

SCHEDULES

SCHEDULE 4

THE COMMISSION: AMENDMENTS

Historic Buildings and Ancient Monuments Act 1953 (c. 49)

1 In the Historic Buildings and Ancient Monuments Act 1953 ("the 1953 Act") at the end of section 2 (Historic Buildings Council for Scotland) there shall be inserted—

“(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

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Secretary of State such representations as they may think appropriate in the circumstances.””

2 At the end of section 3 of the 1953 Act (Historic Buildings Council for Wales) there shall be inserted—

“(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.”

3 After section 3 of the 1953 Act there shall be inserted—

“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.”

4 In section 4(1) of the 1953 Act (grants and loans for preservation of historic buildings etc.) for " appearing" there shall be substituted " which is not situated in England and which appears " and after " land which " there shall be inserted " is not situated in England and which ".

5 (1) Section 4A of the 1953 Act (recovery of grants) shall be amended as follows.

(2) In subsection (1) for " section 4 " there shall be substituted " section 3A or 4 ".

(3) In subsections (1), (3), (4) and (8) for "the Secretary of State " there shall be substituted " the Commission or (as the case may be) the Secretary of State ".

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- (4) In subsections (3) and (4) for "he thinks" there shall be substituted " they think or (as the case may be) he thinks ".
- 6 (1) Section 5 of the 1953 Act (acquisition by Secretary of State of historic buildings etc.) shall be amended as follows.
- (2) After subsection (3) there shall be inserted—
- “(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.”
- (3) In subsection (4) after " the appropriate " and after " the said " there shall be inserted " Commission or ".
- 7 After section 5 of the 1953 Act there shall be inserted—

“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—
- (a) any building which is situated in England and which appears to them to be one of outstanding historic or architectural interest;
 - (b) any building which is situated in England and in an area designated as a conservation area under section 277 of the Town and Country Planning Act 1971 and which appears to the Commission to be of special historic or architectural interest;
 - (c) 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 ;
 - (d) 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) 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
 - (b) a building of which the Commission are guardian under the Ancient Monuments and Archaeological Areas Act 1979 ; or
 - (c) 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

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of or otherwise deal with any such property as they may from time to time determine.

- (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.

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 section 114 or 119(1)(b) or (c) of the Town and Country Planning Act 1971 (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.”

8 At the end of section 6 of the 1953 Act (grants for acquisition of historic buildings) there shall be inserted—

“(4) This section applies only where the property or buildings are not situated in England.”

9 At the end of section 8 of the 1953 Act (endowments of historic buildings) there shall be inserted—

“(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.”

10 After section 8 of the 1953 Act there shall be inserted—

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“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) 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
 - (b) 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
 - (c) a building of which at that time the Commission are or will shortly be guardian under the 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 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.

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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 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—

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- (a) the owner and (if the owner is not the occupier) the occupier of the garden or land,
 - (b) 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
 - (c) the Secretary of State.”
- 11 (1) In section 9(1) of the 1953 Act (meaning of " appropriate Council") after " appropriate " there shall be inserted " Commission or ",
in paragraph (a) for " Historic Buildings Council for England " there shall be substituted " Commission " and after paragraph (c) there shall be inserted " and the expression ' the appropriate Council under this Act' shall be construed in accordance with paragraphs (b) and (c) of this subsection ".
- (2) After section 9(1) of the 1953 Act there shall be inserted—
- “(1A) In this Part of this Act ' the Commission' means the Historic Buildings and Monuments Commission for England.”