

Burma . letter du/10-5-60

✓ THE ANTIQUITIES ACT 1957.

-----"

CONTENTS.

SECTION.

1. Short title and commencement.
2. Interpretation.

Antiquities.

3. Power of President to control movement of antiquities.
4. Protection of antiquities.
5. Acquisition of antiquities.
6. Compulsory purchase of antiquities.
7. Prohibition of export of antiquities.

Excavation.

8. Restrictions on excavation.
9. Power to acquire land.
10. Discovery of objects of archaeological interest.

Scheduled Monuments.

11. Scheduled Monuments.
12. Acquisition of rights in or guardianship of scheduled monuments.
13. Preservation of scheduled monument by agreement.
14. Enforcement of agreement.
15. Maintenance of scheduled monuments.
16. Voluntary contributions.
17. Protection of place of worship from misuse, pollution or desecration.
18. Relinquishment of Government rights in scheduled monuments.
19. Right of access to scheduled monuments.

- 2 -

20. Prohibition of building new structures near scheduled monuments.
21. Power of President to control mining etc., near scheduled monuments.
22. Power of President to control flying near scheduled monuments.
23. Penalties.

GENERAL.

24. ~~#~~Assessment of market value or compensation.
25. Power to make rules.
26. Obstruction to persons exercising powers.
27. Protection to public servants acting under ~~#~~ this Act.

5

THE ANTIQUITIES ACT, 1957.

-----"-----

It is hereby enacted as follows:-

Short title and commencement.

1. (a) This Act shall be called the Antiquities Act, 1957, and shall come into operation on a date to be fixed by the President by notice in the Gazette.
- (b) With effect from the date of notification of this Act under section 1.(a), the Ancient Monument Preservation Act 1904 is hereby repealed.

Interpretation.

2. In this Act unless the context otherwise requires:-
 - (i) "antiquity" means any object of archaeological interest and includes any land on or in which any such objects exists or is believed to exist.

(1i) "object of archaeological interest" means and includes:-

- (a) any fossil remains of man or of animal;
- (b) any site, trace or ruin of ^{an} ancient den, habitation or working place, midden or sacred place;
- (c) any cave or other natural shelter;
- (d) any ancient structure, erection, causeway, bridge, cairn, shrine, grave, tumulus, place of interment, excavation, well, water tank, artificial pool, monolith, group of stones, earth work, gateway moat or

fortification and any remains of such:
(e) any object or implement believed to have been used by early man or animal;
(f) any engraving, drawing, painting or inscription which is of ethnological or historical interest;
(g) any sculpture, carving, coin, amulet, epigraph, manuscript or any other article, object or thing of metal, stone, clay, wood, textile, leather, basket-ware or other material, which is illustrative of life in former times;
(h) any other article, object or thing declared by the President by notification in the Gazette to be an antiquity for the purpose of this Act.

~~(iii)~~
(iii)

"scheduled monument" means any antiquity declared to be such under section 11.

(iv) "maintain" and maintenance" include the fencing, covering in, repairing, restoring or cleansing of a scheduled monument and the doing of any Act which may be necessary for the purpose of maintaining a scheduled monument or of securing convenient access thereto.

(v) "owner" includes a joint owner invested with powers of management on behalf of himself and other joint owners, and any manager or trustee exercising powers of management over an antiquity, and the successor in title of any such owner and the successor in office of any such manager or trustee:

Provided that nothing in this Act shall be deemed to extend the powers which may lawfully be exercised by such manager or trustee.

6

(vi) "prescribed" means prescribed by rules made under this Act.

(vii) "The President" means the President of the Union of Burma.

(viii) "The Director" means the Director of the Burma Archaeological Survey.

ANTIQUITIES.

Power of President to control movement of antiquities.

3. (1)

If the President considers that any antiquity ought not to be moved from the place where it is without the sanction of the Government, the President may, by notification in the Gazette, direct that such antiquity or any class of such antiquities shall not be moved unless with the permission of such authority as may be prescribed. If such authority refuses to grant such permission, the applicant may appeal to the President.

(2)

A person applying for the permission mentioned in sub-section(1) shall specify the object or objects which he proposes to move, and shall furnish, in regard to such object or objects, any information which the Director may require.

- 3 -

- (3) Any person who moves any object in contravention of a notification issued under sub-section (1) shall be punishable with imprisonment for a term not exceeding three months or with fine which may extend to kyat one thousand or with both.
- (4) If the owner of any property proves to the satisfaction to the President that he has suffered any loss or damage by reason of the inclusion of such property in a notification published under sub-section(1), the President shall either-
 - (a) exempt such property from the said notification;
 - (b) purchase such property at its market value; or
 - (c) pay compensation for any loss or damage sustained by the owner of such property.

Protection of
antiquities.

