



# Historic Buildings and Ancient Monuments Act 1953

1953 CHAPTER 49 1 and 2 Eliz 2

## PART I

### PRESERVATION OF HISTORIC BUILDINGS AND CONTENTS THEREOF

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

- C1 Part I (ss. 1–9) modified by [Planning \(Listed Buildings and Conservation Areas\) Act 1990 \(c. 9, SIF 123:1\)](#), [s. 72\(2\)](#)
- C2 Part I (ss. 1-9) modified (S.) (27.5.1997) by [1997 c. 9, ss.64\(2\)\(b\), 83\(2\)](#) (with [s. 45\(4\)](#))

1 ..... F1

#### Textual Amendments

- F1 [S.1](#) repealed by [National Heritage Act 1983 \(c. 47\)](#), [s. 41](#), [Sch. 6](#)

## 2 Historic Buildings Council for Scotland.

(1) There shall be established a Council, to be called “the Historic Buildings Council for Scotland”, for the purpose of advising the Minister on the exercise, in relation to Scotland, of his powers under this Part of this Act, and to advise the Secretary of State, in cases where he thinks it appropriate to consult them, on the exercise of his functions under sections twenty-seven, twenty-eight and thirty-eight of the <sup>M1</sup>Town and Country Planning (Scotland) Act, 1947 (which contain provisions relating to buildings of special architectural or historic interest), and under subsection (2) of section ninety-six of that Act so far as it relates to building preservation orders.

(2) ..... F2

*Status: Point in time view as at 01/02/1991.*

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- (3) The said Council shall, before such date in every year as the Minister and the Secretary of State may jointly fix, send to the Minister and to the Secretary of State a report in respect of the matters on which the Council have advised either of them during the previous year, and the Minister and the Secretary of State shall jointly lay a copy of the report before each House of Parliament.
- [<sup>F3</sup>(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.
- (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.]

#### Textual Amendments

**F2** S. 2(2) repealed by [National Heritage Act 1983 \(c. 47\)](#), s. 41, [Sch. 6](#)

**F3** S. 2(4)—(9) inserted by [National Heritage Act 1983 \(c. 47\)](#), s. 41, [Sch. 4 para. 1](#)

#### Marginal Citations

**M1** 1947 c. 53.

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### 3 Historic Buildings Council for Wales.

(1) There shall be established a Council, to be called “the Historic Buildings Council for Wales”, for the purpose of advising the Minister on the exercise, in relation to Wales, of his powers under this Part of this Act.

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

[<sup>F5</sup>(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.]

#### Textual Amendments

**F4** S. 3A inserted by [National Heritage Act 1983 \(c. 47\)](#), s. 41, [Sch. 4 para. 3](#)

**F5** S. 3(3) inserted by [National Heritage Act 1983 \(c. 47\)](#), s. 41, [Sch. 4 para. 2](#)

### [<sup>F6</sup>3A Grants and loans for preservation of historic buildings etc.

(1) The Commission may make grants for the purpose of defraying in whole or in part any expenditure incurred or to be incurred in the repair or maintenance of a building which is situated in England and which appears to the Commission to be of outstanding historic or architectural interest, or in the upkeep of any land which is situated in England and which comprises, or is contiguous or adjacent to, any such building, or in the repair or maintenance of any objects ordinarily kept in any such building or in the upkeep of a 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 power conferred by subsection (1) of this section to make grants for the purposes there mentioned shall include power to make loans for those purposes.

(3) Where a grant under this section is made to the National Trust for Places of Historic Interest or Natural Beauty, the grant may, if the Commission think fit, be made by way of endowment, subject to such provisions, by way of trust, contract or otherwise, as may appear to the Commission to be requisite for securing that, so long as it is reasonably practicable to give effect to the purposes of the endowment, the sum granted will be retained and invested by the Trust and used as a source of income for defraying the expenditure in respect of which the grant is made.

(4) A grant or loan under this section may be made subject to conditions imposed by the Commission for the purpose of securing public access to the whole or part of the property to which the grant or loan relates, or for other purposes, as the Commission may think fit.

(5) A loan made under this section shall be made on such terms as to repayment, payment of interest and otherwise as the Commission may determine.]

#### Textual Amendments

**F6** S. 3A inserted by [National Heritage Act 1983 \(c. 47\)](#), s. 41, [Sch. 4 para. 3](#)

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#### 4 Grants for preservation of historic buildings, their contents and adjoining land.

