

# Museums and Galleries Act 1992 (Chapter 44)

1992 c. 44

An Act to establish Boards of Trustees of the National Gallery, the Tate Gallery, the National Portrait Gallery and the Wallace Collection; to transfer property to them and confer functions on them; to make new provision as to transfers to and between the collections of certain museums, galleries and libraries; to make provision for and in connection with the vesting of land in the governing bodies of such institutions; to make provision for the financing of such institutions and of the Museums and Galleries Commission; to make further provision with respect to the giving of indemnities against the loss of, or damage to, objects on loan to certain institutions; to change the name of, and to make further provision with respect to, the British Museum (Natural History); and to amend certain enactments relating to museums, galleries and libraries; and for purposes connected therewith.

[16th March 1992]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## *The new Boards of Trustees*

Establishment, constitution, functions and property etc. of new Boards of Trustees.

1.—(1) There shall be bodies corporate known as—

- (a) the Board of Trustees of the National Gallery (in this Act referred to as "the National Gallery Board" );
- (b) the Board of Trustees of the Tate Gallery (in this Act referred to as "the Tate Gallery Board" );
- (c) the Board of Trustees of the National Portrait Gallery (in this Act referred to as "the National Portrait Gallery Board" ); and
- (d) the Board of Trustees of the Wallace Collection (in this Act referred to as "the Wallace Collection Board" );

and any reference in this Act to a "new Board" is a reference to any of those bodies corporate.

(2) The Schedules to this Act specified in paragraphs (a) to (d) below shall have effect with respect to the constitution and functions of the new Boards so specified, that is to say—

- (a) Schedule 1, with respect to the National Gallery Board;
- (b) Schedule 2, with respect to the Tate Gallery Board;
- (c) Schedule 3, with respect to the National Portrait Gallery Board; and
- (d) Schedule 4, with respect to the Wallace Collection Board;

and references to "the Board" in any of those Schedules are references to that one of the new Boards with respect to which that Schedule has effect.

(3) On the vesting day for a new Board there shall, by virtue of this subsection, be transferred to and vested in the new Board—

- (a) all the property and rights which immediately before that day are held by any of the new Board's predecessor Trustees in their capacity as such; and
- (b) any liabilities or obligations to which, immediately before that day, any of those Trustees are subject in that capacity.

(4) References in subsection (3) above to property, rights, liabilities and obligations are references to any property, rights, liabilities or obligations whether or not capable of being transferred or assigned.

(5) On and after the vesting day for a new Board—

- (a) any agreement (whether in writing or not) which subsists immediately before that day and to which the transferors are a party shall have effect as if the new Board had been the party to it; and
- (b) any reference to the transferors in such an agreement or in any other agreement, instrument or document (other than an enactment) in being immediately before that day shall, as respects anything falling to be done on or after that day, be construed as a reference to the new Board.

(6) Without prejudice to the generality of subsections (3) to (5) above, any legal proceedings or applications to any authority pending immediately before the vesting day for a new Board by or against the transferors shall be continued by or against the new Board to the exclusion of the transferors.

(7) The substitution effected by subsections (3) to (5) above of a new Board for the transferors as employer under contracts of employment subsisting immediately before the vesting day for that new Board shall be treated for the purposes of the application of paragraph 17(3) of Schedule 13 to the [1978 c. 44.] Employment Protection (Consolidation) Act 1978 (continuity of employment on statutory substitution of employers) as the substitution of one body corporate for another body corporate.

(8) If, immediately before the vesting day for the National Gallery Board, any person is custodian trustee of property held on trust for the National Gallery, then—

- (a) in the application of subsections (3), (5) and (6) above in the case of that new Board, any reference in those subsections to the new Board's predecessor Trustees or to the transferors includes a reference to the custodian trustee in his capacity as such; and
- (b) immediately after the transfer effected under subsection (3) above by virtue of this subsection, the custodian trusteeship shall terminate.

