



# National Heritage Act 1983

## 1983 CHAPTER 47

### *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;
  - (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;

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- (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>F1</sup>(e) may produce souvenirs relating to ancient monuments or historic buildings situated in England and sell souvenirs.]
  - [<sup>F2</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>F3</sup>[(2A) In relation to England, the Commission may—
- (a) prosecute any offence under Part I of the <sup>M1</sup>Ancient Monuments and Archaeological Areas Act 1979 [<sup>F4</sup> , under section 196D of the Town and Country Planning Act 1990 ] or under the <sup>M2</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>F5</sup> Part 1 of the Ancient Monuments and Archaeological Areas Act 1979 or the Planning (Listed Buildings and Conservation Areas) Act 1990 ].]
- [<sup>F6</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>F7</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>F8</sup>(2C) In subsection (2B), references to provisions of the <sup>M3</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).
- (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

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relation to England under the <sup>M4</sup>Historic Buildings and Ancient Monuments Act 1953 and the <sup>M5</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>F9</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>F10</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>F11</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>F11</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>F11</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

**F1** S. 33(2)(e) inserted (1.7.2002) by 2002 c. 14, ss. 4(1), 8(2)

**F2** S. 33(2)(f) inserted (1.7.2002) by 2002 c. 14, ss. 7, 8(2)

**F3** 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.

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- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)**.
- F8** S. 33(2C) inserted (1.4.1997) by 1996 c. 52, s. 118(6); S.I. 1997/618, **art. 2**
- F9** Words in s. 33(8) inserted (1.7.2002) by 2002 c. 14, **ss. 1(2), 8(2)**
- F10** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1), s. 4, **Sch. 2 para. 60**
- F11** S. 33(9)-(11) inserted (1.7.2002) by 2002 c. 14, s. 1(3)

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

- C1** 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)**
- C2** 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

- M1** 1979 c.46
- M2** 1990 c.9
- M3** 1993 c. 28.
- M4** 1953 c. 49.
- M5** 1979 c. 46.

### [<sup>F12</sup>33A Functions relating to foreign monuments and buildings

- (1) The Commission may—
- produce and publish, or sell, books, films or other informative material relating to foreign ancient monuments or foreign historic buildings;
  - produce or sell souvenirs relating to such monuments or buildings;
  - 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—
- “ancient monument” and “historic building” have the meaning given in section 33(8), and
  - an ancient monument or historic building is “foreign” if it is not situated—
    - in the United Kingdom, or
    - 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

- F12** Ss. 33A-33B inserted (1.7.2002) by 2002 c. 14, **ss. 4(2), 8(2)**

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### [<sup>F13</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

**F13** Ss. 33A-33B inserted (1.7.2002) by 2002 c. 14, ss. 4(2), 8(2)

### [<sup>F14</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

**F14** 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>F15</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>F16</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

**F15** Words in s. 34(3) inserted (1.7.2002) by 2002 c. 14, ss. 2(1)(a), 8(2)

**F16** 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)**

- C3** [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>F17</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>F18</sup>particular objects ] are—
- (a) the production and publication [<sup>F19</sup>,or sale,] of books, films or other informative material relating to ancient monuments or historic buildings,
- <sup>F20</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>F21</sup>. . . of souvenirs relating to ancient monuments or historic buildings [<sup>F22</sup>, or sale of souvenirs],
- <sup>F23</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>F24</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>F24</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>F24</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

- F17** 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)
- F18** Words in s. 35(2) substituted (14.2.2012) by [Public Bodies Act 2011 \(c. 24\)](#), **ss. 32(5)(b)**, 38(1)
- F19** Words in s. 35(2)(a) substituted (1.7.2002) by [2002 c. 14](#), **ss. 5(1)(2)(a)**, 8(2)
- F20** S. 35(2)(ab) inserted (1.7.2002) by [2002 c. 14](#), **ss. 5(1)(2)(b)**, 8(2)
- F21** Words in s. 35(2)(b) repealed (1.7.2002) by [2002 c. 14](#), **ss. 5(1)(2)(c)(i)**, 8(2)
- F22** Words in s. 35(2)(c) inserted (1.7.2002) by [2002 c. 14](#), **ss. 5(1)(2)(c)(ii)**, 8(2)
- F23** S. 35(2)(ca) substituted (1.7.2002) by [2002 c. 14](#), **ss. 5(1)(2)(d)**, 8(2)
- F24** 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>F25</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>F26</sup>Upper Tribunal]; and in relation to the determination of any such question [<sup>F27</sup>section] 4 of the <sup>M6</sup>Land Compensation Act 1961 shall apply (construing the references in section 4 to the acquiring authority as references to the Commission).

#### Textual Amendments

- F25** Words in s. 36(7) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Gp. 2.
- F26** 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)
- F27** 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)

- C4** S. 36(1) restricted (18.12.1996) by 1996 c. 61, s. 12, **Sch. 7 para. 5(1)**
- C5** S. 36(1) restricted (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 9 para. 5(1)**
- C6** 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)**
- C7** S. 36(1) restricted (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), **Sch. 19 para. 2(1)**
- C8** S. 36(6) excluded (18.12.1996) by 1996 c. 61, s. 12, **Sch. 7 para. 5(3)**
- C9** S. 36(6) excluded (22.7.2008) by [Crossrail Act 2008 \(c. 18\)](#), **Sch. 9 para. 5(3)**
- C10** 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)**
- C11** S. 36(6) excluded (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), **Sch. 19 para. 2(3)**

#### Marginal Citations

- M6** 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,

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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
  - (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.

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**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.

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