4. The Director may, if he considers that any antiquity is in need of protection or preservation and ought in the public interest to be protected or preserved.
 - (a) carry out measures, with the approval of the President, for the inspection and preservation of any antiquity including the removal, with the consent of the owner, of any antiquity for the purpose of repair and safe custody;
 - (b) assume guardianship of and maintain any antiquity, where such antiquity is without an owner.

8

Acquisition of
antiquities.

5. The President may -

- (a) accept any gift, loan, devise or bequest of any antiquity if he thinks it expedient to do so;
- (b) accept voluntary contributions towards the cost of the maintenance of any antiquity of which he is in possession or control, or towards the purchase of any antiquity, and may manage and apply funds so received.

Compulsory

6. (1) If the President apprehends that any antiquity is in danger of being destroyed, removed, injured or allowed to fall into decay, he may pass orders for the compulsory purchase of such antiquity at its market value, and the Director shall hereupon give notice to the owner of the antiquity to be purchased.

(2) The power of compulsory purchase given by this section shall not extend to -

- (a) any antiquity actually used for the purpose of any religious observance
- (b) anything which the owner desires to retain on any reasonable ground personal to himself or to any of his ancestors or to any member of his family.

- 4 -

Prohibition
of export of
antiquities.

7. (1) No person shall export an antiquity except under the authority of a permit issued in that behalf by ~~the~~ President.

(2) An application for a permit under this section shall be made in such manner as may be prescribed.

(3) Before issuing a permit under this section in respect of an antiquity the President may cause the antiquity to be inspected and to be sealed.

(4) If any question arises whether any article, object or thing is or is not an antiquity for the purposes of this section, it shall be referred to the Director, and his decision thereon shall be final.

(5) If any person exports or attempts to export an antiquity in contravention of sub-section (1), he shall, without prejudice to any other law for the time being in force, be punishable with imprisonment for a term not exceeding six months, or with fine which may extend to kyat five thousand, or with both.

(6) Any antiquity in respect of which an offence referred to in sub-section (5) has been committed shall be liable to confiscation.

(7) An officer of Customs, or an officer of Police of a grade not lower than sub-Inspector, duly empowered by the President in this behalf, may search any means of conveyance by land, water or air, any may open any baggage or package of goods, if he has reason to believe that goods in respect of which an offence has been committed under sub-section(5) are contained therein.

(8) A person who complains that the power of search mentioned in sub-section(7) has been vexatiously or improperly exercised may address his complaint to the President and the President shall pass such order and may award such compensation, if any, as appears to be just.

EXCAVATION.

Restrictions
on excavation.

8. (1) No person other than the Director or any person authorized by him, shall by means of excavation or similar operations search for any antiquity unless authorised by a permit issued by the President.

(2) With the permission of the President the Director may by himself or by any other person authorised by him-

- (a) carry out excavation for the purpose of discovering antiquities in any area,
- (b) enter upon any land where archaeological or other operations are being carried out and inspect the same.

(3) Where, in the exercise of the power conferred by sub-section(2), the rights of any person are infringed by the occupation or dis-

- 5 -

disturbance of the surface of any land, the Government shall pay to that person compensation for the infringement.

(4) The President shall, before issuing a permit under this section, satisfy himself that the applicant is competent by training and experience to carry out the operations for which the permit is required, and may, in his discretion, require to be satisfied that the applicant has the financial or other support of an Archaeological or Scientific Society or institution of good repute.

(5) The President may make rules-

- (a) regulating the conditions on which such permit may be granted, the form of such permit ~~may~~ and the taking of security from the person to whom the permit is issued;
- (b) prescribing the manner in which antiquities found by the holder of a permit shall be disposed of; and
- (c) generally to carry out the purposes of this section.

(6) A permit issued under this section-

(a) may at any time be revoked by the President without any reason being assigned;

(b) shall not of itself confer any right to enter upon any land without the consent of the person entitled to grant such consent.

(7) Notwithstanding the issue of a permit under this section, the person to whom the permit was issued and all persons engaged in any excavation or other operations to which the permit relates shall, if so required by ~~the~~ any person duly authorised in writing by the President suspend such operations until notified by the President that they may be resumed.

(8) Any person who contravenes the provisions of sub-section(1) or sub-section(7) of this section or fails to comply with any condition subject to which he has been granted a permit under this section shall be punishable with imprisonment for a term not exceeding six months or with fine which may extend to kyat five thousand or with both.

Provided that no prosecution under this section shall be instituted without the sanction of the Director.

Power to
acquire
land

9. If the President is of opinion that any land contains any antiquity of national interest, he may acquire ~~se~~ such land, or any part thereof, under the Land Acquisition Act, 1894, as for a public purpose.

Discovery of
objects of
Archaeological
interest.

10. (1) Any person who discovers an object of Archaeological interest in the course of operations permitted under the provisions of section 8 shall without undue delay give notice thereof to the President.

