

THE ANTIQUITIES ACT, 1968

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THE ANTIQUITIES ACT, 1968

ACT NO. XIV OF 1968

[12th December, 1968]

An Act to consolidate and amend the law relating to the preservation and protection of antiquities. *

WHEREAS it is expedient to consolidate and amend the law relating to the preservation and protection of antiquities;

AND WHEREAS the national interest of Bangladesh in relation to the achievement of uniformity within the meaning of clause (2) of Article 131 of the Constitution requires Central legislation in the matter;

It is hereby enacted as follows:-

1. (1) This Act may be called the Antiquities Act, 1968.

Short title,
extent and
commencement

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,-

Definitions

(a) "Advisory Committee" means the Advisory Committee constituted under section 3;

(b) "ancient" means belonging or relating to any period prior to ¹[the preceding hundred years];

(c) "antiquity" means-

² Throughout this Act, the words "Bangladesh", "Government" and "Taka" were substituted for the words "Pakistan", "Central Government" and "rupees" respectively by section 2 of the Antiquities (Amendment) Ordinance, 1976 (Ordinance No. LXXIII of 1976).

¹ The words "the preceding hundred years" were substituted for the word, comma and figure "May, 1857" by section 3 of the Antiquities (Amendment) Ordinance, 1976 (Ordinance No. LXXIII of 1976).

- (i) any ancient product of human activity, movable or immovable, illustrative of art, architecture, craft, custom, literature, morals, politics, religion, warfare, science or of any aspect of civilisation or culture,
 - (ii) any ancient object or site of historical, ethnographical, anthropological, military or scientific interest, and
 - (iii) any other ancient object or class of such objects declared by the Government, by notification in the *official Gazette* to be an antiquity for the purposes of this Act;
- (d) “dealer” means a person engaged in the business of buying and selling antiquities; and “deal in antiquities” means to carry on such business;
- (e) “Director” means the Director of Archaeology, Government of ¹[the People’s Republic of Bangladesh], and includes an officer authorised by him to exercise or perform all or any of the powers or functions of the Director under this Act;
- (f) “export” means taking out of Bangladesh by land, sea or air;
- (g) “immovable antiquity” means an antiquity of any of the following descriptions, namely:-
- (i) any archaeological deposits on land or under water,
 - (ii) any archaeological mound, tumulus, burial place or place of interment, or any ancient garden, structure, building, erection or other work of historical, archaeological, military or scientific interest,
 - (iii) any rock, cave or other natural object of historical, archaeological, artistic or scientific interest or containing sculpture, engraving, inscription or painting of such interest,

¹ The words “the People’s Republic of Bangladesh” were substituted for the word “Pakistan” by section 2 of the Antiquities (Amendment) Ordinance, 1976 (Ordinance No. LXXIII of 1976).

and includes-

- (1) any gate, door, window, panelling dados, ceiling, inscription, wall-painting, wood work, iron work or sculpture or other thing which is attached or fastened to an immovable antiquity;
- (2) the remains of an immovable antiquity;
- (3) the site of an immovable antiquity;
- (4) such portions of land or water adjoining the site of an immovable antiquity as are reasonably required for fencing or covering or otherwise preserving such antiquity;
- (5) the reasonable means of access to, and convenient inspection of, an immovable antiquity; and
- (6) any urban site, street, group of buildings or public square of special value which the Government, being of the opinion that its preservation is a matter of public interest by reason of its arrangement, architecture or materials of construction, by notification in the *official Gazette*, declares to be an immovable antiquity for the purposes of this Act;

(h) "owner" includes-

- (i) any person legally competent to act on behalf of the owner when by reason of infancy or other disability the owner is unable to act;
- (ii) a joint owner invested with powers of management on behalf of himself and other joint owners and the successor-in-interest of such owner, and
- (iii) any manager or trustee exercising the powers of management and the successor-in-office of such manager or trustee;

(i) "protected antiquity" means an antiquity which is declared under section 10 to be a protected antiquity.

3. For the purposes of this Act, the Government shall constitute an Advisory Committee consisting of the following members, namely:-

Advisory
Committee

- (a) the Director, who shall also be its Chairman;

(b) two Members of ¹[Parliament]; and

(c) three other persons having special knowledge of antiquities.

