



National Heritage (Scotland) Act 1985

1985 CHAPTER 16

PART III

THE NATIONAL GALLERIES OF SCOTLAND

16 Purposes of Board of National Galleries.

- (1) In the ^{M1}National Galleries of Scotland Act 1906, in section 3 (which relates to the establishment of the Board), for the words “such other purposes connected with the promotion of the Fine Arts in Scotland as may be prescribed” there shall be substituted the words “the other purposes mentioned in section 4A(1) of this Act.”
- (2) For section 4 of the said Act there shall be substituted—

“4 Further provision as to Board.

The Schedule to this Act shall have effect with respect to the Board.

4A 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 the Fine Arts 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, and
 - (b) enter into any contracts or other agreements including (subject to subsection (4)) contracts for the acquisition and disposal of land.

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- (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) The Board shall not enter into any contract or agreement for the acquisition or disposal of land (except a contract or agreement for a period not exceeding one year) without the consent of the Secretary of State.
- (5) The Board may allow premises owned or occupied by them, or any of their resources or services, to be used by other persons (for payment or otherwise) for purposes not connected with the Board's functions if they are satisfied that to do so would not conflict unduly with those functions.

4B 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 Fine Arts,
 - (b) the commissioning of works of art,
 - (c) the production of replicas or reproductions of works of art, or of souvenirs,
 - (d) the sale of informative material relating to the Fine Arts, of works of art, of replicas or reproductions of such works, or 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) This section is without prejudice to any power of the Board to undertake anything mentioned in subsection (2) by virtue of section 4A.

4C 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.

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- (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 by way of sale or gift made to, or exchange made with, any institution mentioned in subsection (4), or
 - (d) the disposal is made, with the approval of the Secretary of State, to any institution other than those mentioned in subsection (4), or
 - (e) 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.
- (4) The institutions mentioned in subsection (3)(c) are the institutions for the time being listed in Schedule 1 to the National Gallery and Tate Gallery Act 1954 (ignoring the words “The National Galleries of Scotland”), the National Gallery Trustees and the Tate Gallery Trustees.
- (5) An object may be disposed of as mentioned in subsection (3)(e) 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.

4D 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, they may exercise the power conferred by subsection (1) in a manner inconsistent with the condition if either—

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- (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 4C(2), 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.”

Marginal Citations

M1 1906 c. 50.

17 Further provision as to Board of National Galleries.

At the end of the said Act there shall be added—

“SCHEDULE

THE BOARD

Status

- 1 The Board of Trustees of the National Galleries of Scotland 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 Crown servants and the Board’s property shall not, subject to section 20 of the National Heritage (Scotland) Act 1985, be regarded as property of, or held on behalf of, the Crown.
 - (3) Subject to section 20 of the National Heritage (Scotland) Act 1985 and to any other enactment, the Board shall not be exempt from any tax, duty, rate, levy or other charge whatever (whether general or local).

Membership

- 3 (1) The Board shall consist of not less than 7 and not more than 12 members (referred to in this Part of this Schedule as “trustees”).
 - (2) The trustees shall be appointed by the Secretary of State, who shall appoint one of them to be chairman.
 - (3) In appointing any trustee, the Secretary of State shall have regard to the desirability of the person’s having knowledge or experience of Fine Arts, or of management, industrial relations, or administration or of any other subject knowledge or experience of which would be of use to the Board in exercising their functions.

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- (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 4 years.
- (5) A chairman or trustee may resign his office by notice in writing addressed to the Secretary of State.
- (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 a chairman, shall be eligible for re-appointment.

Staff

- 4 (1) There shall be a Director of the National Galleries of Scotland who shall be appointed by the Board with the approval of the 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 employees as the Board think fit.
- (4) The employees shall be appointed on such terms and conditions as the Board may determine.
- (5) A determination under sub-paragraph (4) shall be subject to the approval of the Secretary of State given with the Treasury's consent.

Proceedings

- 5 (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 the chairman must be a trustee.
- (5) A committee shall act in accordance with such directions as the Board may make from time to time.
- (6) The arrangements may provide for anything done by a committee to have effect as if done by the Board.
- (7) The quorum for meetings of the Board shall not at any time be less than 4.
- (8) The validity of any proceedings of the Board or of a committee shall not be affected by any vacancy among the trustees or members or by any defect in the appointment of any trustee or member.

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Allowances

- 6 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

- 7 (1) The fixing of the seal of the Board shall be authenticated by the chairman or another member of the Board and 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

- 8 (1) The Board shall keep proper accounts and proper records in relation to them.
- (2) The Board shall prepare, in accordance with best commercial practice, a statement of accounts in respect of each financial year.
- (3) 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.
- (4) The Board shall send the statement to the Secretary of State at such time as he may direct.
- (5) The Secretary of State shall, on or before 31st 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.
- (6) The Comptroller and Auditor General shall examine, certify and report on the statement sent to him under sub-paragraph (5) and shall lay copies of it and of his report before each House of Parliament.
- (7) In this paragraph "financial year" means the period of 12 months ending with 31st March each year.

Reports

- 9 (1) The Board shall make to the Secretary of State a report on the exercise of their functions since the last report was made.
- (2) Each 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) from the preceding report.
- (3) 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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- (4) 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, reductions in and the effect of admission charges made by the Board.
- (5) The Secretary of State shall lay a copy of each report before each House of Parliament.”

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