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**GIBRALTAR HERITAGE TRUST ACT 1989**
**Principal Act**

<b>Act. No. 1989-12</b>	<i>Commencement</i>	1.5.1989
	<i>Assent</i>	27.4.1989

Amending enactments	Relevant current provisions	Commencement date
LN. 1989/042	<i>Corrigendum</i>	1.5.1989
Act. 1991-18	ss.18(1) and 50	1.9.1991
2001-17	ss. 2(a) and 33	7.6.2001
2007-17	ss. 8(4) & (5), 10(2), 12(1), 12(3), 12(4), 12(6), 12(7), 12(8), 21(1), 30(1), 35, 36(1), 36(2), 37(1), 37(2), 37(4), 39(2), 39(3), 41(2), 42(1), 42(2), 43(1), 43(2), 44(1), 45(1), 46(1), 46(3), 47(1), 47(2), 47(3), 47(4), 49 and 51	14.6.2007
2011-14	ss. 16, 17, 18(1), (2) & (3) 23(2)(c), 24(1), (2), (3) & (4), 25(1), (2) & (4), 26, 27, 28, 29(1) & (2), 30(1), 31(1), 32 & 33(2)	8.9.2011
LN. 2014/263	Sch.	22.12.2014

## English sources

None



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## AN ACT TO ESTABLISH THE GIBRALTAR HERITAGE TRUST.

### **Short title and commencement.**

1. This Act may be cited as the Gibraltar Heritage Trust Act 1989, and shall come into operation on such day as the Governor may appoint by notice in the Gazette and different days may be so appointed for different provisions and different purposes.

### **Interpretation.**

2. In this Act, unless inconsistent with the context—

“Agency” means the Gibraltar Tourism Agency Limited;

“antiquity” includes—

- (a) any object of historical, geographical, artistic, scientific or technical value or interest found or situated in Gibraltar (whether in or on the land or below the seabed), being older than fifty years; and
- (b) any object that is declared under section 17 to be an antiquity; and
- (c) any listed building, structure, site or land;

“Board” means the Board of the Trust set up under section 5;

“Chairman” means the Chairman of the Trust;

“financial year” means a year commencing on the 1st day of April;

“Gibraltar heritage” includes—

- (a) buildings, structures, antiquities, works of art or craft, books, records and other chattels, wherever situated and being of historical, architectural, artistic, scientific or social interest in connection with Gibraltar; and
- (b) areas of natural interest or beauty in Gibraltar along, where appropriate, with their animal and plant life;

“Listed building, structure, site or land” means any building, structure, site or land described in Schedules 1 or 2 and also means in relation

to any such building, structure or site, those parts of the land on which it is situated that are required for the purposes of fencing, covering or otherwise preserving or providing means of access to the building, structure or site;

“Museum” means Gibraltar Museum;

“Secretary” means the Secretary of the Trust appointed under section 6;

“Site” includes any geological feature or the animals or plants therein or thereon;

“Trust” means the Gibraltar Heritage Trust established under the Act;

“trustee” means a member of the Board;

“Vice-Chairman” means the Vice-Chairman of the Trust;

#### **Incorporation of Gibraltar Heritage Trust.**

3. There is hereby established a new body to be known by the name of the Gibraltar Heritage Trust, replacing the former Gibraltar Heritage Trust, and the Trust shall be a body corporate with perpetual succession and a common seal.

#### **Objects and powers of the Trust.**

4. (1) The Trust is established for the purposes of preserving Gibraltar’s heritage.

(2) The acquisition in any manner and retention of any investments (being at the time of acquisition of a nature authorised by the general law for the investment of trust funds or of a nature authorised by the trusts imposed by the donor of the same or of the funds out of which the same shall be acquired) the income whereof shall be applicable (subject to any trusts imposed by the donor or otherwise affecting the same) at the discretion of the Board for any particular purpose of the Trust or for its general purposes.

#### **Board of the Trust.**

5.(1) The affairs of the Trust shall be administered by a board to be called “The Board of Gibraltar Heritage Trust”.

(2) The Board shall have power to appoint such sub-committees as it considers appropriate.

#### **Staff.**

6.(1) There shall be a Secretary and a Treasurer to the Trust who shall be appointed by the Board (not from among their own number).

(2) The Secretary shall be responsible to the Board for the general exercise of the Board's functions.

(3) The Board may appoint such other employees as the Board thinks fit.

(4) The Board shall pay to their employees such remuneration and allowances as the Board may determine.

(5) The employees shall be appointed on such other terms and conditions as the Board may determine.

(6) No person employed and paid by the Trust shall be a trustee.

## **Financial provisions.**

7.(1) The funds of the Trust shall consist of—

- (a) subject to the terms of any trust, such moneys as may be received from the sale, lease, hiring out, lending or other disposal, exhibition or display of any property under its control, (which, in relation to Museum artefacts, shall relate only to copies of such artefacts, the originals remaining in the Museum);
- (b) any money received from the Agency by way of royalties on ticket sales for admission to any properties in which the Trust has an interest by virtue of Schedules 1 and 2 and which are administered or managed by the Agency;
- (c) subject to the terms of any trust, such moneys as may be received by the Board by way of subscriptions, contributions, donations or gifts or as may be otherwise received for any lawful purpose; and
- (d) all accumulations of its funds.

(2) Where the Board acquires any money for any particular specified purpose, it shall keep that money in a separate account and apply it for that purpose.

(3) The Board may borrow temporarily by way of overdraft or otherwise such sums as it may require for meeting its obligations and discharging its functions.

**Accounts.**

8.(1) The Board shall keep proper books of account of its operations during each financial year, and shall also cause a statement of its accounts for each financial year to be prepared within three months after the end of that year.

(2) The accounts of the Trust for each financial year shall be audited by the Principal Auditor as soon as practicable after the end of that year.