- (1) The Minister may, out of moneys provided by Parliament, make grants for the purpose of defraying in whole or in part any expenditure incurred or to be incurred in the repair or maintenance of a building [<sup>F7</sup>which is not situated in England and which appears]to the Minister to be of outstanding historic or architectural interest, or in the upkeep of any land comprising, or contiguous or adjacent to, any such building, or in the repair or maintenance of any objects ordinarily kept in any such building [<sup>F8</sup>or in the upkeep of a garden or other land which [<sup>F9</sup>is not situated in England and which]appears to the Secretary of State to be of outstanding historic interest but which is not contiguous or adjacent to a building which appears to him to be of outstanding historic or architectural interest]
- (2) Where a grant under this section is made to the National Trust for Places of Historic Interest or Natural Beauty or the National Trust for Scotland for Places of Historic Interest or Natural Beauty, the grant may, if the Minister thinks fit, be made by way of endowment, subject to such provisions, by way of trust, contract or otherwise, as may appear to the Minister to be requisite for securing that, so long as it is reasonably practicable to give effect to the purposes of the endowment, the sum granted will be retained and invested by the Trust and used as a source of income for defraying the expenditure in respect of which the grant is made.
- (3) A grant under this section may be made subject to conditions imposed by the Minister for the purpose of securing public access to the whole or part of the property to which the grant relates, or for other purposes, as the Minister may think fit.
- (4) Before making any grant under this section the Minister shall consult with the appropriate Council under this Act, both as to the making of the grant and as to the conditions subject to which it should be made:

Provided that this subsection shall not apply in a case where the making of a grant appears to the Minister to be a matter of immediate urgency.

##### Textual Amendments

- F7** Words from “which is” to “appears” substituted for word “appearing” by [National Heritage Act 1983 \(c. 47\), s. 41, Sch. 4 para. 4](#)
- F8** Words added by [Town and Country Amenities Act 1974 \(c. 32\), s. 12](#)
- F9** Words inserted by [National Heritage Act 1983 \(c. 47\), s. 41, Sch. 4 para. 4](#)

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

- C3** [S. 4](#) amended by [Civic Amenities Act 1967 \(c. 69\), s. 4\(1\)](#)

#### [<sup>F10</sup>4A Recovery of grants under section 4.

- (1) This section applies to any grant under [<sup>F11</sup>section 3A or 4] of this Act made on terms that it shall be recoverable under this section; but any such grant shall only be regarded for the purposes of this section as so made if before or on making the grant [<sup>F12</sup>the Commission or (as the case may be) the Secretary of State] gives to the grantee notice in writing—
  - (a) summarising the effect of this section; and

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- (b) specifying the period during which the grant is to be recoverable in accordance with sub-section (4) below in the case of a grant made for the purpose there mentioned.
- (2) The period specified under subsection (1)(b) above in the case of any grant shall be a period beginning with the day on which the grant is made and ending not more than ten years after that day.
- (3) If any condition subject to which a grant to which this section applies was made is contravened or not complied with, [<sup>F12</sup>the Commission or (as the case may be) the Secretary of State] may recover the amount of the grant or such part of it as [<sup>F13</sup>they think or (as the case may be) he thinks] fit from the grantee.
- (4) If, during the period specified under subsection (1)(b) above in the case of a grant to which this section applies made to any person for the purpose of defraying in whole or in part any expenditure on the repair, maintenance or upkeep of any property, the grantee disposes in any manner mentioned in subsection (5) below of the interest, or any part thereof, held by him in the property on the day on which the grant is made (referred to below in this section as “the relevant interest”), [<sup>F12</sup>the Secretary of State][<sup>F12</sup>the Commission or (as the case may be) the Secretary of State] may recover the amount of the grant or such part of it as [<sup>F13</sup>he thinks][<sup>F13</sup>they think or (as the case may be) he thinks] fit from the grantee.
- (5) Subsection (4) above only applies where the grantee disposes of the relevant interest or any part of it by way of sale or exchange or lease for a term of not less than twenty-one years.
- (6) If a person becomes entitled by way of gift from the grantee, whether directly or indirectly (but otherwise than by will) to a part of the relevant interest, a disposal by the donee in any manner mentioned in subsection (5) above of the interest so acquired by him in the property, or any part of that interest, shall be treated for the purposes of subsection (4) above as a disposal by the grantee of a part of the relevant interest.
- (7) If a person becomes entitled by way of any such gift to the whole of the relevant interest subsection (4) above shall have effect (except for the purpose of determining the relevant interest) as if the donee were the grantee.
- (8) Nothing in subsection (3) or (4) above shall be taken as conferring on [<sup>F12</sup>the Secretary of State][<sup>F12</sup>the Commission or (as the case may be) the Secretary of State] a right to recover (by virtue of a breach of more than one condition or disposals of several parts of an interest in property) amounts in the aggregate exceeding the amount of the grant.]