Dispute as to whether any product, etc., is an antiquity

4. If any question arises whether any product, object or site is an antiquity within the meaning of this Act, it shall be referred to the Government which shall, after consultation with the Advisory Committee, decide the same; and the decision of the Government shall be final.

Custody, preservation, etc., of ownerless antiquity

5. Where the Director receives any information or otherwise has the knowledge of the discovery or existence of an antiquity of which there is no owner, he shall, after satisfying himself as to the correctness of the information or knowledge, take such steps as he may consider necessary for the custody, preservation and protection of the antiquity.

Power of entry, inspection, etc.

6. (1) The Director may, after giving reasonable notice, enter into, inspect and examine any premises, place or area which are the sub-soil of which he may have reason to believe to be or to contain an antiquity and may cause any site, building, object, or any antiquity or remains of any antiquity in such premises, place or area to be photographed, copied or reproduced by any process suitable for the purpose.

(2) The owner or occupier of the premises, place or area shall afford all reasonable opportunity and assistance to the Director for the purposes of sub-section (1).

(3) No photograph, copy or reproduction taken or made under or for the purposes of sub-section (1) shall be sold or offered for sale except by or with the consent of the owner of the object of which the photograph, copy or reproduction has been taken or made.

(4) Where substantial damage is caused to any property as a result of the inspection under sub-section (1), the Director shall pay to the owner thereof reasonable compensation for the damage.

¹ The word "Parliament" was substituted for the words "the National Assembly of Pakistan, one being from each Province" by section 4 of the Antiquities (Amendment) Ordinance, 1976 (Ordinance No. LXXIII of 1976).

7. If the Government has reasonable grounds to believe that any land contains any antiquity, it may ¹[acquire such land or any part thereof] under the Land Acquisition Act, 1894 (I of 1894), as for a public purpose.

Acquisition of land containing antiquities

8. (1) The Director may, with the previous sanction of the Government, purchase, or take lease or accept a gift or bequest of, any antiquity.

Purchase, taking lease, etc., of antiquity

(2) The Director may receive voluntary contributions and donations for the acquisition, preservation or restoration of antiquities and may make suitable arrangements for the management and application of the fund created by such contributions and donations:

Provided that when a contribution or donation has been made for any specified purpose, it shall not be applied to any purpose other than that for which it has been made.

9. (1) Where the Director receives any information or otherwise has the knowledge that any antiquity or any immovable property containing an antiquity is offered for sale or is about to be sold, he may, with the approval of the Government, exercise the right of pre-emption with respect to such antiquity or property and, if he intends to exercise the right, shall give to the person competent to sell a notice in writing accordingly.

Right of pre-emption in case of a sale of antiquity

(2) If the Director does not exercise with respect to any antiquity or property the right of pre-emption within a period of three months from the date of notice given under sub-section (1), the antiquity or property may be sold to any person after the expiry of the said period and a notice of such sale shall be given to the Director.

(3) Save as provided in sub-section (2), no antiquity or property in respect of which a notice under sub-section (1) has been given shall be sold to any person.

¹ The words "acquire such land or any part thereof" were substituted for the words "direct the Provincial Government to acquire such land or any part thereof and the Provincial Government shall thereupon acquire such land or part" by section 5 of the Antiquities (Amendment) Ordinance, 1976 (Ordinance No. LXXIII of 1976).

(4) All sales in contravention of sub-section (3) shall be void and the antiquity or property so sold shall be forfeited to the Government.

Declaration of protected antiquities

10. (1) The Government may, by notification in the *official Gazette*, declare any antiquity to be a protected antiquity for the purposes of this Act.

(2) A copy of a notification under sub-section (1) shall be served on the owner of the antiquity, and, in the case of an immovable antiquity, shall also be fixed up in a conspicuous place of or near the antiquity.

(3) A notification under sub-section (1) shall, unless it is cancelled by the Government, be conclusive evidence of the fact that the antiquity to which it relates is a protected antiquity for the purposes of this Act.

(4) Ancient monuments declared to be protected monuments under the Ancient Monuments Preservation Act, 1904 (VII of 1904), shall be deemed to be protected antiquities for the purposes of this Act.