(3) The Principal Auditor shall, with reference to the accounts of the Trust report–

- (a) whether he has obtained all the information and explanations which to the best of his knowledge and belief were necessary for the purposes of the audit; and
- (b) whether, in his opinion, proper books of account have been kept by the Trust, so far as appears from his examination of those books; and
- (c) whether the Trust's balance sheet and statement of income and expenditure are in agreement with the books of accounts; and
- (d) whether, in his opinion, and to the best of his information and according to the explanations given him, those accounts give a true and fair view–
  - (i) in the case of the balance sheet, of the state of the Trust's affairs as at the end of its financial year; and
  - (ii) in the case of the statement of income and expenditure of the income and expenditure for its financial year.

(4) Within three months after the audit of its accounts for any financial year, the Board shall prepare and submit to the Government a written report on its operations for that year together with a copy of the audited accounts for that year, and shall also submit copies of the report and the audited accounts to the Minister responsible for heritage.

(5) The Minister responsible for heritage shall lay one copy of the annual report and of the audited accounts on the table of the Parliament as soon as practicable after they have been received by him.

**Instruments.**



9. (1) The fixing of the seal of the Board shall be authenticated by signature of two trustees, subject to resolution approved by not less than two-thirds of the Board.

(2) A document purporting to be duly executed under the seal of the Board, or to be signed on the Board's behalf, shall be received in evidence and, unless the contrary is proved, be deemed to have been executed and signed.

### **The Board's general functions.**

10. (1) Without prejudice to the generality of section 4 it shall be the general duty of the Board—

- (a) to promote and secure the preservation and enhancement of Gibraltar's heritage;
- (b) at the request of Government, to advise Government and, where appropriate the Secretary of State, at an early stage and prior to any consents being granted, on any planning or other proposals affecting any Listed building, structure, site or land;
- (c) to promote the public's enjoyment of and advance their knowledge of Gibraltar's heritage;
- (d) to promote research into and publications on Gibraltar's heritage and on the history of Gibraltar including its social, cultural, economic and political evolution;
- (e) to assist the Government of Gibraltar in the formulation of policy in respect of these matters;
- (f) to undertake such other functions as are conferred on it by this Act or by any other enactment.

(2) The Board—

- (a) shall (so far as practicable) provide educational facilities and services, instruction and information to the public in relation to Gibraltar's heritage;
- (b) if requested by the Government, or if the Board otherwise thinks fit to do so, shall advise the Government on any matter relating to the objects of the Trust;

- (c) may, for the purpose of exercising its functions, carry out, or defray, or contribute towards the cost of research in relation to Gibraltar's heritage;
  - (d) may, for the purpose of exercising its functions, make and maintain records in relation to Gibraltar's heritage.
- (3) May make such charges for any of their services as they think fit.

**Additional powers of the Board.**

11. (1) The Board may make arrangements on its own behalf or enter into contracts which have any of the objects mentioned in subsection (2).

- (2) The objects are—
- (a) the production, publication and sale of books, films or other informative material relating to Gibraltar's heritage; and the commissioning of works of art, craft or design relating thereto;
  - (b) the production and sale of replicas or reproductions of works of art, craft or souvenirs relating to Gibraltar's heritage.

(3) The Board may acquire and hold interests in any company or other body having any of the objects mentioned in subsection (2), exercise rights conferred by the holding of an interest in it, and provide financial or other assistance to or in respect of it (including assistance by way of guarantee of the obligations of such a company or body).

**Constitution of the Board.**

12. (1) Subject to subsection (5) the Board shall consist of twelve trustees six of whom shall be appointed by the Government for such term as shall be specified in the Instrument of Appointment. The remaining six trustees shall be elected at an Annual General Meeting of the Trust.

(2) Subject to subsection (5) a Chairman and Vice-Chairman shall be elected by the trustees from among themselves.

(3) If a trustee appointed by the Government dies or resigns or otherwise ceases to be a trustee, the Government may appoint in his place another person.

(4) The Government may discharge an appointed trustee from his office as such at any time.

(5) If an elected trustee dies or resigns or otherwise ceases to be a trustee, the Board may appoint in his place another person and the person so appointed shall hold office until the next Annual General Meeting of the Trust.

(6) An elected trustee may resign his office by notice in writing addressed to the Chairman. A Chairman or Vice-Chairman may resign his office by notice in writing addressed to the Government. A trustee who absents himself from three consecutive meetings of the Board, without leave of the Board, shall be deemed to have resigned his office.

(7) An appointed trustee may resign his office by notice in writing addressed to the Government.

(8) The Chairman, the Vice-Chairman and the trustees of the first Board to be set up under this Act shall be appointed by the Government after consultation with the Chairman of the former Gibraltar Heritage Trust and the Chairman of the former Museum Committee. In exercising his powers under this subsection, the Government shall have regard to the desirability of the persons having knowledge or experience of matters falling within the purposes of the Trust or any other subject, knowledge or experience which would be of use to the Board in exercising its functions. Subject to subsections (5) and (7) a trustee so appointed shall hold office for a maximum term of two years.

(9) At the second annual general meeting the elected trustees shall retire from office but shall be eligible for re-election at such annual general meeting.

(10) At the third and every subsequent annual general meeting of the Trust, one third of the elected trustees shall retire and shall be eligible for re-election. The members of the Board shall decide among themselves which of the elected trustees shall retire at the third annual general meeting and which of them, other than those elected at the third annual general meeting, shall retire at the fourth annual general meeting. Thereafter, one third of the elected trustees shall retire on rotation.

(11) A person is disqualified from the office of trustee if—

- (a) he is an undischarged bankrupt, or
- (b) he has been convicted by any court of a criminal offence involving fraud or dishonesty and sentenced to a term of imprisonment without option of a fine.

(12) The validity of any proceedings of the Board shall not be affected by any vacancy among the trustees or by any defect in the appointment of the trustees.

(13) The Board may regulate its own procedure.

(14) An elected trustee may be removed from office at any time by a resolution passed at a general meeting of the Trust by a majority of not less than two-thirds of the members present at the meeting.