#### Textual Amendments

- F10** S. 4A inserted by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46\)](#), s. 48(2)
- F11** Words substituted by [National Heritage Act 1983 \(c. 47\)](#), s. 41, [Sch. 4 para. 5\(2\)](#)
- F12** Words substituted by [National Heritage Act 1983 \(c. 47\)](#), s. 41, [Sch. 4 para. 5\(3\)](#)
- F13** Words substituted by [National Heritage Act 1983 \(c. 47\)](#), s. 41, [Sch. 4 para. 5\(4\)](#)

## 5 Acquisition by the Minister of historic buildings, their contents and adjoining land.

- (1) Subject to subsection (4) of this section, the Minister shall have power to acquire by agreement, whether by purchase, lease or otherwise, or to accept a gift of—

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- (a) any building appearing to him to be one of outstanding historic or architectural interest;
  - (b) any land comprising, or contiguous or adjacent to, any such building.
- (2) Subject as aforesaid, the Minister shall have power to purchase by agreement, or to accept a gift of, any objects which are or have been ordinarily kept in—
- (a) a building which, or any interest in which, is vested in the Minister, or a building which is under his control or management, being in either case a building appearing to the Minister to be of outstanding historic or architectural interest; or
  - (b) a building of which the Minister is guardian under [<sup>F14</sup>the <sup>M2</sup>Ancient Monuments and Archaeological Areas Act 1979]or
  - (c) a building which, or any interest in which, is vested in either of the said National Trusts.
- [<sup>F15</sup>(2A) Subject as aforesaid, the Minister shall have power to acquire by agreement, whether by purchase, lease or otherwise, or to accept a gift of—
- (a) any building situated in Scotland and which—
    - (i) is in an area designated as a conservation area under section 262 of the Town and Country Planning (Scotland) Act <sup>M3</sup>1972; and
    - (ii) appears to him to be of special historic or architectural interest;
  - (b) any land situated in Scotland and which comprises or is contiguous or adjacent to any building mentioned in paragraph (a) above;
  - (c) any garden or other land which is situated in Scotland and which appears to him to be of outstanding historic interest but which is not contiguous or adjacent to a building which appears to him to be of outstanding historic or architectural interest.]
- (3) Subject as aforesaid, the Minister may make such arrangements as he may think fit as to the management or custody of any property acquired or accepted by him under this section, and as to the use of any such property, and may dispose of or otherwise deal with any such property as he may from time to time determine.
- [<sup>F16</sup>(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.]
- (4) The Minister shall consult with the appropriate [<sup>F17</sup>Commission or]Council under this Act before acquiring or accepting any property under this section, and before taking any step by way of disposing of or otherwise dealing with any property so acquired or accepted, other than any step taken by him in the course of managing or keeping the property and making arrangements as to its use:
- Provided that this subsection shall not prevent the Minister from acquiring or accepting any property without consultation with the said [<sup>F17</sup>Commission or]Council in a case where the acquisition or acceptance thereof appears to him to be a matter of immediate urgency.
- (5) Any expenses incurred by the Minister under this section shall be defrayed out of moneys provided by Parliament, and any receipts of the Minister under this section shall be paid into the Exchequer.

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#### Textual Amendments

- F14** Words substituted by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46\)](#), **Sch. 4 para. 3(1)**
- F15** [S. 5\(2A\)](#) inserted (S.) by [National Heritage \(Scotland\) Act 1985 \(c. 16, SIF 78\)](#), **s. 21(2)**
- F16** [S. 5\(3A\)](#) inserted by [National Heritage Act 1983 \(c. 47\)](#), s. 41, **Sch. 4 para. 6(2)**
- F17** Words inserted by [National Heritage Act 1983 \(c. 47\)](#), s. 41, **Sch. 4 para. 6(3)**

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

- C4** Power to extend [s. 5 \(E.W.\)](#) given by [Redundant Churches and other Religious Buildings Act 1969 \(c. 22\)](#), **ss. 4, 5**

#### Marginal Citations

- M2** [1979 c. 46](#).
- M3** [1972 c.52\(123:2\)](#).