(9) The National Gallery Board shall pay to any person whose custodian trusteeship terminates by virtue of subsection (8) above an amount equal to, and in lieu of, any sums to which that person would have become entitled in connection with the termination of the custodian trusteeship, had the termination been effected otherwise than by this Act.

(10) In this section—  
"the predecessor Trustees" means—

(a) in relation to the National Gallery Board, the National Gallery Trustees;

(b) in relation to the Tate Gallery Board, the Tate Gallery Trustees;

(c) in relation to the National Portrait Gallery Board, the National Portrait Gallery Trustees; and

(d) in relation to the Wallace Collection Board, the Trustees of the Wallace Collection;

"the transferors", in relation to a new Board, means the new Board's predecessor Trustees and includes a reference to any of those Trustees in their capacity as such;

"the vesting day", in relation to a new Board, means the day appointed under section 11(4) below for the coming into force of subsections (3) to (6) above in relation to that new Board.

The general functions of the new Boards.

**2.—(1)** So far as practicable and subject to the provisions of this Act, the National Gallery Board shall maintain a collection of works of art, principally consisting of pictures, of established merit or significance, and of documents relating to those works, and shall—

(a) care for, preserve and add to the works of art and the documents in their collection;

(b) secure that the works of art are exhibited to the public;

(c) secure that the works of art and the documents are available to persons seeking to inspect them in connection with study or research; and

(d) generally promote the public's enjoyment and understanding of painting and other fine art both by means of the Board's collection and by such other means as they consider appropriate.

**(2)** So far as practicable and subject to the provisions of this Act, the Tate Gallery Board shall maintain a collection of British works of art and of documents relating to those works, and a collection of Twentieth Century and contemporary works of art and of documents relating to those works, and shall—

(a) care for, preserve and add to the works of art and the documents in their collections;

(b) secure that the works of art are exhibited to the public;

(c) secure that the works of art and the documents are available to persons seeking to inspect them in connection with study or research; and

(d) generally promote the public's enjoyment and understanding of British art, and of Twentieth Century and contemporary art, both by means of the Board's collections and by such other means as they consider appropriate;

and any reference in this Act to a new Board's collection shall, in its application to the Tate Gallery Board, be taken as a reference to either or both of that Board's collections.

**(3)** So far as practicable and subject to the provisions of this Act, the

National Portrait Gallery Board shall maintain a collection of portraits of the most eminent persons in British history, of other works of art relevant to portraiture and of documents relating to those portraits and other works of art, and shall—

- (a) care for, preserve and add to the portraits and other works of art and the documents in their collection;
- (b) secure that the portraits are exhibited to the public;
- (c) secure that the portraits and other works of art and the documents are available to persons seeking to inspect them in connection with study or research; and
- (d) generally promote the public's enjoyment and understanding of portraiture of British persons and British history through portraiture both by means of the Board's collection and by such other means as they consider appropriate.

(4) So far as practicable and subject to the provisions of this Act, the Wallace Collection Board shall maintain the collection of objects known as the Wallace Collection and shall—

- (a) care for and preserve the objects in their collection;
- (b) secure that the objects are exhibited to the public;
- (c) secure that the objects are available to persons seeking to inspect them in connection with study or research; and
- (d) generally promote the public's enjoyment and understanding of fine and applied art both by means of the Board's collection and by such other means as they consider appropriate.

(5) Subject to the provisions of this Act, a new Board may, for the purposes of whichever of subsections (1) to (4) above confers functions upon them—

- (a) provide education, instruction and advice and carry out research;
- (b) enter into contracts and other agreements (including agreements for the new Board's occupation or management of its principal building or of other premises); and
- (c) acquire and dispose of land and other property.

(6) Subject to the provisions of this Act, a new Board may do such things (including requiring payment for admission or for other services or for goods provided by them) as they think necessary or expedient—

- (a) for preserving, and increasing the utility of, their collection;
- (b) for securing the due administration of anything vested in or acquired by them, and any premises occupied or managed by them, under or by virtue of this Act; and
- (c) otherwise for the purposes of their functions.