**Exemption from taxes, etc.**

13. The Trust shall be exempt from all taxes, duties, rates, levies or other charges whatsoever.

**Membership.**

14. The membership, if any, of the Trust shall be divided into the classes specified in Schedule 3 hereto.

**General meetings.**

15. General meetings of the Trust shall be held once at least in every year and shall be called and held in accordance with such rules as may be made by resolution of the Board passed at its meeting by a majority of not less than two-thirds of the trustees present at the meeting, and approved at the next meeting of the Trust.

THE MUSEUM.

**General functions.**

16. The Gibraltar Culture and Heritage Agency shall have the following functions in relation to the Museum—

- (a) to promote and undertake the discovery, identification, preservation, exhibition, appreciation and enjoyment of antiquities in Gibraltar;
- (b) to promote and undertake research in respect of antiquities;
- (c) to assist the Government in the formulation of policy in respect of those matters;
- (d) to undertake such other functions as are conferred on it by this Act or by any other enactment.

**General powers.**

17. In the performance of its functions in relation to the Museum, the Gibraltar Culture and Heritage Agency shall have the following powers and policy—

- (a) to accept by way of gift, loan or donation—
  - (i) antiquities;
  - (ii) books, manuscripts, pamphlets, reports, maps, pictures, and other documents that relate to Gibraltar and are suitable for the purposes of a reference library or archives;
  - (iii) other articles that are suitable for study or exhibition;
- (b) subject to the terms of any trust, to hire out, exchange or lend copies of antiquities and other articles (including anything specified in paragraph (a) above);
- (c) to commission the undertaking of investigations to discover, obtain, or recover antiquities, and the undertaking of research for the purposes of this Act;
- (d) such other powers as may be conferred on it by this Act or by any other enactments; and
- (e) such other powers as are reasonably necessary or incidental for the purposes of this Act.

**Curator.**

18. (1) There shall from time to time be appointed, on the advice of the Gibraltar Culture and Heritage Agency, a fit and proper person being suitably qualified to be Curator of the Museum.

(2) The Curator shall be the chief executive officer of the Museum and shall be responsible to the Gibraltar Culture and Heritage Agency for its due management.

(3) The Gibraltar Culture and Heritage Agency shall have due regard to the views of the Gibraltar Culture and Heritage Agency in relation to those areas of the management of the Museum which relate to the Gibraltar Culture and Heritage Agency's functions and powers under this Act.

**Vesting of property of Museum.**

19. All antiquities, objects of art or interest, money, securities for money, and all other property, whether moveable or immoveable, acquired or held by the Museum, or which may hereafter be acquired by the Museum, are vested in the Government of Gibraltar, subject always to the terms on which they were acquired or held and to the terms of any trust.

**Property to be held for the benefit of the public.**

20. (1) All property that is vested in the Government of Gibraltar by virtue of sections 19 and 22 shall be so held in trust and shall be applied for the benefit and enjoyment of the public.

(2) All antiquities and objects of art or interest that are for the time being lent to the Museum shall, subject to the conditions on which they have been lent, be held in trust and applied for the benefit and enjoyment of the public.

**Declaration of antiquities.**

21. (1) The Government may, by Order, after consultation with the Board and the Gibraltar Culture and Heritage Agency, declare any object that is not older than one hundred years but is otherwise an object described in paragraph (a) of the definition of the term “antiquity” in section 2, to be an antiquity.

(2) Every Order made under subsection (1) shall be published in the Gazette.

**Title to antiquities.**

22. Subject to the provisions of this Act, every antiquity in Gibraltar, wherever situated, that has not been discovered before the date of the commencement of this Act, is hereby vested in and shall be the property of the Government of Gibraltar.

**Delivery of antiquities to the Curator on discovery.**

23. (1) Any person who discovers an antiquity in Gibraltar shall as soon as practical—

- (a) notify the Curator; and
- (b) if the antiquity is portable, deliver it to the Curator;

- (c) in every case, inform the Curator where it was discovered, in sufficient detail to enable the Curator to locate that place.
- (2) On receiving an antiquity under subsection (1), the Curator shall—
- (a) issue to that person by whom it was delivered a receipt fully describing the antiquity;
  - (b) retain the antiquity in safe custody; and
  - (c) report the discovery to the Gibraltar Culture and Heritage Agency.
- (3) This section shall not apply to an antiquity discovered by a person in exercising his right to excavate pursuant to a licence issued to him under section 29.

**Disposal of antiquity discovered.**

24. (1) On receiving any report of the discovery of an antiquity in Gibraltar, the Gibraltar Culture and Heritage Agency shall consider whether it should be retained by the Government of Gibraltar in the Museum or in any other manner.

(2) Where the Gibraltar Culture and Heritage Agency considers that the antiquity should be retained, it shall recommend to the Government to pay to the person by whom it was discovered such amount as to the Gibraltar Culture and Heritage Agency reasonably appears to be a fair reward, having regard to the circumstances of the discovery, including the degree of effort and risk involved in recovering the antiquity and its value to the community.

(3) Where the Gibraltar Culture and Heritage Agency does not consider that the antiquity should be retained, it may offer the antiquity to the British Museum or to any other public museum, on such terms and conditions as the Gibraltar Culture and Heritage Agency and that museum may agree, including in every case, however, a condition that the museum to which it is offered shall pay to the person by whom it was discovered a reward determined in accordance with this Act.

(4) Where the Gibraltar Culture and Heritage Agency does not otherwise deal with the antiquity under this section, the Curator shall return it to the person by whom it was discovered, together with a permit authorising him to retain or dispose of the antiquity in such manner as he thinks fit.

**Arbitration.**

25. (1) Any person who, being the discoverer of an antiquity, is dissatisfied with the amount of any reward offered to him under section 24 may, by notice in writing served on the Gibraltar Culture and Heritage Agency within twenty-eight days after the day on which the reward is offered to him, require the matter to be determined by arbitration under this section.

(2) On receipt of a notice under subsection (1), the Gibraltar Culture and Heritage Agency shall forthwith request the Chief Justice to appoint an arbitrator to determine the reward, and the Chief Justice may appoint an arbitrator accordingly.