### [<sup>F18</sup>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—
- any building which is situated in England and which appears to them to be one of outstanding historic or architectural interest;
  - any building which is situated in England and in an area designated as a conservation area under [<sup>F19</sup>section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990] and which appears to the Commission to be of special historic or architectural interest;
  - 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;
  - 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 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
  - a building of which the Commission are guardian under the <sup>M4</sup>Ancient Monuments and Archaeological Areas Act 1979; or
  - 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.
- (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.

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- (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.]

#### Textual Amendments

**F18** Ss. 5A, 5B inserted by [National Heritage Act 1983 \(c. 47\)](#), s. 41, [Sch. 4 para. 7](#)

**F19** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 4\(1\)](#)

#### Marginal Citations

**M4** 1979 c. 46.

### **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 [<sup>F20</sup>section 47 or 52 of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#)] (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.

#### Textual Amendments

**F20** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\)](#), s. 4, [Sch. 2 para. 4\(2\)](#)



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## 6 Grants to local authorities and National Trusts for acquisition of historic buildings.

- (1) The Minister may, out of moneys provided by Parliament, make grants for the purpose of defraying in whole or in part any expenses incurred by a local authority in the acquisition of property under section forty-one of the <sup>M5</sup>Town and Country Planning Act, 1947, or section thirty-eight of the <sup>M6</sup>Town and Country Planning (Scotland) Act, 1947 (under which sections buildings of special architectural or historic interest may in certain cases be acquired by a local authority).
- (2) The Minister may also, out of moneys so provided, make grants to the said National Trusts for the purpose of defraying in whole or in part any expenses incurred by them in the acquisition of buildings which appear to the Minister to be of outstanding historic or architectural interest [<sup>F21</sup>or of any land or garden contiguous or adjacent thereto or such as is referred to in section 5(2A) of this Act.].
- (3) Before making any grant under this section the Minister shall consult with the appropriate Council under this Act:

Provided that this subsection shall not apply in a case where the making of a grant appears to the Minister to be a matter of immediate urgency.

- [<sup>F22</sup>(4) This section applies only where the property [<sup>F23</sup>or buildings][<sup>F23</sup>buildings, land or garden] are not situated in England.]

### Textual Amendments

- F21** Words added (S.) by [National Heritage \(Scotland\) Act 1985 \(c. 16, SIF 78\)](#), **s. 21(3)(a)**
- F22** [S. 6\(4\)](#) inserted by [National Heritage Act 1983 \(c. 47\)](#), s. 41, **Sch. 4 para. 8**
- F23** Words “buildings, land or garden” substituted (S.) for “or buildings” by [National Heritage \(Scotland\) Act 1985 \(c. 16, SIF 78\)](#), **s. 21(3)(b)**

### Modifications etc. (not altering text)

- C5** [S. 6](#) amended (19.9.1995) by [1995 c. 25, ss. 70, 125\(2\)](#), **Sch. 9 para.13(1)** (with [ss. 7\(6\), 115, 117](#), [Sch. 8 para. 7](#))

### Marginal Citations

- M5** [1947 c. 51](#).
- M6** [1947 c. 53](#).

7 ..... <sup>F24</sup>

### Textual Amendments

- F24** [S. 7](#) repealed by [National Heritage Act 1980 \(c. 17\)](#), **Sch. 2**

## 8 Power of Minister to accept endowments of historic buildings.

- (1) Where any instrument coming into operation after the passing of this Act contains a provision purporting to be a gift of property to the Minister upon trust to use the income thereof (either for a limited time or in perpetuity) for or towards the upkeep of—

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- (a) a building acquired or accepted by the Minister under section five of this Act, or a building which the Minister proposes 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 control or management of the Minister, being a building which appears to him to be one of outstanding historic or architectural interest, or
- (c) a building of which at that time the Minister is or will shortly be guardian under <sup>F25</sup>the <sup>M7</sup>Ancient Monuments and Archaeological Areas Act 1979]

or for or towards the upkeep of any such building together with other property, the Minister may accept the gift, and, if he does so, and the provision does not constitute a charitable trust, <sup>F26</sup>the following provisions][<sup>F26</sup>subsections (2) to (7)] of this section shall have effect.