(7) If a Minister of the Crown directs a new Board to exercise functions—

- (a) which are exercisable by him (whether by virtue of an enactment or otherwise),
- (b) which in his opinion can appropriately be exercised by that new Board, having regard to their functions and resources, and
- (c) which are specified in the direction,

the new Board shall exercise them on his behalf in such manner as he may from time to time direct; but nothing in this subsection authorises the new Board to exercise a function of making regulations or other instruments of a legislative character.

(8) A new Board shall not acquire or dispose of land without the consent of the Lord President of the Council.

(9) A new Board may allow premises occupied or managed by them to be used by other persons (for payment or otherwise) for purposes not connected with the functions mentioned in whichever of subsections (1) to (4) above has effect in relation to that new Board, if the new Board are satisfied that to do so would not conflict unduly with those functions.

(10) The reference in subsection (5)(b) above to a new Board's "principal building" is a reference—

- (a) in the case of the National Gallery Board, to the premises known as the National Gallery;
- (b) in the case of the Tate Gallery Board, to the premises known as the Tate Gallery;
- (c) in the case of the National Portrait Gallery Board, to the premises known as the National Portrait Gallery; and
- (d) in the case of the Wallace Collection Board, to the premises known as Hertford House.

Power of the new Boards to form companies.

**3.—**(1) With the consent of the Lord President of the Council and subject to any conditions he may impose, a new Board may form, or take part in forming, one or more bodies corporate which, or each of which, has as its main object or objects—

- (a) one or more of those mentioned in whichever of subsections (2) to (5) below has effect in relation to that new Board; or
  - (b) any other object or objects incidental to the new Board's functions.
- (2) In relation to the National Gallery Board, the objects are—
- (a) the production and publication of books, films or other informative material relating to fine art;
  - (b) the production of replicas or reproductions of works of art, or of souvenirs;
  - (c) the sale (whether or not at an hour when the collection is open to the public for viewing) of informative material relating to fine art, of replicas or reproductions of works of art, or of souvenirs or other goods; and
  - (d) the provision (whether or not at such an hour) of catering or car parking or other services or facilities for the public at any premises occupied or managed by the Board.
- (3) In relation to the Tate Gallery Board, the objects are—
- (a) the production and publication of books, films or other informative material relating to British art or Twentieth Century or contemporary art;
  - (b) the commissioning of works of art;
  - (c) the production of replicas or reproductions of works of art, or of souvenirs;
  - (d) the sale (whether or not at an hour when the collection is open to the public for viewing) of informative material relating to art, of replicas or reproductions of works of art, or of souvenirs or other goods; and

- (e) the provision (whether or not at such an hour) of catering or car parking or other services or facilities for the public at any premises occupied or managed by the Board.
- (4) In relation to the National Portrait Gallery Board, the objects are—
  - (a) the production and publication of books, films or other informative material relating to portraiture of British persons or British history through portraiture;
  - (b) the commissioning of portraits of eminent British persons;
  - (c) the production of replicas or reproductions of such portraits, or of souvenirs;
  - (d) the sale (whether or not at an hour when the collection is open to the public for viewing) of informative material relating to portraiture of British persons or British history through portraiture, of replicas or reproductions of portraits of eminent British persons, or of souvenirs or other goods; and
  - (e) the provision (whether or not at such an hour) of catering or car parking or other services or facilities for the public at any premises occupied or managed by the Board.
- (5) In relation to the Wallace Collection Board, the objects are—
  - (a) the production and publication of books, films or other informative material relating to fine or applied art;
  - (b) the production of replicas or reproductions of works of art, or of souvenirs;
  - (c) the sale (whether or not at an hour when the collection is open to the public for viewing) of informative material relating to fine or applied art, of replicas or reproductions of works of art, or of souvenirs or other goods; and
  - (d) the provision (whether or not at such an hour) of catering or car parking or other services or facilities for the public at any premises occupied or managed by the Board.
- (6) A new Board authorised by subsection (1) above to form or take part in forming any such body as is mentioned in that subsection 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).