(3) The decision of the arbitrator appointed by the Chief Justice shall be final and binding on both parties.

(4) In making any award under this section, the arbitrator may allow the Gibraltar Culture and Heritage Agency such reasonable time as he may specify, to pay the reward.

(5) On the determination of any arbitration under this section, the Chief Justice may, on application by either party, make such order as to costs in the matter as he thinks fit.

#### **Investigations on behalf of the Gibraltar Culture and Heritage Agency.**

26. The Gibraltar Culture and Heritage Agency may carry out or cause to be carried out on its behalf, explorations, searches, and excavations to discover and obtain antiquities.

#### **Restrictions on exploration without licence.**

27. Except as provided in section 26, no person shall carry out or cause to be carried out any exploration, search or excavation to discover, obtain or recover any antiquity, whether on his own land or elsewhere, unless he does so pursuant to a licence issued by the Gibraltar Culture and Heritage Agency under section 29, and in compliance with the conditions of the licence.

#### **Qualifications for licence.**

28. No person shall be granted a licence unless he satisfies the Gibraltar Culture and Heritage Agency that—

- (a) he is by training and experience a competent person to undertake the activity for which the licence is sought;
- (b) adequate provisions have been made for the suitable publication of the results of the proposed activity;



- (c) adequate financial arrangements have been made or will be made for the undertaking of the activity;
- (d) adequate arrangements have been made or will be made for the safety of persons who are engaged in or may be affected by the activity and for the safeguarding and protection of public and private property, and for the avoidance of unreasonable inconvenience to persons not involved in the undertaking of the activity.

**Issue of licences.**

29. (1) On the written application of any person, the Gibraltar Culture and Heritage Agency may if it is satisfied that he is qualified to hold a licence under this section, grant or issue to him a licence to exploit, search for or excavate in Gibraltar, to discover, obtain or recover any antiquity.

(2) Every licence shall be granted subject to such conditions (if any) as may be specified by the Gibraltar Culture and Heritage Agency.

(3) Without prejudice to the generality of subsection (2), a licence may be granted on the condition that the site at which the operations are carried out shall be restored after they are completed and that full records are kept of the operations.

(4) Nothing in this section shall be construed so as to authorise a licensee to do any act in contravention of any right of any person over property without that person's consent.

**Designation of areas of archaeological importance.**

30. (1) The Government, after consultation with the Gibraltar Culture and Heritage Agency, may from time to time by Order designate as an area of archaeological importance, any defined area which appears to him to merit treatment as such for the purposes of this Act.

(2) Every such Order shall be known as a "Designation Order", and shall be published in the Gazette.

**Notice of operations in designated areas.**

31. (1) No person shall carry out or cause to be carried out in any designated area, any operation without first having given notice of the operation to the Gibraltar Culture and Heritage Agency.

(2) Every notice that is to be given under this section shall specify the operation to be carried out, the date or dates of the operation, and the site of the operation.

**Right of the Gibraltar Culture and Heritage Agency to inspect operations.**

32. Where any operation is to be carried out or is being carried out in a designated area, any member of the Gibraltar Culture and Heritage Agency or any public officer authorised for the purpose by the Gibraltar Culture and Heritage Agency may—

- (a) enter on the site to inspect the site and observe the operation;
- (b) record matters of antiquary importance discovered on the site or during the operation; and
- (c) for such purposes, order the operation to be suspended for any period not exceeding forty-eight hours.

**Restrictions on removal of antiquities from Gibraltar.**

33.(1) Antiquities shall not be exported to any destination save under the authority of a permit, and provided that all conditions attaching to the said permit are complied with.

(2) Permission to export antiquities under subsection (1) may be granted by the Minister with responsibility for Heritage after consultation with the Gibraltar Culture and Heritage Agency.

(3) Without prejudice to section 2, “antiquities”, for the purposes of this section, shall also include any goods manufactured or produced more than 50 years before the proposed date of exportation except—

- (a) postage stamps and other articles of philatelic interest;
- (b) birth, marriage or death certificates or other documents relating to the personal affairs of the exporter or the spouse of the exporter;
- (c) letters or other writings written by or to the exporter or the spouse of the exporter; and
- (d) any goods exported by, and being the personal property of, the manufacturer or producer thereof, or the spouse, widow or widower of that person.

(4) This section shall bind the Crown.

LISTED BUILDINGS, STRUCTURES, SITES AND LAND.

**Schedule of Listed Buildings, etc. Category “A”.**

34. The buildings, structures, sites and land specified in Schedule 1 shall be listed as being of Category “A”.

**Amendment of Schedule 1.**

35. Subject to section 36, the Government may, by Order, after consultation with the Board, from time to time amend Schedule 1—

- (a) by adding to or deleting from that Schedule any building, structure, site or land; or
- (b) by varying the description of any building, structure, site or land in that Schedule.

**Restrictions on amendment of Schedule 1.**

36. (1) The Government shall not add to Schedule 1 any building, structure, site or land, or any part thereof, unless—

- (a) it is Crown land; or
- (b) it has first been acquired for the Government of Gibraltar under section 37.

(2) The Government shall not without the prior consent of a Secretary of State, add to Schedule 1 any building, structure, site or land or part thereof, held by or on behalf of the Crown for the purposes of the Government of the United Kingdom, or vary the description in that Schedule of any such building, structure, site or land.

**Acquisition of sites worthy of listing.**

37. (1) Where the Government, after consultation with the Board considers that it is desirable that the whole or any part of any building, structure, site or land should be acquired by the Government of Gibraltar for the purposes of Schedule 1, he may acquire it by way of purchase, exchange or gift for the Government.

(2) Where the Government, after consultation with the Board, is satisfied—

- (a) that the whole of any building, structure, site or land should be acquired for the purposes of Schedule 1; and
- (b) that it is for the public benefit that it should be so acquired; and
- (c) that there is reasonable justification for the causing of any hardship that may result to any person having an interest in or right over it he may, subject to sections 38 and 39, acquire it under the Land (Acquisition) Act<sup>\*</sup>.

