

Changes to legislation: There are currently no known outstanding effects for the National Heritage Act 1983, SCHEDULE 3. (See end of Document for details)

SCHEDULES

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 [^{F1}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).
^{F2}(5)

Textual Amendments

- F1** 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
- F2** Sch. 3 para. 2(5) repealed (1.4.2000) by 1997 c. 29, s. 33(1)(2), Sch. 3 para. 19(b), Sch. 4; S.I. 1998/2329, art. 3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)

- C1** 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

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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)).
- (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 [^{F3}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

F3 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

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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 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 [^{F4}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 [^{F5}employment tribunal].
- (7) An [^{F5}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 [^{F5}employment tribunal] under this paragraph; and no appeal shall lie except to the Employment Appeal Tribunal from any decision of an [^{F5}employment tribunal] under this paragraph.

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Textual Amendments

- F4** 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)
- F5** 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**

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.

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- (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.

Instruments

- 10 (1) The fixing of the seal of the Commission shall be authenticated by the signature of the chairman of or 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 [^{F6}in respect of each financial year ending on or before 31st March 2004] (including any statement [^{F7}of accounts in respect of each such financial year] prepared under this paragraph) shall be audited by persons appointed in respect of each [^{F8}such] financial year by the Secretary of State.

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- (6) No person [^{F9} shall be appointed auditor under this paragraph unless he is–
- (a) eligible for appointment as a [^{F10} statutory auditor under Part 42 of the Companies Act 2006]; or]
 - (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.
- [^{F11}(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

- F6** 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)**
- F7** 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)**
- F8** 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)**
- F9** Sch. 3 para. 12(6)(a) and the words preceding substituted by [S.I. 1991/1997](#), reg. 2, **Sch. para.49** (with reg. 4)
- F10** 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)
- F11** 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 [^{F12}and, where the statement has been audited by the Comptroller and Auditor General, a copy of his report on it].
- (3) Each report [^{F13}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 [^{F14}of the Commission] before each House of Parliament.

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- (5) As soon as may be after receiving any report made by the auditors on any accounts audited under paragraph 12 [^{F15}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.
- (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

- F12** 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)**
- F13** 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)**
- F14** 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)**
- F15** 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 ^{M1}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

- M1** 1975 c. 24.

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