(7) This section is without prejudice to any power of a new Board to undertake by virtue of section 2 above anything mentioned in subsection (1)(b) above or in whichever of subsections (2) to (5) above has effect in relation to that new Board.

Acquisition and disposal of pictures and other objects.

**4.—**(1) The National Gallery Board, the Tate Gallery Board or the National Portrait Gallery Board may, in particular, acquire (whether by purchase, exchange or gift) any relevant objects which, in the opinion of the Board concerned, it is desirable to add to their collection.

- (2) In this section "relevant objects" means—
  - (a) in the case of the National Gallery Board, works of art,

(b) in the case of the Tate Gallery Board, works of art, and  
(c) in the case of the National Portrait Gallery Board, portraits or other works of art relevant to portraiture,  
and, in each case, includes any documents relating to a relevant object which falls, or has at any time fallen, within paragraph (a), (b) or (c) above, as the case may be, and which is, or at that time was, comprised in the Board's collection.

(3) The National Gallery Board shall not dispose of a relevant object the property in which is vested in them and which is comprised in their collection unless the disposal is an exercise of the power conferred by section 6 below.

(4) The Tate Gallery Board shall not dispose of a relevant object the property in which is vested in them and which is comprised in their collections unless—

(a) the disposal is an exercise of the power conferred by section 6 below;

(b) the disposal is of a relevant object which, in the Board's opinion, is unsuitable for retention in their collections and can be disposed of without detriment to the interests of students or other members of the public; or

(c) the disposal (by whatever means, including destruction) is of a relevant object which the Board are satisfied has become useless for the purposes of their collections by reason of damage, physical deterioration, or infestation by destructive organisms;

but this subsection is without prejudice to any trust or condition (express or implied) prohibiting or restricting disposal of the relevant object.

(5) The National Portrait Gallery Board shall not dispose of a relevant object the property in which is vested in them and which is comprised in their collection unless—

(a) the disposal is an exercise of the power conferred by section 6 below;

(b) the disposal is by way of sale, exchange or gift of a relevant object which is a duplicate of another relevant object the property in which is so vested and which is so comprised;

(c) the disposal (by whatever means) is of a portrait and the Board are satisfied that the identification formerly accepted by them of the person portrayed has been discredited; or

(d) the disposal (by whatever means, including destruction) is of a relevant object which the Board are satisfied has become useless for the purposes of their collection by reason of damage, physical deterioration or infestation by destructive organisms;

and a relevant object may be disposed of by the Board as mentioned in paragraph (d) above notwithstanding a trust or condition (express or implied) prohibiting or restricting the disposal of the relevant object.

(6) The Wallace Collection Board shall neither add any object to their collection nor dispose of any object the property in which is vested in them and which is comprised in their collection.

(7) Money accruing to a new Board by virtue of a disposal mentioned in this section shall be applied by the Board in the acquisition of relevant objects to be added to their collection.

Lending and borrowing of pictures and other objects.

**5.—**(1) The National Gallery Board, the Tate Gallery Board or the National Portrait Gallery Board may lend any relevant object the property in which is vested in the Board and which is comprised in the Board's collection (whether the loan is for purposes of public exhibition or not and whether, under the terms of the loan, the relevant object is to remain in the United Kingdom or not) but the power conferred by this subsection is subject to the requirements of subsection (2) below.

(2) In deciding whether or not to lend a relevant object, and in determining the time for which, and the conditions subject to which, a relevant object is to be lent, a Board mentioned in subsection (1) above—

(a) shall give special consideration to a request for the loan of a relevant object for public exhibition; and

(b) subject to that, shall have regard to the interests of students and other persons visiting the Board's collection, the suitability of the prospective borrower, the purpose of the loan, the physical condition and degree of rarity of the relevant object, and any risks to which it is likely to be exposed.