(3) For the purposes of the Land (Acquisition) Act, the acquisition of land pursuant to subsection (2) shall be a public purpose.

(4) Where the Government, acting under subsections (1) or (2), acquires the whole or any part of any building, structure, site or land, he shall as soon as practicable thereafter cause it to become Listed “A” by amending Schedule 1 in pursuance of the powers conferred on him by section 35.

#### **Compensation.**

38. Notwithstanding any provision to the contrary in the Land (Acquisition) Act, in assessing under that Act any compensation that is to be paid for the acquisition under section 37(2), of the whole or any part of the building, structure, site or land, the architectural, archaeological, artistic, historical and traditional factors that contribute to its value shall be disregarded, except to the extent that the person entitled to compensation proves that in acquiring his estate or interest in it, he paid valuable consideration in good faith for any such factors.

#### **Protection of building, etc. Listed “A”.**

39. (1) Subject to subsection (2), no person shall in relation to any building, structure, site or land contained in Schedule 1—

- (a) carry out any act of wilful destruction, injury or defacement on any such building, structure, site or land;
- (b) by any act, wilfully alter, impair or spoil the character of such building, structure, site or land; or
- (c) remove from any such building, structure, site or land any material or thing that forms part of any such building, structure, site or land; or

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<sup>\*</sup> 1973-22

- (d) erect, build or place on or against any such building, structure, site or land any erection, building or other structure; or
- (e) enclose any such building, structure, site or land or any part thereof; or
- (f) deposit litter or refuse in or on any such building, structure, site or land other than in a receptacle provided by or with the permission of the Board for that purpose; or
- (g) occupy or encroach on any part of any such building, structure, site or land.

(2) Subject to subsection (3), the Government, after consulting the Board—

- (a) may authorise the alteration of any building, structure, site or land or the removal of any material from any such building, structure, site or land; or
- (b) may grant to any person a licence, revocable at will and without payment of compensation for its revocation, to occupy any specified part of any such building, structure, site or land for any purpose specified in the licence (not being a purpose that is incompatible with the character of such building, structure, site or land), and on such conditions as the Government may specify in the licence.

(3) The Government shall not give authority or licence under subsection (2) unless he is satisfied that to do so would not impair the integrity of the building, structure, site or land.

#### **Schedule of Listed Buildings, etc. Category “B”.**

40. The buildings, structures, sites or land specified in Schedule 2 shall be listed as being of Category “B”.

#### **Additions to Schedule 2.**

41. (1) For the purpose of this Act and with a view to the guidance of the Development and Planning Commission in the performance of its functions under the Town Planning Act<sup>∞</sup> in relation to Listed “B” buildings, structures, sites or land, the Trust shall compile a list thereof, which list will

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<sup>∞</sup> 1973-08

include if appropriate the buildings and structures comprising Schedule 2 to the former Gibraltar Museum and Antiquities Act<sup>♦</sup>.

(2) Any such list compiled shall, once approved by the Government, form a part of Schedule 2 hereto.

(3) In considering whether to include in a list compiled under subsection (1), the Board may take into account not only the building, structure, site or land itself, but also—

- (a) any respect in which the exterior contributes to the architectural or historic interest of any group of buildings of which it forms part; and
- (b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building or structure consisting of a man-made object or structure fixed to it or adjoining it or forming part of the land and comprised within the curtilage of the building.

(4) Before compiling any list under this section, the Board shall consult with the Government and with such persons or bodies of persons as appear appropriate as having special knowledge of or interest in, buildings or structures of architectural or historic interest.

#### **Amendment of Schedule 2.**

42. (1) Subject to sections 43, 46 and 47, the Government may, after consultation with the Board, (acting either on its own initiative or on application from the owner of a building, structure, site or land) from time to time amend Schedule 2—

- (a) by adding or deleting from that Schedule any building, structure, site or land; or
- (b) by varying the description of any building, structure, site or land in that Schedule.

(2) The Government shall not, without the prior consent of a Secretary of State, add to Schedule 2 any building, structure, site or land held by or on behalf of the Crown for the purposes of the Government of the United Kingdom or vary the description in that Schedule of any such building, structure, site or land.

#### **Publication and service of notice.**

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<sup>♦</sup> 1982-20

43. (1) Not less than three months before exercising any power conferred on him by section 42, the Government shall publish a notice in the Gazette of his intention to do so.

(2) The Government shall also cause a copy of the notice to be served on every person having any estate or interest in the building, structure, site or land to which the notice relates.

**Contents of notice.**

44. (1) Every notice shall specify the building, structure, site or land to which it relates and shall adequately describe the manner in which the Government proposes to exercise his powers under section 42 in relation to the building or structure.

(2) Every notice shall state that every person aggrieved by the proposed exercise of the power may within one month after the date on which notice is published in the Gazette or (in the case of a person having an estate or interest in the building or structure within one month after the date of service of the notice on him), may object in writing to the Board.

**Filing of objections.**

45. (1) A person who is aggrieved by the proposed exercise of any power of the Government under section 42 may, within the time specified in section 44, serve a notice of objection on the Board.

(2) Every notice of objection shall specify the grounds of the objection but no objection shall be allowed on the ground that the objector will suffer financial loss.

**Hearing of objections.**

46. (1) On the expiry of the time specified in section 44 for filing notices of objection to the proposed exercise of any power of the Government under section 42, where any such notices have been filed and have not been withdrawn, the Board shall appoint a time, date and place for the hearing of the objections, and shall give every objector not less than fourteen days notice in writing of the time, date and place of hearing.

(2) At the hearing, every objector may appear either personally or by counsel, and may call evidence in support of his objection and may cross-examine witnesses called by any other party and make submissions in support of his objection.

(3) After giving every objector who appears at the hearing an opportunity to be heard, the Board shall consider and advise the Government on the objections.

**Determination of objections.**

47. (1) On considering the advice of the Board on the objections heard under section 46, the Government shall determine every such objection by allowing it wholly or partly, or by disallowing it.

(2) The Government shall cause notice of his decision in relation to each objection to be published in the Gazette, and a copy of the notice to be served on each objector.