Representation against declaration of protected antiquities

11. (1) The owner of an antiquity to which a notification under section 10 relates, or any person having any right or interest in the antiquity, may, within three months of the service of a copy of the notification, make a representation in writing to the Government against the notification.

(2) Upon the receipt of a representation under sub-section (1) against a notification, the Government, after giving the person making it an opportunity of being heard and after consultation with the Advisory Committee, may, if it is satisfied that there are good and sufficient reasons for objection to the notification, cancel it.

The guardianship of antiquity by agreement

12. (1) The owner of any immovable antiquity or of any protected antiquity may, by an agreement in writing, constitute the Director the guardian of such antiquity and the Director may, with the previous sanction of the Government, accept such guardianship.

(2) Where the Director has accepted the guardianship of an antiquity in pursuance of an agreement under sub-section (1), the owner shall, except as expressly provided in this Act and in the agreement, have the same right, title and interest in and to the antiquity as if the Director had not been constituted the guardian thereof.

(3) An agreement under this section in relation to an antiquity may provide for all or any of the following matters, namely:-

- (a) the maintenance of the antiquity;
- (b) the custody of the antiquity and the duties of any person who may be employed to watch it;
- (c) the restrictions upon the right of the owner to alienate, destroy, remove, alter or deface the antiquity or to build on or near the site of the antiquity;
- (d) the facilities of access to be allowed to the public;
- (e) the facilities to be allowed to persons deputed by the owner or the Director for inspection and maintenance of the antiquity;
- (f) the expenses to be incurred in connection with the preservation of the antiquity and payment of such expenses if incurred by the owner;
- (g) compensation to be paid for any loss sustained by the owner or occupier or any other person as a result of the enforcement or observance of the agreement; and
- (h) any other matter connected with the custody, management and preservation of the antiquity.

(4) The terms of an agreement under this section may be altered from time to time with the sanction of the Government and with the consent of the owner.

(5) An agreement under this section in relation to an antiquity may be terminated upon six months' notice in writing given by the Director, with the previous sanction of the Government, to the owner or by the owner to the Director.

Purchasers at certain sales and persons claiming through owner bound by agreement entered into by owner

13. Notwithstanding anything contained in any other law for the time being in force, every person who, at a sale for the recovery of arrears of land-revenue or any other public demand, purchases any land or property, or any right or interest in land or property, which contains, or in which is situated an antiquity in respect of which an agreement under section 12 subsists, and every person claiming any title to any antiquity from, through or under an owner who entered into such agreement, shall be bound by such agreement.

Custody, etc., of antiquity of which owner not traceable

14. Where the owner of an antiquity is not traceable, the Director may, with the approval of the Government and until such time as the owner is traced, take necessary measures for the custody, preservation and protection of the antiquity.

Application of endowment for maintenance and preservation of antiquity

15. (1) Where any endowment has been created for the maintenance and preservation of any protected antiquity, or for that purpose among others, and the owner or other person competent in this behalf fails in the proper application of such endowment and, when proposed to him by the Director, refuses or fails to enter into an agreement under section 12, the Director may, for the proper application of such endowment or part thereof, institute a suit in the Court of the District Judge, or, where the estimated cost of maintaining and preserving the antiquity does not exceed one thousand Taka, make an application to the District Judge.

(2) On the hearing of an application under sub-section (1), the District Judge may summon and examine the owner and any person whose evidence appears to him necessary, and may pass an order for the proper application of the endowment or of any part thereof, and any such order may be executed as if it were the decree of a Civil Court.

Compulsory acquisition of protected immovable antiquity

16. (1) If the Government apprehends that a protected immovable antiquity is in danger of being destroyed, injured or allowed to fall into decay, it may, after consultation with the Advisory Committee, ¹[acquire such antiquity or any part thereof] under the Land Acquisition Act, 1894 (I of 1894), as for a public purpose.

¹ The words "acquire such antiquity or any part thereof" were substituted for the words "direct the Provincial Government to acquire such antiquity or any part thereof and the Provincial Government shall thereupon acquire such antiquity or part" by section 6 of the Antiquities (Amendment) Ordinance, 1976 (Ordinance No. LXXIII of 1976).

