” there shall be inserted “or the Commission”.

(3) In subsection (2) after “Secretary of State” (in the first place) there shall be inserted “and the Commission”.

(4) In subsection (3) for “this section” there shall be substituted “this subsection”, and at the end there shall be inserted—

“The Secretary of State shall consult with the Commission before he makes any regulations under this subsection in relation only to monuments situated in England.”

(5) In subsection (4) for “this section” there shall be substituted “that subsection”.

(6) After subsection (4) there shall be inserted—

“(4A) The Secretary of State may by regulations under this subsection make such provision as appears to him necessary for prohibiting or regulating any act or thing which would tend to injure or disfigure any monument under the ownership or guardianship of the Commission by virtue of this Act or the monument’s amenities or to disturb the public in their enjoyment of it.

(4B) The Secretary of State shall consult with the Commission before he makes any regulations under subsection (4A) above.”

(7) In subsection (5) after “Secretary of State” (in the first place) there shall be inserted “and the Commission”.

(8) In subsection (6) after “Secretary of State” (in the first place) there shall be inserted “or by the Commission”, and in paragraph (a) for “(as the case may be) of that local

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- authority" there shall be substituted " the Commission or that local authority (as the case may be) ".
- 46 (1) Section 20 of the 1979 Act (provision of facilities for the public) shall be amended as follows.
- (2) In subsection (1) after "Secretary of State" (in the first place) there shall be inserted " and the Commission ".
- (3) In subsection (3) after "Secretary of State" there shall be inserted " and the Commission ".
- 47 (1) Section 21 of the 1979 Act (transfer of ancient monuments between local authorities and Secretary of State) shall be amended as follows.
- (2) In subsection (1) after "Secretary of State" (in the first place) there shall be inserted " and the Commission " and at the end of paragraph (c) there shall be inserted "or
- (d) from the Secretary of State to the Commission; or
- (e) from the Commission to the Secretary of State; or
- (f) from the Commission to the local authority; or
- (g) from the local authority to the Commission;".
- (3) In subsection (2) after "Secretary of State" there shall be inserted " or the Commission ".
- (4) At the end of the section there shall be inserted—
- "(3) The Commission may not enter into an agreement under subsection (1) above in respect of a monument or land not situated in England.
- (4) The Secretary of State may not enter into an agreement mentioned in subsection (1)(a) or (b) above in respect of a monument or land situated in England without consulting the Commission.
- (5) The Commission may not enter into an agreement mentioned in subsection (1)(f) above without consulting the Secretary of State.
- (6) The Commission may not enter into an agreement mentioned in subsection (1)(g) above without the consent of the Secretary of State."
- 48 (1) Section 24 of the 1979 Act (expenditure by Secretary of State or local authority on acquisition and preservation of ancient monuments etc.) shall be amended as follows.
- (2) At the beginning of subsections (1), (2) and (3) there shall be inserted " Subject to subsection (3A) below ".
- (3) After subsection (3) there shall be inserted—
- "(3A) As respects a monument situated in England, subsections (1) to (3) above shall apply as if "Commission" were substituted for "Secretary of State".
- (3B) References to an ancient monument in subsections (1) and (2) above, as amended by subsection (3A) above, shall be construed as if the reference in section 61(12)(b) of this Act to the Secretary of State were to the Commission."
- (4) In subsection (5) after "Secretary of State" there shall be inserted " or the Commission ".