(3) Where the property in a relevant object has become vested in a Board mentioned in subsection (1) above subject to a trust or condition, the power conferred on the Board by that subsection is exercisable in a manner inconsistent with the trust or condition if either—

(a) 50 years have elapsed since the date on which the property became so vested in the Board or in any person through whom the Board derives title to the relevant object; or

(b) the person who first imposed the trust or condition has, or his personal representatives have, consented in writing to the exercise of the power in that manner.

(4) A Board mentioned in subsection (1) above may accept loans of relevant objects for the purpose (depending on the terms of the loan) of exhibiting them, or of study or research by the Board or by persons seeking to inspect them.

(5) "Relevant object" has the same meaning in this section as it has in section 4 above.

#### *Transfers to and from certain institutions*

Transfer of objects or related documents between institutions.

**6.—**(1) Any body for the time being specified in Part I of Schedule 5 to this Act may, by way of sale, gift or exchange, transfer an object the property

in which is vested in them and which is comprised in their collection, if the transfer is to any other body for the time being specified in either Part of that Schedule.

(2) This section applies in relation to a document as it applies in relation to an object other than a document.

(3) Where the property in an object has become vested in a body subject to a trust or condition, the power conferred by subsection (1) above shall be exercisable in a manner inconsistent with the trust or condition if the person who first imposed the trust or condition has, or his personal representatives or (in Scotland) his executors have, consented to the exercise of the power in that manner.

(4) Where a body in whom an object has become vested subject to a trust or condition transfers the object under this section to another body, the object shall be held by that other body subject to the same trust or condition.

(5) The powers conferred on a body by subsection (1) above are in addition to any other powers of transfer which the body may have.

(6) The Lord President of the Council or the Secretary of State may by order amend Schedule 5 to this Act by adding any body in the United Kingdom to those for the time being specified in that Schedule.

(7) The power to make an order under subsection (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Gifts to the nation.

**7.—**(1) In any case where—

- (a) a work of art is given for the benefit of the public or the nation, and
- (b) the donor has made no provision as to the person responsible for its care,

it shall, subject to subsection (2) below, vest in such of the bodies for the time being specified in Schedule 5 to this Act as the Lord President of the Council may direct.

(2) If the body in whom a gift by will would, apart from this subsection, vest under this section determine that the work of art is not fit to be part of their collection, it shall unless otherwise disposed of by the testator become part of his residuary estate.

Power to transfer land to governing bodies, and exemption from stamp duty.

**8.—**(1) Where any land occupied wholly or partly for the purposes of any institution specified in column 1 of Schedule 6 to this Act is vested in the Secretary of State, he may, notwithstanding any prohibition or restriction to the contrary, transfer the land to the body specified in relation to that

institution in column 2 of that Schedule.

(2) Stamp duty shall not be chargeable on any instrument certified to the Commissioners of Inland Revenue by the Secretary of State as having been made or executed for the purpose of giving effect to a transfer by him of land occupied wholly or partly for the purposes of any institution specified in column 1 of Schedule 6 to this Act to the body specified in relation to that institution in column 2 of that Schedule.

(3) An instrument such as is mentioned in subsection (2) above is not duly stamped unless—

- (a) it has, in accordance with the provisions of section 12 of the [1891 c. 39.] Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty or that it has been duly stamped; or
- (b) it has been stamped with the duty to which it would, apart from subsection (2) above, be liable.

### *Finance, accounts and indemnities*

Finance for, and accounts of, certain museums and galleries etc.

**9.—**(1) The appropriate Minister may out of money provided by Parliament pay to the bodies specified in Schedule 7 to this Act such sums towards their expenditure as the Treasury may approve.

(2) Payments under this section may be made on such conditions as the appropriate Minister may with the approval of the Treasury impose.

(3) Each of the bodies specified in Schedule 7 to this Act shall keep proper accounts and proper records in relation to those accounts.

(4) Each of those bodies shall prepare a statement of accounts in respect of each financial year, and that statement shall give a true and fair view of the state of the body's affairs at the end of the financial year and of the body's income and expenditure in the financial year.