(2) The power of compulsory acquisition under sub-section (1) shall not be exercised in the case of -

- (a) any antiquity which or any part of which is periodically used for religious observances; or
- (b) any antiquity which is the subject of a subsisting agreement under section 12; or
- (c) any other antiquity unless the owner or other person competent in this behalf has, when proposed to him by the Director, failed to enter into an agreement under section 12 within such period, not being less than six months, as the Director may fix.

17. (1) A place of worship or shrine, being an antiquity maintained by the Government, shall not be used for any purpose inconsistent with its character.

Protection of place of worship from misuse, etc.

(2) A place of worship or shrine in respect of which the Director has accepted guardianship in pursuance of an agreement under section 12 shall, unless the agreement otherwise provides, be maintained by the person or body in whom it is vested or, if there is no such person or body, by the Government.

(3) Where any antiquity in respect of which the Government has acquired any right under this Act or the Director has accepted guardianship is periodically used for religious worship or observances by any community, the Director shall provide for the protection of such antiquity from pollution or desecration-

- (a) by prohibiting the entry therein, except in accordance with the conditions prescribed with the concurrence of the person in charge of the antiquity, of any person not entitled so to enter by the religious usages of the community by which the antiquity is used; and
- (b) by taking with the concurrence of the person in charge of the antiquity such other action as he may think necessary for the purpose.

(4) Whoever contravenes the provisions of sub-section (3) shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

Restriction on use of protected immovable antiquity

18. A protected immovable antiquity in respect of which the Director has accepted guardianship in pursuance of an agreement under section 12 or the Government has acquired any right under this Act, shall not, except as otherwise provided in such agreement or in this Act, be used for any purpose other than that directly related to its administration or preservation.

Prohibition of destruction, damage, etc., of antiquities

19. (1) Subject to the provisions of this Act or of any agreement under section 12, no person shall, except for carrying out the purposes of this Act, destroy, break, damage, alter, injure, deface or mutilate, or scribble, write or engrave any inscription or sign on, any antiquity in respect of which the Director has accepted guardianship or the Government has acquired any right.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) The Court trying an offence under sub-section (2) may direct that the whole or any part of the fine recovered shall be applied in defraying the expenses of restoring the antiquity to the condition in which it was before the commission of the offence.

Penalty for counterfeiting, etc., of antiquity

20. (1) Whoever counterfeits, or commits forgery in respect of, any antiquity with intent to commit fraud or knowing it to be likely that fraud will thereby be committed, or causes anything to appear like, or to be believed to be, an antiquity with intent to cause wrongful gain to one person or wrongful loss to another person, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) The Court trying an offence under sub-section (1) may direct that anything the making or forging of which has constituted such offence shall be forfeited to the Government.

Dealing in antiquities

21. (1) No person shall deal in antiquities except under and in accordance with a licence granted by the Director.

(2) Every dealer shall maintain a register in such manner and form as the Director may prescribe from time to time.

(3) A licence granted under sub-section (1) may be cancelled by the Director for the breach of any condition of the licence.

(4) The Director may, with a view to securing compliance with the provisions of this section,-

- (a) require any person dealing in antiquities to give such information in his possession with respect to any business carried on by him as the Director may demand;
- (b) inspect or cause to be inspected any book, register or other document belonging to or under the control of any person dealing in antiquities; and
- (c) enter and search, or authorise any officer subordinate to him to enter and search, any premises and seize, or authorise any such officer, to seize, any antiquity in respect of which he has reason to believe that a breach of any condition of the licence has been committed.

¹[(5) Whoever contravenes the provisions of this section shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

(6) The Court trying an offence under sub-section (5) may direct that any antiquities in respect of which the offence has been committed shall be forfeited to the Government.]

22. (1) No person shall export any antiquity except under a licence to be granted by the Director-

Export of
antiquities

- (a) for the temporary export of antiquities for the purpose of exhibition, examination or treatment for preservation; or
- (b) in accordance with agreement with foreign licensees for archaeological exploration and excavations within the term of their licences; or
- (c) for the export of antiquities which are not of a unique nature in exchange for antiquities of any foreign country.