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- 49 (1) Section 25 of the 1979 Act (advice and superintendence by Secretary of State) shall be amended as follows.
- (2) At the beginning of subsections (1), (2) and (3) there shall be inserted “ Subject to subsection (3A) below ”.
- (3) After subsection (3) there shall be inserted—
- “(3A) As respects a monument situated in England, subsections (1) to (3) above shall apply as if "Commission' were substituted for "Secretary of State', "their' for "his' (in each place) and "they think' for "he thinks'.
- (3B) References to an ancient monument in subsections (1) and (2) above, as amended by subsection (3A) above, shall be construed as if the reference in section 61(12)(b) of this Act to the Secretary of State were to the Commission.”
- (4) Nothing in this paragraph affects the giving of advice or the superintendence of work where the advice or superintendence was started before the appointed day.
- (5) Nothing in this paragraph affects a charge for advice or superintendence given before the appointed day or for advice or superintendence started before and completed after that day.
- 50 In section 28(3) of the 1979 Act (offences: meaning of “protected monument”) after “Secretary of State” there shall be inserted “ or the Commission ”.
- 51 In section 29 of the 1979 Act (compensation orders) after “Secretary of State” (in the first place) there shall be inserted “ or the Commission ” and for the words from “(as the case may require)” to the end there shall be substituted “ the Commission or the local authority in question (as the case may require) ”.
- 52 (1) Section 30 of the 1979 Act (disposal of land acquired under Part I) shall be amended as follows.
- (2) In subsection (1) after “Secretary of State” there shall be inserted “ or the Commission ”.
- (3) After subsection (1) there shall be inserted—
- “(1A) The Secretary of State shall consult with the Commission before disposing of any land situated in England under this section.
- (1B) The Commission shall consult with the Secretary of State before disposing of any land under this section.”
- (4) In subsections (3) and (4) for “(as the case may be) the local authority” there shall be substituted “ the Commission or the local authority (as the case may be) ”.
- 53 In section 32(3) of the 1979 Act (interpretation of Part I) after “Secretary of State” (in the first place) there shall be inserted “ or the Commission ” and for “(as the case may be) the local authority” there shall be substituted “ the Commission or the local authority (as the case may be) ”.
- 54 (1) Section 33 of the 1979 Act (designation of areas of archaeological importance) shall be amended as follows.
- (2) At the end of subsection (1) there shall be inserted “ ; but, where the area in question is situated in England, he shall consult with the Commission before doing so. ”



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- (3) At the end of subsection (2) there shall be inserted “; but, where the area in question is situated in England, the authority shall first notify the Commission of their intention to do so.”
- (4) At the end of subsection (4) there shall be inserted—
- “The Secretary of State shall consult with the Commission before varying or revoking an order relating to an area situated in England.”
- 55 (1) Section 34 of the 1979 Act (investigating authorities) shall be amended as follows.
- (2) At the end of subsection (1) there shall be inserted—
- “The Secretary of State shall consult with the Commission before making an appointment under this subsection in relation to an area situated in England.”
- (3) At the end of subsection (2) there shall be inserted “; but, where the appointment was made in relation to an area situated in England, he shall consult with the Commission before cancelling the appointment.”
- (4) In subsection (4) for “Secretary of State” there shall be substituted “ Commission (in the case of an area situated in England) or the Secretary of State (in any other case) ”.
- 56 In section 37 of the 1979 Act (exemptions from certain offences) at the end of subsection (3) there shall be inserted—
- “The Secretary of State shall consult with the Commission before giving or withdrawing a direction under this subsection in relation to land situated in England.”
- 57 (1) Section 38 of the 1979 Act (power of investigating authority to enter site etc.) shall be amended as follows.
- (2) At the end of subsection (3) there shall be inserted “and
- (c) where the site in question is situated in England, serves a copy of that notice on the Commission (unless the investigating authority is for the time being the Commission).”
- (3) At the end of subsection (8) there shall be inserted—
- “The Secretary of State shall consult with the Commission before giving, varying or revoking a direction under this subsection in relation to a site situated in England.”
- (4) After subsection (9) there shall be inserted—
- “(10) On giving a direction under subsection (8) above in relation to a site situated in England the Secretary of State shall send a copy of the direction to the Commission (if the investigating authority is not the Commission).
- (11) On varying or revoking a direction given under subsection (8) above in relation to a site situated in England the Secretary of State shall notify the Commission (giving particulars of the effect of any variation) if the investigating authority is not the Commission.”