(3) Subject to subsection (4), where any objections have been heard under section 46, the Government may, on the expiry of the period of one month following the date on which notice under subsection (2) is published in the Gazette, proceed to exercise the powers conferred on him by section 42.

(4) Where the Government has allowed an objection wholly or partly, he shall not exercise his powers under section 42 in a manner which is contrary to his decision in so allowing it.

**Compensation on designation.**

48. (1) Any person who is injuriously affected by the designation after the commencement of this Act of any building, structure, site or land as Listed "B", shall, subject to subsection (2), be entitled to compensation for the loss he has thereby sustained, to be determined under the Land (Acquisition) Act.

(2) Notwithstanding any provision to the contrary in the Land (Acquisition) Act, in assessing under that Act any compensation that is to be paid for injurious affection, the archaeological, architectural, artistic, historical and vernacular factors that contribute to the value of any building, structure, site or land shall be disregarded except to the extent that the person entitled to compensation proves that he has acquired an estate or interest therein, and in doing so that he paid valuable consideration in good faith for any such factors.

**Restrictions as to Listed "B" buildings, etc.**

49. No person who is beneficially interested in any Listed "B" building, structure, site or land shall—



- (a) make to that building, structure, site or land any alterations, addition, or repair that affects its archaeological, architectural, artistic, historical or vernacular character; or
- (b) fell any tree on the land on which the Listed “B” building or structure is situated,

except in accordance with a permit in writing issued for that purpose by the Government acting after consultation with the Board.

## **Offences.**

50. (1) A person who contravenes any provision of any of sections 23(1), 24(1), 27, 31(1), 33, 39 or 49 or who contravenes any order made under section 32 is guilty of an offence against this Act, and is liable on summary conviction to imprisonment for a term of 3 months or to a fine at level 3 on the standard scale.

(2) Any information for an alleged offence against this Act may be sworn by any trustee.

(3) In any proceedings for an alleged offence against this Act, any trustee or the Curator may appear and conduct the proceedings on behalf of the informant.

## **Regulations by the Government.**

51. The Government may from time to time make regulations for all or any of the following purposes—

- (a) prescribing the procedure to be followed on any application under this Act, the forms to be used in such applications, and fees that shall be payable to the Trust on making such applications;
- (b) prescribing fees in respect of any matters under this Act;
- (c) regulating conduct in the Museum and providing that a contravention of any such regulation shall constitute a criminal offence, and providing for a penalty not exceeding £100 in respect of any such offence;
- (d) providing for such other matters as are reasonably necessary for or incidental to the due administration of this Act.

## **Transfer of assets and liabilities.**

52. All assets and liabilities of the Gibraltar Heritage Trust established under the Gibraltar Heritage Trust Act 1987 and any funds of the Museum Committee established under the Gibraltar Museum and Antiquities Act, are hereby transferred to the Trust.

**Repeals.**

*Section 53 repeals the Gibraltar Heritage Trust Act, 1987 and the Gibraltar Museum and Antiquities Act.*

## SCHEDULE 1

Section 34

## LISTED BUILDINGS ETC., CATEGORY 'A'.

(Reference: Map Sheet Gibraltar 1:5,000 Series M984. Ancient Monuments which are the property of the Crown in right of its Government in Gibraltar. An annotated reference copy of the map is held by Curator, Gibraltar Museum).

<i>Description</i>	<i>Location</i>	<i>Grid Reference</i>
1. THE LINE OF FORTIFICATIONS FACING NORTH AND WEST AND COVERING GIBRALTAR BAY AND HARBOUR, COMPRISING—		
Hesse's Demi Bastion	North corner of Moorish Castle	8860 0281
Landport Gate	North East corner Grand Casemates Square	8855 0282
Grand Battery	North East Side	884028
	Grand Casemates	885028
North Bastion	Bounded by Smith Dorrien Avenue and Corral Road	884029
Casemates Curtain including Casemates Gates Waterport	Western entrance to Grand Casemates Square	8841 0284
Montagu Bastion	Bounded by Line Wall Road and Fish Market Road	883027
Chatham Counterguard including Chatham Wicket	East side Queensway from Waterport Fountain to American War Memorial	88290286
West Place of Arms	Corral Road	88450297
Old Mole Head	North West of Devil's Tongue Battery	88160302
Devil's Tongue Battery	South side Old Mole, Waterport Wharf	882029

Montagu Curtain including Boyd's Gate	East of Fish Market Road	88300272
Orange Bastion	West of Line Wall Road	88270265
Prince Albert's Front, including Main Sally Ports and Zoca Flank	West of Line Wall Road from American War Memorial to Zoca	882025– 882024
Line Wall Road to King's Bastion	Line Wall Road	88230240– 88230231
King's Bastion including one 12.5–38 ton Gun and four 10in–18 ton Guns	Electricity Generating Station between Queensway and Line Wall Road	881022
Wellington Front	East of RN Hockey Ground	882021– 882020
Line Wall Curtain to Wellington Front	West of Line Wall Road and Convent	882019– 882018
Line Wall Curtain to South Bastion	West of Line Wall Road and John Mackintosh Hall	88290181– 88320173
South Bastion	West of Southport Gate	883016
Ragged Staff Gates	By Dockyard North Gate	88310156
Ragged Staff Flank	East of Gates	883015
Curtain to North Jumpers Bastion	West of Rosia Road	883014– 883013
North Jumpers Bastion	– “ –	883012
Curtain to South Jumpers Bastion	– “ –	884011– 84010
South Jumpers Bastion	– “ –	884009
Curtain Walls to Alexandra Battery	West of Rosia Road	88450095–
	New Mole Parade and West from Dockyard South Gate	88120058
Defensive Walls of Prince William and Engineer Battery	South end of South Mole –”–	881005– 882004 883601
100 ton gun to include the two loading rammer chambers	Napier of Magdalla Battery North side of Rosia Bay	882003