¹ Sub-sections (5) and (6) were added by section 7 of the Antiquities (Amendment) Ordinance, 1976 (Ordinance No. LXXIII of 1976).

(2) All antiquities the export of which is prohibited under sub-section (1) shall be deemed to be goods of which the export has been prohibited under ¹[section 16 of the Customs Act, 1969 (IV of 1969)], and all the provisions of that Act shall have effect accordingly, except that the antiquity in respect of which the provisions of that Act have been contravened shall be confiscated where confiscation is authorised under that Act.

Prohibition of movement of antiquity

23. (1) No person shall transport an antiquity from one place in Bangladesh to another with the object of exporting it in contravention of section 22.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

(3) The Court trying an offence under sub-section (2) may direct that any antiquity in respect of which the offence has been committed shall be forfeited to the Government.

Regulation of mining and quarrying

24. (1) If the Government is of the opinion that for the purpose of protecting or preserving any immovable antiquity it is necessary so to do, it may, by notification in the *official Gazette*, prohibit or restrict, within such area as may be specified therein, mining, quarrying, excavating, blasting and other operations of a like nature, or the movement of heavy vehicles, except under and in accordance with the terms of a licence granted and rules, if any, made in this behalf.

(2) Any owner or occupier of land who sustains any loss by reason of any prohibition or restriction by a notification under sub-section (1) shall be paid reasonable compensation for such loss.

(3) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

¹ The words, figures, comma and brackets “section 16 of the Customs Act, 1969 (IV of 1969)” were substituted for the words, figures, comma and brackets “section 19 of the Sea Customs Act, 1878 (VIII of 1878)” by section 8 of the Antiquities (Amendment) Ordinance, 1976 (Ordinance No. LXXIII of 1976).

25. (1) No person shall make on any land any excavation for archaeological purposes except under and in accordance with a licence granted by the Director.

Prohibition of archaeological excavation without licence

(2) A licence under sub-section (1) in respect of any land shall not be granted to any person other than the owner of the land except in accordance with the terms of an agreement with the owner, and any such agreement may provide for -

- (a) the restriction of the owner's rights in respect of the use and occupation of such land;
- (b) the compensation or any other consideration to be paid to the owner; and
- (c) any other matter connected with the use of the land for the purpose of such excavation.

(3) A licence under sub-section (1) shall not be refused to an owner if he undertakes to carry on the excavation in such manner that it will not result in the loss of archaeological or historical material which in the national interest should be preserved.

(4) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(5) The Court trying an offence under sub-section (4) may direct that any object found in the course of an excavation constituting such offence shall be forfeited to the Government.

26. No person shall, for any commercial purpose, make a cinematograph film of any protected antiquity or any part thereof except under and in accordance with a licence granted by the Director.

Prohibition of making copies of protected antiquities without licence

27. Subject to the provisions of this Act and the rules made thereunder, the public shall have a right of access to any immovable protected antiquity maintained by the Government under this Act.

Right of access to protected immovable antiquities

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Jurisdiction to try offences

28. No Court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made by an officer generally or specially empowered in this behalf by the Government and no Court inferior to that of a Sessions Judge shall try any such offence.

Confiscated antiquities to be made over to Director

29. Any antiquity which is confiscated or forfeited under this Act shall be made over to the Director for custody, preservation and protection.

Indemnity

30. No suit, prosecution or other legal proceeding shall lie against the Government or any person for anything which is in good faith done or intended to be done under this Act.

Power to make rules

31. (1) The Government may, after previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

- (a) the form and the conditions of any licence granted under this Act;
- (b) regulation of admission of public to any immovable protected antiquity;
- (c) the levy of fees for the grant of any licence under this Act and for admission of the public to an immovable protected antiquity; and
- (d) such other matters as are or may be required for carrying into effect the provisions of this Act.

(3) The rules made under this section may provide that the contravention of any of the provisions thereof or of any condition of a licence granted under this Act shall be punishable with fine which may extend to five hundred Taka.

32. [*Repeal.- Omitted by section 9 of the Antiquities (Amendment) Ordinance, 1976 (Ordinance No. LXXIII of 1976).*]