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- (5) Nothing in sub-paragraph (2) affects the right of an investigating authority to excavate a site in respect of which an operations notice was served before the appointed day.
- 58 In section 39 of the 1979 Act (power of investigating authority to investigate in advance of operations notice any site which may be acquired compulsorily) after paragraph (c) of subsection (4) there shall be inserted “and
- (d) where the site in question is situated in England, the Commission (if the investigating authority is not the Commission);”.
- 59 In section 41(2) of the 1979 Act (interpretation of Part II) for “Secretary of State” there shall be substituted “ Commission (in a case where the area is situated in England) or the Secretary of State (in any other case) ”.
- 60 (1) Section 42 of the 1979 Act (restrictions on use of metal detectors) shall be amended as follows.
- (2) In subsection (1) for “Secretary of State” there shall be substituted “ Commission (in the case of a place situated in England) or of the Secretary of State (in any other case) ”.
- (3) In subsection (2), in paragraph (a) of the definition of “protected place”, after “Secretary of State” there shall be inserted “ or the Commission ”.
- (4) In subsection (3) for “the written consent of the Secretary of State” there shall be substituted “ written consent ”, and at the end there shall be inserted—
- “The reference in this subsection to written consent is to that of the Commission (where the place in question is situated in England) or of the Secretary of State (in any other case)”.
- (5) In subsections (4) and (5) after “Secretary of State” there shall be inserted “ or the Commission ”.
- (6) Nothing in this paragraph affects a consent given before the appointed day.
- 61 (1) Section 45 of the 1979 Act (expenditure on archaeological investigation) shall be amended as follows.
- (2) In subsection (1) after “land” there shall be inserted “ (other than land in England) ”.
- (3) After subsection (1) there shall be inserted—
- “(1A) The Commission may undertake, or assist in, or defray or contribute towards the cost of, an archaeological investigation of any land in England which they consider may contain an ancient monument or anything else of archaeological or historical interest; and the reference to an ancient monument in this subsection shall be construed as if the reference in section 61(12)(b) of this Act to the Secretary of State were to the Commission.”
- (4) In subsection (3) after “Secretary of State” there shall be inserted “ or the Commission ”.
- (5) At the end of subsection (4) there shall be inserted “ (or, as regards the powers mentioned in subsection (1A) above, England). ”

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- 62 (1) Section 46 of the 1979 Act (compensation for certain damage) shall be amended as follows.
- (2) In subsection (1) after “Secretary of State” there shall be inserted “ or the Commission ”.
- (3) In subsection (2) for the words from “Secretary of State” to the end there shall be substituted “ Commission (if the area in question is situated in England) or from the Secretary of State (in any other case). ”
- (4) In subsection (3) after “6” there shall be inserted “ 6A ”.
- (5) Nothing in sub-paragraph (3) affects compensation in respect of damage caused before the appointed day.
- 63 (1) Section 49 of the 1979 Act (grants by Secretary of State to Architectural Heritage Fund) shall be amended as follows.
- (2) In subsection (1) for the words from “institution” to the end there shall be substituted “ Architectural Heritage Fund ”.
- (3) After subsection (1) there shall be inserted—
- “(1A) The Commission may make grants to the Architectural Heritage Fund for the purpose of enabling it to perform its functions in, or in relation to, England.”
- (4) In subsection (2) after “Secretary of State” there shall be inserted “ or the Commission (as the case may be) ”.
- (5) At the end of the section there shall be inserted—
- “(3) In this section “the Architectural Heritage Fund” means the institution registered under that name under the Charities Act 1960.”
- 64 In section 53(3) of the 1979 Act (monuments in territorial waters) after “Secretary of State” (in the first place) there shall be inserted “ or the Commission ” and after “Secretary of State” (in the second place) there shall be inserted “ or by the Commission ”.
- 65 In section 54(1)(b) of the 1979 Act (treatment and preservation of finds) after “(4)(b)” there shall be inserted “ or 6A(2)(a) ”.
- 66 In section 57(1) of the 1979 Act (power to require information as to interests in land) after “Secretary of State” (in each place) there shall be inserted “ or the Commission ”.
- 67 (1) Section 61 of the 1979 Act (interpretation) shall be amended as follows.
- (2) In subsection (1) there shall be inserted at the appropriate place—
- ““The Commission” means the Historic Buildings and Monuments Commission for England;”.
- (3) In subsection (9) after “Secretary of State” there shall be inserted “ or the Commission ”.
- 68 (1) Schedule 1 to the 1979 Act (control of works affecting scheduled monuments) shall be amended as follows.
- (2) After paragraph 2 there shall be inserted—