(2) Any person who discovers an object of Archaeological interest otherwise than in the course of operations mentioned in sub-section (1) of this section shall without undue delay give notice thereof together with particulars of the place and the circumstances of the discovery to such person as may be prescribed; and shall, if so required by any person duly authorised by the President, suspend any excavation or similar operations until notified by the President that they may be resumed.

(3) Any person who knowingly fails to comply with any of the foregoing provisions of this section shall be punishable with imprisonment for a term not exceeding six months, or with fine which may extend to kyats five thousand or with both.

Scheduled
Monuments.

SCHEDULED MONUMENTS.

11. (1) The Director may, if he considers that an antiquity is in need of protection or preservation and ought in the public interest to be protected or preserved, submit to the President an application to declare it as a scheduled monument within the meaning of this Act.

(2) On application being made by the Director, the President may, by notification in the Gazette, declare such antiquity to be a scheduled monument.

(3) A copy of every notification published under sub-section (2) shall be posted in a conspicuous place on or near the monument, together with an intimation that any objection to the issue of the notification received by the President within one month from the date when it is so posted will be taken into consideration.

(4) On the expiry of the said period of one month, the President, after considering the objections, if any, shall confirm or withdraw the notification.

(5) Notwithstanding the provisions of this section all monuments protected and maintained by the Director in accordance with the Ancient Monuments Preservation Act 1904, shall be deemed to have been notified as scheduled monuments under this section.

(6) A notification published under this section -

(a) may at any time be revoked by the President by notice in the Gazette; and

(b) shall, unless and until it is revoked, be conclusive evidence

- 7 -

of the fact that the monument to which it relates is a scheduled monument within the meaning of this Act.

Acquisition of right in or guardianship of a scheduled monument.

12. (1) The Director, with the sanction of the President, may purchase or take lease of any scheduled monument.

(2) The Director, with the like sanction, may accept a gift or bequest of any scheduled monument.

(3) The owner of any scheduled monument may, by written instrument, constitute the Director the guardian of the monument, and the Director may, with the sanction of the President, accept such guardianship.

(4) When the Director has accepted the guardianship of a monument under sub-section (3), the owner shall, except as expressly provided in this Act, have the same estate, right, title and interest in and to the monument as if the Director had not been constituted guardian thereof.

(5) When the Director has accepted the guardianship of a monument under sub-section (3), the provisions of this Act relating to agreements executed under section 13 shall apply to the written instrument executed under the said sub-section.

(6) Where a scheduled monument is without an owner, the Director may assume the guardianship of the monument.

Preservation of a scheduled monument by agreement. 13.

(1) The Director may, with the sanction of the President, propose to the owner to enter into an agreement with the Government for the preservation of any scheduled monument.

(2) The President may make rules for the terms and enforcement of any such agreement.

Enforcement of agreement. 14.

(1) If the Director apprehends that the owner or occupier of a scheduled monument intends to destroy, remove, alter, deface, or imperil the monument or to build on or near the site thereof in contravention of the terms of an agreement for its preservation under section 13, the Director may make an order prohibiting any such contravention of the agreement.

(2) If an owner or other person who is bound by an agreement for the preservation or maintenance of a scheduled monument under section 13 refuses to do any act which in the opinion of the Director is necessary to such preservation or maintenance, or neglects to do any such act within such reasonable time as may be fixed by the Director, the Director may authorize any person to do any such act, and the expense of doing any such act or such portion of the expense as the owner may be liable to pay under the agreement may be recovered from the owner as if it were an arrear of land-revenue.

- 8 -

(3) If any owner or other person competent to enter into an agreement under section 13 for the preservation of a scheduled monument, refuses or fails to enter into such an agreement the Director may take such action as prescribed in sub-section(2) for contravention of the terms of agreement.

(4) Any person aggrieved by an order made under this section may appeal to the President, who may cancel or modify it.

Maintenance
of scheduled
monuments.

15.

(1) The Director shall maintain every scheduled monument in respect of which the Government has acquired any right by acquisition, purchase, agreement, or otherwise.

(2) When the Director has accepted the guardianship of a scheduled monument under section 12, he shall for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself and by his agents, subordinates and workmen, for the purpose of inspecting the monument, and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

18

Voluntary contributions.

16. The Director may receive voluntary contributions towards the cost of maintaining a scheduled monument and he may give orders as to the management and application of any funds so received by him:

Provided that no contribution received under this section shall be applied to any purpose other than the purpose for which it was contributed.

Protection of place of worship from misuse, pollution or desecration.

17. (1) A place of worship or shrine maintained by the Government under this Act shall not be used for any purpose inconsistent with its character.