## 2. DEFENCES COVERING EUROPA COMPRISING–

Machicouli Gallery	Above Camp Bay	88500001
Defensive wall from Parsons Lodge to Buena Vista Barracks	West Side of Buena Vista Parade Ground	886998
Buena Vista Battery	West side of Buena Vista	88619980

Stone tower with spiral staircase	Parade Ground Behind (East) 2 <sup>nd</sup> Europa Pass Battery	88789968
Prince George's Battery	Top of cliff on South side of Little Bay	88659939
Defensive wall along whole Europa cliff edge	From Prince George's Battery round Europa Point to car chute at Europa Battery	861991
Derrick Crane		88809893
2 <sup>nd</sup> and 3 <sup>rd</sup> Europa Advance Batteries	East of Europa Advance Road	893998
1 <sup>st</sup> Europa Advance Battery	East of Europa Advance Road	893997

### 3. LOWER CHARLES V WALL FROM SOUTH BASTION RUNNING EAST AND INCLUDING--

Southport Gates, including 10in. RML 18 ton gun	Bottom of Trafalgar Hill	88400169
Prince Edward's Gate and two guardhouses	Prince Edward's Road	88490169
St. Jago's Bastion	Above and East of Trafalgar Cemetery	885016
Flat Bastion Magazine	Above Gardiners Road	88560168
Flat Bastion	Below Green Lane	88640165

### 4. MOORISH WALL INCLUDING--

Old Guard House	From above Green Lane to Signal Hill	88660164-- 89010155
Signal Station	North of Wall Signal Hill	88890164 89040155

### 5. UPPER CHARLES V WALL INCLUDING--

Queens Gate and Healy's mortar	Old Queen's Road	88760136
Middle Gate	Middle Road	88910135
St. Michael's Gate	St. Michael's Road	89030134
Prince Ferdinand's Battery	Apes Den	887013

### 6. NORTH FRONT DEFENCES--

King Lines including	North West face of Rock	88650282-- 88750291
Couvreport Battery		88580286

Bombproof Battery		88660280
King Lines Battery		
Hanover Battery		
Underground systems		88630277
comprising:–		
Bombproof Gallery		
Hanover Gallery		
King’s Gallery		
Star Chamber		
St. Patrick’s Chamber		
Common’s Hall		
Orillon		
Queen’s Lines, including:–	North East of Kings Lines	88780292–
	overlooking Laguna	88940302
	Estate	
Lower Forbes Battery		88940302
Underground systems		
comprising:–		
Smart’s Well Reserve		
Queen’s Gallery		
Queen’s Line Gallery		
Queen’s Advance Gallery		
Raleigh Gallery		
Princess Lines including:	Above King’s & Queen’s	88640275–
	Lines	88980302
Lower Union		8864027–
Communication		8800283
Bomb Proof Magazine		88870292
Bombproof Barracks		88900295
Upper Forbes Battery		
Forbes Lookout		88980299
Upper All’s Well		89000298
Underground systems		
comprising:–		
Castle Communication		88620275
Princess Gallery	North Part of Rock,	
	overlooking Eastern	
	Beach	
Ramp to Star Chamber		
Upper Galleries		89130280
Middle Galleries		
Lower Galleries		

## 7. UPPER ROCK BATTERIES COMPRISING–

Princess Caroline's Battery with 64 pr RML gun	North end of Queen's Road	88860274
Princess Amelia's Battery including four 5.25 in. Heavy anti-aircraft guns	– “ –	88960286
Princess Royal Battery		89040292
Farringdon's Battery	North of Rock, above Princess Batteries	89050284
Upper Gallery entrance and bastion including 64 pr gun	Top of Upper Galleries Road	89130281
Green Lodge (or Superior) Battery	North Upper Rock	89260279
Lord Airey's Battery	O'Hara's Road	89230055
O'Hara's Battery including the complete 9.2 in gun magazines engine room and associated works and spare barrel	O'Hara's Point Upper Rock	89250044
Series of rings along O'Hara's road for hauling guns	O'Hara's Road	891006– 891008
8. MOORISH CASTLE COMPLEX INCLUDING–		
The Tower of Homage	North east of Town	88690268
The Inner Keep and Blind Arches		
The Outer Walls, Towers and Gate House		88590261
9. QUEENS ROAD BATTERIES–		
Rooke Battery	Royal Anglian Way Off Willis' Road	88840099
Hayne's Cave Battery and 4 in. Shoulder Shield QF gun	– “ –	88840121
Willis' magazine	Off Willis' Road	88800253
Devil's Gap Battery including two 6in BL guns	Below Old Queen's	88630192
9A. DEFENSIBLE BARRACKS–		
Devils Bellow	Gateway from Windmill	88969988

Hole in the Wall Gate	Hill Road South end of Hole in the Wall Road leading from Windmill Hill to Europa Advance Road	89189978
Hole in the Wall Battery	East of the Hole in the Wall	89219976

## 10. UPPER ROCK MONUMENTS AND ANTIQUITIES–

Advance Look out Post– Moorish with stone conical roof	North of Mount Misery	89090115
Old Lime Kiln	East of Willis' Road	88830262
Mrs Chetwynds Chair	Rock cut seat near Governor's Lodge	89190018
Mediterranean Road Jews Cemetery	South East of junction Queen's Road/Engineer Road	890000

## 11. CAVES OF ARCHAEOLOGICAL INTEREST–

Upper St Michael's Cave System	Entrance off St. Michaels Road	890007
Remains of Forbes Quarry Cave (site of first Neanderthal skull find)	Off Devil's Tower Road	89040302
Devils Tower Cave– Mousterian Shelter (skull of Neanderthal child found)	Off junction Devils' Tower Road/Eastern Beach Road	89410278
Devil's Fall Cave– Prehistoric Shelter	In cliff face between Camp Bay and Little Bay	88619976
St. Michael's Cave, Lower Series	Entrance tunnel below Spur Battery Road	890006
New St. Michael's Cave	“_“	890006
Martin's Cave, Palaeolithic occupation site. Also Neolithic and Medieval site	Off Mediterranean Steps	89370036
Gorham's Cave, Palaeolithic occupation site. Also Neolithic and Phoenician / Carthaginian site	Governor's Beach	89320003
Judge's Cave – Neolithic Shelter	Glen Rocky North Gorge	88759983



