



# National Heritage (Scotland) Act 1985

## 1985 CHAPTER 16

### PART I

#### NATIONAL MUSEUMS OF SCOTLAND

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

- (1) There shall be a body known as the Board of Trustees of the National Museums of Scotland (in this Part of this Act referred to as " the Board ").
- (2) Part I of Schedule 1 shall have effect with respect to the Board.
- (3) The "National Museums of Scotland " are the institutions presently known as the Royal Scottish Museum and the National Museum of Antiquities of Scotland, together with any establishment owned, controlled or occupied by either of them.

#### **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 and interpreted for the public,
  - (c) secure that the objects are available to persons seeking to inspect them in connection with study or research,
  - (d) generally promote the public's awareness, appreciation and understanding of matters agricultural, archaeological, architectural, artistic, cultural, environmental, historical, industrial, military, scientific and social both by means of the Board's collections and by such other means, including collaboration with other institutions, as they consider appropriate, and
  - (e) provide education, instruction and advice and carry out research.
- (2) In carrying out their functions the Board shall have due regard to the Scottish aspect of the matters mentioned in subsection (1)(d) above.

- (3) If the Secretary of State directs the Board to exercise functions which are exercisable by him (whether by virtue of an enactment or otherwise), which in his opinion can be exercised appropriately 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.

### **3 General powers of Board**

- (1) 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 purpose of discharging their functions.
- (2) Without prejudice to the generality of the foregoing the Board may—
- (a) enter into any contract or agreement, including a contract or agreement for the acquisition or disposal of land;
  - (b) manage, develop, or carry out works on land, and maintain or assist in the maintenance of any such works ;
  - (c) undertake or execute any trust;
  - (d) act as agents for other persons ;
  - (e) with the consent of the Secretary of State, make grants to any person;
  - (f) with the consent of the Secretary of State, invest and borrow money;
  - (g) provide or assist in the provision of publicity related to their functions.
- (3) 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.
- (4) 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.
- (5) Fellows of the Society of Antiquaries of Scotland shall be entitled to free access to the library of the National Museums at such times as the Board may reasonably determine.

### **4 Museum of Scotland**

- (1) The Board may form a " Museum of Scotland " and may include in that museum any or all of the objects which—
- (a) are presently in the collections of the Royal Scottish Museum or the National Museum of Antiquities of Scotland; or
  - (b) may become vested in the Board in the future.

- (2) Subsection (1) above is without prejudice to the Board's power to form other museums, either as part of the Museum of Scotland or otherwise.

## **5 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 the main object or objects of which is related to the promotion of any of the general functions of the Board described in section 2.
- (2) 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).

## **6 Initial vesting in Board**

- (1) Subject to the provisions of this Act, where the property in an object was vested either in the Secretary of State or in the Board of Trustees of the National Museum of Antiquities of Scotland (in this Part of this Act referred to as "the old Board ") immediately before the vesting day, and the object—
- (a) then formed part of the collections of either of the institutions known as the Royal Scottish Museum and the National Museum of Antiquities of Scotland, or
  - (b) was then in use in respect of the collections or solely for the purposes of the administration of either of those 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 either of the institutions (as where it was on loan).
- (3) Any interest which was vested in the Secretary of State or in the old Board 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 either of the institutions shall on that day become vested in the Board.
- (4) On the vesting day any right, power, duty or liability which was immediately before that day vested in, exercisable by or incumbent on the Secretary of State or the old Board
- (a) in relation to any object mentioned in subsection (1), or
  - (b) by virtue of there being any interest such as is mentioned in subsection (3),
- shall instead become vested in, 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 and section 7 " the vesting day " means the day appointed under section 25 for the coming into force of this section (other than subsections (5) and (6)).

## **7 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 the Secretary of State or the old Board for the purposes of either of the institutions known as the Royal Scottish Museum and the National Museum of Antiquities of Scotland respectively.
- (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 new Board in place of the Secretary of State or, as the case may be, the old Board.

## **8 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 by way of sale or gift made to, or exchange made with, any institution mentioned in such section (4), or
  - (d) the disposal is made with the approval of the Secretary of State, to an institution other than one of 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 Museums 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.

## **9 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—
  - (a) 25 years have elapsed since the date on which the property became vested in—
    - (i) the Board, or
    - (ii) the Secretary of State or the old Board, (where it became vested in the Board under section 6(D), or
    - (iii) the Minister (where it became vested in the Board under section 8(2)),  
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.