(2) Where the Director has, under section 12, purchased or taken a lease of any scheduled monument, or has accepted a gift or bequest, or the Director has, under the same section, accepted the guardship thereof, and such monument, or any part thereof, is periodically used for religious worship or observances by any community, the Director shall make due provision for the protection of such monument, or such part thereof, from pollution or desecration-

- (a) by prohibition the entry therein, except in accordance with conditions prescribed with the concurrence of the person in religious charge of the said monument or part thereof, of any person not entitled so to enter by the religious usages of the community by which the monument or part thereof is used, or
(b) by taken such other action as he may think necessary in this behalf.

Relinquishment of ~~rights~~ rights in scheduled monuments.

18. With the sanction of the President ~~may~~ the Director may -

Relinquishment
of rights in
scheduled monu-
ments.

18. With the sanction of the President
the Director may -

(a) where rights have been acquired
in respect of any scheduled ~~monument~~
monument under this Act by virtue
of any sale, lease, gift or will,
relinquish the rights so ac-
quired to the person who would for
the time being be the owner of
the monument if such rights had
not been acquired; or

(b) relinquish any guardianship of
a scheduled monument which he
has accepted under this Act.

Right of access
to scheduled
monuments.

19. (1) Subject to such rules as may be made
by the President, the public shall have a
right of access to any monument maintained
by the Government under this Act.

(2) Whoever commits a breach of any rule
made under sub-section (1) shall be punishable
with imprisonment for a term not exceeding
one month or with fine which may extend to
kyat three hundred or with both.

Prohibition of building new structures near scheduled monuments.

20. (1) The Director may prohibit the laying out or building of any new structure within or near the premises of any scheduled monument notwithstanding that it is the subject of an agreement under section 13 of this Act, and

(2) The Director may for reasons stated in writing declare that repairs to or maintenance of any scheduled monument by owners, or trustees may only be done with his approval.

(3) Whoever commits a breach of any lawful direction made by the Director under this section shall be punishable with imprisonment for a term not exceeding three months or with fine which may extend to kyat one thousand or with both.

Power of President to control mining etc, near scheduled monuments.

21. (1) If the President is of opinion that mining, quarrying, excavation, blasting or any other operation of a like nature should be restricted or regulated for the purpose of protecting or preserving any scheduled monument, the President may, by notification in the Gazette, make such rules as may be expedient in this behalf.

(2) Whoever commits a breach of any such rule shall be punishable with imprisonment for a term not exceeding three months or with fine which may extend to kyat one thousand or with both.

Power of President to control flying near scheduled monuments.

22. (1) If the President is of opinion that flying in the neighbourhood of any antiquity should be regulated or restricted in the interest of protecting it, he may by notification in the Gazette make such rules as may be expedient in this behalf.

penalties.

23.

(2) Any person committing a breach of any such rule shall be punishable with imprisonment for a term not exceeding three months or with fine which may extend to kyat one thousand or with both.

(1) Any person who wilfully destroys, removes, injures, alters, defaces, imperils or excavates any scheduled monument shall be punishable with imprisonment for a term not exceeding six months, or with fine which may extend to kyat five thousand or with both.

(2) Any person who without lawful authority destroys, defaces, alters, or removes any notice, mark or sign denoting any scheduled monument or any fence, covering or other thing erected or provided for the maintenance of a scheduled monument shall be punishable with imprisonment for a term not exceeding one month or with fine which may extend to kyat three hundred or with both.

UNESCO Cultural Heritage Laws Database
(Copyright and Disclaimer apply)

GENERAL.

Assessment of 24.
market-value
or compensation.

(1) The market-value of any property which Government is empowered to purchase at such value under this Act, and the compensation to be paid by Government in respect of anything done under this Act, ~~as~~ shall where any dispute arises in respect of such market-value or compensation, be ascertained so far as possible in the manner provided by the Land Acquisition Act 1894.

Provided that when making an inquiry under the said Land Acquisition Act, 1894, the Collector shall be assisted by two assessors, one of whom shall be nominated by the Director and the other shall be a competent person nominated by the owner or, in case the owner fails to nominate an assessor within such reasonable time as may be fixed by the Collector in this behalf, by the Collector;.

Power to make 25.
rules.

The President may make rules -

- (a) regulating the access of the public to monuments and museums maintained or partly maintained out of the public revenues of the Union of Burma, and fixing fees in respect thereof;
- (b) regulating, restricting or prohibiting the photographing, copying or reproduction of any such monument or of any exhibit in any such museum;
- (c) generally for carrying out any of the purposes of this Act.

Obstruction 26.
to persons
exercising
powers.

Any person who wilfully obstructs, hinders or delays any person in the exercise or performance of any powers or duties conferred or imposed by this Act shall be ~~punishable~~ punishable with imprisonment for a term not exceeding one month or with fine which may extend to kyat three hundred or with both.

Protection to 27.
public servants
acting under
Act.

No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act in good faith done, or intended to be done, in the exercise of any power conferred by this Act.