Genista Cave Stone – Late Neolithic dwelling site	Site marked by stone tablet outside Eastern entrance to QM Block at Lathbury Barracks	88969975
Goat's Hair Twin Caves, Palaeolithic occupation site. Also Neolithic site	Off Mediterranean Steps	89320031
Vanguard Cave, Palaeolithic occupation site	Governor's Beach	89330001
Hyaena Cave, Palaeontological site	Governor's Beach	8933900017
Bennett's Cave, Palaeolithic site.	Governor's Beach	89310001
Ibex Cave, Palaeolithic site	East side sand dune	88950016
Sewell's Cave, Palaeolithic site	East cliffs	88980011
Mammoth Cave, Neolithic site	East cliffs	89080014
Collin's Cave, Neolithic site	East cliffs	89330086
Holyboys' Cave, Archaeological site	East cliffs	88970011
Fig Tree Cave No.2, Archaeological site	Off Mediterranean Steps	89360031

## 12. OTHER MONUMENTS AND ANTIQUITIES–

Shrine of Our Lady of Europa and Moorish paving	By St Christopher's School	88749906
Aqueduct: underground from Governor's Meadow Estate to John Mackintosh Square	To include 4th vent Tower on Rosia Road and Fountain on south side of Zoca Flank	88390136 88230241
Spanish Bronze Cannon	Waterport entrance	88340286
One 6prd Coast Defence on pivot mount	Stone Block, Gibraltar Regiment Barracks	000649975
One Koehler Depressing Gun	Grand Casemates Square	00410278
Trafalgar Cemetery	Trafalgar Hill	884016
2 Caronede 18 prd	City Mill Lane	88370233
1 Caronede 8 prd	Hargrave Square	88480175
1 Caronede 8 prd	George's Lane–Town Range	88440208
Cannon position including pivot of 32prd sliding traversing Carriage	Site of Hospital Battery Northern section	88580238
Court of Orange Trees with Spanish Coat of Arms	North East corner of Cathedral of St Mary the Crowned	883022

Spanish Fountain	Prince Albert's Front	88230241
Queen Victoria Memorial	Governor's Parade	00430217
Two 6 prd BL guns	Europa Point	88939886
Two Russian Crimean Cannons presented to Gibraltar	By Retrenchment Block	890998
Two Russian Crimean Cannons presented to Gibraltar	By Line Wall War Memorial	88230235– 88230233
Natural Spring and well	East Rosia Parade	88590031
Nuns' Well Europa	South of Keightley Way Tunnel entrance	88989907
One 6pr Coast Defence on pivot mount	Fortress Headquarters	88330035
Small Rock cut seat	Upper Rock, near top of Mediterranean Steps	89250055
Entrance to Victualling Yard	South Rosia Parade	88450014
Plaque on site of Devil's Tower	North Front	89470292

## 13. ALAMEDA GARDENS–

Two 10 in. 18 ton rifled muzzle loaders	Car Park, Grand Parade	88510148
Elliot's Monument including one 8in. and three 10 in. howitzer barrels		
Wellington Monument including a 1758 18 pr cannon and carriage and two 13 in. mortars and shot		88560116
Tomb of Bridget McFarlane	South of Glorietta, East of Wellingtons Monument	88590116

Ancient Monuments which  
are the property of the  
Crown in right of its  
Government in the United  
Kingdom.

IA. THE LINE OF FORTIFICATIONS FACING NORTH AND WEST  
AND COVERING GIBRALTAR BAY AND HARBOUR,  
COMPRISING–

Rosia Bay Defensive Wall and batteries including	East side of Rosia Bay	883002
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two 64pr rifled muzzle  
loading guns.

## SCHEDULE 2

Section 40

## LISTED BUILDINGS ETC., CATEGORY 'B'.

(Reference: Map Sheet Gibraltar  
1:5,000 Series M984

An annotated reference copy of  
the map is held by Curator,  
Gibraltar Museum).

<i>Description</i>	<i>Location</i>	<i>Grid Reference</i>
Church Doorways	St Jagos Barracks	884017
	Convent Stables	883019
The Convent	Main Street	883019
Court House	Main Street	88400197
Exchange Building, Gibraltar Parliament	John Mackintosh Square	88340234
Moorish Bath	Bomb House Lane	88260214
Garrison Library and Gardens	East of Governor's Parade	88460214
Cathedral Church of St Mary the Crowned	Main Street	8830022
Synagogue	Engineer Lane	88450246

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**SCHEDULE 3**

**CLASSES OF MEMBERSHIP.**

(1) The members of the Trust shall be divided into the following classes—

- (a) ordinary subscribing members;
- (b) life members;
- (c) benefactors;
- (d) corporate members;
- (e) junior members;
- (f) family members;
- (g) such other classes as the Board may from time to time by resolution determine.

(2) Ordinary subscribing members shall be annual subscribers to the funds of the Trust of such minimum annual subscription as may from time to time be fixed by a resolution of the Board.

(3) Life members shall be persons who have made to the funds of the Trust a subscription of not less than a minimum amount fixed by a resolution of the Board as at the time when the subscription was made.

(4) Benefactors shall be persons who have given to the Trust such sum of money or other property as, in the opinion of the Board, is such as to entitle such persons to be distinguished as benefactors.

(5) Corporate members shall be corporate or other bodies or associations who may have made annual subscriptions to the funds of the Trust of such minimum amount as the Board may by resolution from time to time fix, and different minimum annual subscriptions may from time to time be fixed for different classes of corporate members.

(6) Junior members shall be annual subscribers to the funds of the Trust as such minimum annual subscription and of such an age as the Board may from time to time by resolution fix.

(7) Family members shall be persons who are members of the family of an ordinary subscribing member who make to the funds of the Trust an

annual subscription of such minimum amount as the Board may from time to time by resolution fix.