<sup>F27</sup>(1A) Where any instrument coming into operation after the commencement of this subsection contains a provision purporting to be a gift of property to the Minister 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 him under section 5(2A) (c) of this Act or a garden or other land which he proposes so to acquire or accept or for or towards the upkeep of any such garden or other land together with other property situated in Scotland, he may accept the gift and, if he does so and the provision does not constitute a charitable trust, subsections (2) to (6) below 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 Minister 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:

Provided that this subsection shall have effect without prejudice to any additional or larger powers conferred on the Minister by the trust instrument.

- (4) If while the endowment trust continues an event happens such that immediately thereafter the Minister is neither entitled to any interest in the building <sup>F28</sup>,land or garden] to which the trust relates, nor has the building <sup>F28</sup>,land or garden]under his control or management, nor is guardian of the building under <sup>F29</sup>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 direction shall be deemed not to be, or ever to have been, affected by any rule of law or equity relating to perpetuities.
- (6) Subsection (3) of this section shall not apply to a trust to which the <sup>M8</sup>Trusts (Scotland) Act, 1921, applies.

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[<sup>F30</sup>(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 towards the upkeep of property situated in England, they may undertake the management.]

#### Textual Amendments

- F25** Words substituted by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46\)](#), [Sch. 4 para. 3\(1\)](#)
- F26** Words “subsections (2) to (7)” substituted (S.) for “the following provisions” by [National Heritage \(Scotland\) Act 1985 \(c. 16, SIF 78\)](#), [s. 21\(4\)\(a\)](#)
- F27** [S. 8\(1A\)](#) inserted (S.) by [National Heritage \(Scotland\) Act 1985 \(c. 16, SIF 78\)](#), [s. 21\(4\)\(b\)](#)
- F28** Words “, land or garden” inserted (S.) after “building” by [National Heritage \(Scotland\) Act 1985 \(c. 16, SIF 78\)](#), [s. 21\(c\)](#)
- F29** Words substituted by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46\)](#), [Sch. 4 para. 3\(2\)](#)
- F30** [S. 8\(7\)](#) inserted by [National Heritage Act 1983 \(c. 47\)](#), [s. 41](#), [Sch. 4 para. 9](#)

#### Marginal Citations

- M7** [1979 c. 46](#).
- M8** [1921 c. 58](#).

#### [<sup>F31</sup>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 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
  - 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
  - a building of which at that time the Commission are or will shortly be guardian under the <sup>M9</sup>[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

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

#### Textual Amendments

**F31** Ss. 8A—8C inserted by [National Heritage Act 1983 \(c. 47\)](#), s. 41, [Sch. 4 para. 10](#)

#### Marginal Citations

**M9** 1979 c. 46.

## 8B Endowments 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

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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 subsection (3) of this section of the inclusion and send to them a copy of the entry.
- (3) The persons are—
- the owner and (if the owner is not the occupier) the occupier of the garden or land,
  - 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
  - the Secretary of State.

## 9 Interpretation of Part I.

- (1) In this Part of this Act the expression “the appropriate [<sup>F32</sup>Commission or]Council under this Act”—
- in relation to a building in England, and in relation to objects associated with such a building, means the [<sup>F33</sup>Commission];
  - in relation to a building in Scotland, and in relation to objects associated with such a building, means the Historic Buildings Council for Scotland; and
  - in relation to a building in Wales, and in relation to objects associated with such a building, means the Historic Buildings Council for Wales.

[<sup>F32</sup>and the expression “the appropriate Council under this Act” shall be construed in accordance with paragraphs (b) and (c) of this subsection.]

[<sup>F34</sup>(1A) In this Part of this Act “the Commission” means the Historic Buildings and Monuments Commission for England.]

- (2) In this Part of this Act—
- the expression “gift” includes devise, bequest, appointment, conveyance, assignment, transfer and any other assurance of property; and
- the expression “property”, in relation to England and Wales, means real or personal property of any description, and, in relation to Scotland, means heritable or moveable property of any description.

### Textual Amendments

**F32** Words inserted by [National Heritage Act 1983 \(c. 47\), s. 41, Sch. 4 para. 11\(1\)](#)

**F33** Words substituted by [National Heritage Act 1983 \(c. 47\), s. 41, Sch. 4 para. 11\(1\)](#)

**F34** S. 9(1A) inserted by [National Heritage Act 1983 \(c. 47\), s. 41, Sch. 4 para. 11\(2\)](#)

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**Changes to legislation:**

Historic Buildings and Ancient Monuments Act 1953, Part I is up to date with all changes known to be in force on or before 11 June 2024. 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.