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- “2A As soon as practicable after receiving an application for scheduled monument consent in relation to a monument situated in England, the Secretary of State shall send a copy of the application to the Commission.”
- (3) At the end of paragraph 3(3) there shall be inserted “and
- (c) shall, if the monument in question is situated in England, consult with the Commission.”
- (4) After paragraph 5(1) there shall be inserted—
- “(1A) Where the monument in question is situated in England, the Secretary of State shall consult with the Commission before serving a notice under this paragraph, and on serving such a notice he shall send a copy of it to the Commission.”
- 69 (1) Schedule 2 to the 1979 Act (designation orders) shall be amended as follows.
- (2) In paragraph 2 after “concerned; and” there shall be inserted—
- “(aa) consult with the Commission (if the area which would be designated by the order is situated in England); and”.
- (3) In paragraph 3(1) for “consultation required by sub-paragraph (a)” there shall be substituted “consultations required by sub-paragraphs (a) and (aa)”.
- (4) In paragraph 4 after “above; and” there shall be inserted—
- “(aa) shall be sent to the Commission (if the area which would be designated by the order is situated in England); and”.
- (5) At the end of paragraph 7 there shall be inserted “and
- (c) sent to the Commission a copy of the order and of the map to which it refers (if the area designated is situated in England)”.
- (6) After paragraph 9 there shall be inserted—
- “9A Before making a designation order a local authority shall notify the Commission of their proposal to make the order, if the area which would be designated by the order is situated in England.”
- (7) At the end of paragraph 14 there shall be inserted “and
- (c) sent to the Commission a copy of the order and of the map to which it refers, if the area designated by the order is situated in England.”

*Pastoral Measure 1983 (No. 1)*

- 70 (1) Section 66 of the Pastoral Measure 1983 (transfer of redundant churches) shall be amended as follows.
- (2) In subsection (1) after paragraph (b) there shall be inserted—
- “(c) where a redundant building or any part thereof is situated in England and is vested in the diocesan board of finance, whether in pursuance of a pastoral scheme or a redundancy scheme or pending the making of a redundancy scheme, the board may, with the approval of the bishop and the Commissioners, enter into and carry out an agreement with the Historic Buildings and Monuments Commission for England for the acquisition and preservation by the Commission

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of the building or part with or without other land so situated and so vested in the board;

- (d) where a redundant building or any part thereof is situated in England and is vested in the Redundant Churches Fund in pursuance of a redundancy scheme or a pastoral scheme to which section 47 applies, the Fund may enter into and carry out an agreement with the Historic Buildings and Monuments Commission for England for the acquisition and preservation by the Commission of the building or part with or without other land so situated and so vested;

and for “the next two following subsections” there shall be substituted “ subsections (2) and (3) ”.

- (3) After subsection (1) there shall be inserted—

“(1A) The Historic Buildings and Monuments Commission for England shall not enter into an agreement under subsection (1)(c) or (d) without the consent of the Secretary of State.”

- (4) In subsection (2)(a) after “the Secretary of State” there shall be inserted “ or (as the case may be) the Historic Buildings and Monuments Commission for England ”, after “him” there shall be inserted “ or them ” and after “his” there shall be inserted “ or their ”, and in subsection (2)(c) after “the Secretary of State” there shall be inserted “ or (as the case may be) the Historic Buildings and Monuments Commission for England ”.

- (5) In subsection (3) after “the Secretary of State” (in the first place) there shall be inserted “ or (as the case may be) the Historic Buildings and Monuments Commission for England ” and after “the Secretary of State” (in the second and third places) there shall be inserted “ or the Commission ”.

- (6) After subsection (3) there shall be inserted—

“(3A) Before giving his consent under subsection (3) in relation to a building or part situated in England, the Secretary of State shall consult with the Historic Buildings and Monuments Commission for England.”

- (7) In subsection (4) after “the Secretary of State” (in the first place) there shall be inserted “ or the Historic Buildings and Monuments Commission for England ” and after “the Secretary of State” (in the second and third places) there shall be inserted “ or the Commission (as the case may be) ”.

- (8) After subsection (4) there shall be inserted—

“(4A) The Historic Buildings and Monuments Commission for England shall not enter into an agreement under subsection (4) unless—

- (a) the land is situated in England, and  
(b) the Secretary of State has consented.”