(5) The statement shall comply with any directions given by the appropriate Minister, with the Treasury's consent, as to—

- (a) the information which is to be contained in the statement;
- (b) the form which the statement is to take;
- (c) the manner in which the information is to be presented; or
- (d) the methods and principles according to which the statement is to be prepared.

(6) Each of those bodies shall send their statement to the appropriate Minister at such time as he may direct.

(7) The appropriate Minister shall, on or before 31st August in any year, send to the Comptroller and Auditor General the statements prepared under

subsection (4) above for the financial year last ended.

(8) The Comptroller and Auditor General shall examine, certify and report on each statement sent to him under subsection (7) above and shall lay copies of it and of his report before each House of Parliament.

(9) In this section—

"the appropriate Minister"—

(a) in relation to a body specified in Part I of Schedule 7 to this Act, means the Lord President of the Council; and

(b) in relation to a body specified in Part II of that Schedule, means the Secretary of State;

"financial year", in relation to any body, means the period—

(a) beginning with the day appointed under section 11(4) below for the commencement of this section in relation to that body, and

(b) ending with 31st March following that day, and each successive period of twelve months.

Indemnities.

**10.**—(1) In section 16 of the [1980 c. 17.] National Heritage Act 1980, in subsection (1) (Minister's power to indemnify institutions, bodies or persons falling within subsection (2) against loss of or damage to objects lent by them to other institutions, bodies or persons falling within that subsection)—

(a) the words "falling within subsection (2) below" shall cease to have effect; and

(b) for the words "falling within that subsection" there shall be substituted the words "which falls within subsection (2) below" and, in subsection (2), for the words "referred to above" there shall be substituted the words "which fall within this subsection".

(2) After that section there shall be inserted—

"Reporting of indemnities given under section 16.

**16A.** — (1) For each of the successive periods of six months ending with 31st March and 30th September in each year, each of the Ministers shall prepare a report specifying—

(a) the number of undertakings given by him under section 16 above during that period; and

(b) the amount or value, expressed in sterling, of any contingent liabilities as at the end of that period in respect of such of the undertakings given by him under that section at any time as remain outstanding at the end of that period.

(2) A report under subsection (1) above shall be laid before Parliament not later than two months after the end of the period to which it relates.

(3) Subsections (1) and (2) above shall apply in relation to undertakings given under section 16 above by the Department of Education for Northern Ireland—

(a) with the substitution for references to each of the Ministers of references to that Department; and

(b) with the substitution for the reference to Parliament in subsection (2) of a reference to the Northern Ireland Assembly.

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### *Supplementary provisions*

Short title, minor and supplemental provisions, commencement and extent.

**11.—**(1) This Act may be cited as the Museums and Galleries Act 1992.

(2) Schedule 8 to this Act, which contains minor and consequential provisions, shall have effect.

(3) The enactments mentioned in Schedule 9 to this Act, which include some that are spent or of no further utility, are hereby repealed to the extent specified in the third column of that Schedule.

(4) The provisions of this Act shall come into force on such day as the Lord President of the Council may by order made by statutory instrument appoint, and different days may be appointed for different provisions or for different purposes.

(5) The provisions of this Act which extend to Scotland are sections 6, 7, 8 and 10 above, this section, Schedules 5 and 6 and so much of Schedules 8 and 9 to this Act as relates to enactments extending there.

(6) The provisions of this Act which extend to Northern Ireland are sections 6, 7 and 10 above, this section, Schedule 5 and so much of Schedules 8 and 9 to this Act as relates to enactments extending there.

(7) In Schedules 5, 6 and 7 to this Act—

(a) any reference to any of the new Boards shall, as respects any time before the vesting day for that new Board, within the meaning of section 1 above, be construed as a reference to the new Board's predecessor Trustees, within the meaning of that section; and

(b) any reference to the Natural History Museum or to the Trustees of the Natural History Museum shall, as respects any time before the coming into force of paragraph 1 of Schedule 8 to this Act, be construed respectively as references to the British Museum (Natural History) or to the Trustees of the British Museum (Natural History).