- (9) In subsection (5) after “the Secretary of State” there shall be inserted “ or (as the case may be) the Historic Buildings and Monuments Commission for England ”.

- (10) After subsection (5) there shall be inserted—

“(6) Where a redundant building (or part) situated in England has been acquired for its preservation by the Secretary of State under subsection (1) either with or without any other land so situated, the Historic Buildings and Monuments

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Commission for England may by agreement with the Secretary of State undertake on his behalf the management and preservation of the building (or part) together with the other land (if any).

(7) Where the Secretary of State has under subsection (4) acquired land situated in England for its maintenance with a building (or part), the Commission may undertake, in any agreement made under subsection (6) in relation to the building (or part), the maintenance of the land on behalf of the Secretary of State.

(8) Where the Secretary of State has under subsection (5) acquired for their preservation the contents of a redundant building (or part), the Commission may undertake, in any agreement made under subsection (6) in relation to the building (or part), the preservation of the contents on behalf of the Secretary of State.”

#### *Interpretation*

71 A reference in any paragraph of this Schedule to the appointed day is a reference to the day appointed under section 41(1) for the coming into force of the paragraph.

### SCHEDULE 5

Section 40.

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### *National Gallery and Tate Gallery Act 1954 (c. 65)*

F104<sup>1</sup> .....

#### **Textual Amendments**

**F104** Sch. 5 para. 1 repealed (1.9.1992) by [Museums and Galleries Act 1992 \(c. 44\)](#), s. 11(3), **Sch.9**; S.I. 1992/1874, **art. 2**

F105<sup>2</sup> .....

#### **Textual Amendments**

**F105** Sch. 5 para. 2 repealed (1.9.1992) by [Museums and Galleries Act 1992 \(c. 44\)](#), s. 11(3), **Sch. 9**; S.I. 1992/1874, **art. 2**

##### *Public Records Act 1958 (c. 51)*

3 In Part II of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records) the following entries shall be inserted in the appropriate places—

Armouries  
Historic Buildings and Monuments Commission for England  
Royal Botanic Gardens, Kew

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Science Museum  
Victoria and Albert Museum.

*Charities Act 1960 (c. 58)*

F1064 .....

**Textual Amendments**

F106 Sch. 5 para. 4 repealed (1.8.1993) by 1993 c. 10, ss. 98(2), 99(1), Sch. 7.

*British Museum Act 1963 (c. 24)*

F1075 .....

**Textual Amendments**

F107 Sch. 5 para. 5 repealed (1.9.1992) by Museums and Galleries Act 1992 (c. 44), s. 11(3), Sch.9; S.I. 1992/1874, art. 2

6 ..... F108

**Textual Amendments**

F108 Sch. 4 para. 18, Sch. 5 para. 6 repealed by Housing and Planning Act 1986 (c. 63, SIF 123:1), s. 49(2), Sch. 12 Pt. III

*British Library Act 1972 (c. 54)*

F1097 .....

**Textual Amendments**

F109 Sch. 5 para. 7 repealed (1.9.1992) by Museums and Galleries Act 1992 (c. 44), s. 11(3), Sch. 9; S.I. 1992/1874, art. 2

SCHEDULE 6

Section 40.

REPEALS

Chapter	Short title	Extent of repeal
7 Edw. 7. c. 29.	Patents and Designs Act 1907.	Section 47(1).

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1 & 2 Eliz. 2. c. 49.	Historic Buildings and Ancient Monuments Act 1953.	Section 1.  Section 2(2). Section 3(2).
2 & 3 Eliz. 2. c. 65.	National Gallery and Tate Gallery Act 1954.	Section 4(2).
6 & 7 Eliz. 2. c. 51.	Public Records Act 1958.	In Part I of the Table in paragraph 3 of Schedule 1, the entries relating to the Victoria and Albert Museum and the Science Museum.
1972 c. 42.	Town and Country Planning (Amendment) Act 1972.	In section 10(4) the words "England" and "the Historic Buildings Council for England".  In section 10B(11), the definition of "the appropriate advisory Council".
1979 c. 46.	Ancient Monuments and Archaeological Areas Act 1979.	In section 22, subsections (1) (a), (2) and (5)(a).  In section 23, the words "The Ancient Monuments Board for England".

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