

CHAPTER 46

THE HISTORICAL MONUMENTS ACT.

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CHAPTER 46

THE HISTORICAL MONUMENTS ACT.

Commencement: 15 May, 1968.

An Act to provide for the preservation and protection of historical monuments and objects of archaeological, palaeontological, ethnographical and traditional interest and for other matters connected therewith.

Declaration of preserved and protected objects.

1. Interpretation.

In this Act, unless the context otherwise requires—

- (a) “advisory panel” means the advisory panel appointed under section 16;
- (b) “conservator of antiquities” includes any person appointed to maintain and inspect a preserved or protected object;
- (c) “discover” means to reveal or obtain scientific knowledge in relation to any object of archaeological, palaeontological, ethnographical, historical or traditional interest;
- (d) “district commissioner” includes an administrative or assistant administrative officer;
- (e) “excavate” includes to dig, probe, search or investigate any object of archaeological, palaeontological, ethnographical, historical or traditional interest;
- (f) “historical monument” means any object, site, place, building or erection having connections with historical events;
- (g) “Minister” means the Minister to whom functions under this Act are assigned;
- (h) “museum” means the National Museum of Uganda;
- (i) “object” when used in relation to—
 - (i) an object of archaeological, palaeontological, ethnographical or historical interest includes any site, place, structure, erection of building, memorial, tumulus, cairn, pit dwelling, trench, fortification, irrigation work, cave, rock sculpture, inscription, monolith, fossil remains of man or animal or plant or any object which is of historical interest, or any part of such object;

- (ii) an object of traditional interest means any object made, erected or built, or formed in a traditional or localised fashion by human agency, other than an object intended for sale;
- (j) “owner” includes an occupier;
- (k) “prescribed” means prescribed by regulations made under this Act; (l) “preserved object” means any object declared to be a preserved object under section 2; (m) “protected object” means any object declared to be a protected object under section 3.

2. Declaration of preserved objects.

(1) The Minister may, by statutory instrument, declare any object of archaeological, palaeontological, ethnographical, traditional or historical interest to be a preserved object for the purposes of this Act.

(2) The Minister may, for the purposes of preservation of any object declared under this Act, request the Minister responsible for land matters to acquire, pursuant to the Land Acquisition Act, any land which appears to the Minister to be required for the purposes of preserving or affording access to the object.

(3) Any object and any land acquired as the result of a request made under subsection (2) shall vest in the Uganda Land Commission.

3. Declaration of protected objects.

(1) For the purposes of this Act, the Minister may, by statutory instrument, declare any object of archaeological, palaeontological, ethnographical, traditional or historical interest to be a protected object.

(2) Subject to this Act, a declaration by the Minister under subsection (1) shall not affect the estate, right, title or interest in such object of the owner or any person beneficially entitled to it.

4. Protection of objects by agreement.

(1) When the Minister has declared any object to be a protected object under section 3(1), he or she may enter into a written agreement with

the owner or any person beneficially entitled to the object for the protection of the object.

(2) An agreement entered into under subsection (1) may provide for all or any of the following matters—

- (a) the maintenance of the object to be carried out by the Minister;
- (b) the custody of the object;
- (c) the duties of any person who may be employed for the purposes of this Act;
- (d) the restriction of the owner's right or the right of any person entitled to the object, to destroy, remove, alter or deface the object or build on or near the site of the object;
- (e) the facilities of access to the object to be granted to the public and to any person who may be employed for the purposes of this Act to inspect or maintain the object;
- (f) the removal by the Minister of the object for permanent or temporary exhibition in the museum;
- (g) the submission of a dispute or difference to an arbitration; and
- (h) notice to be given to the Minister in case the land on which the object is situated is offered for sale by the owner, and the right to be reserved to the Minister to purchase that land or portion of that land.

(3) Where the Minister is satisfied that an owner or a person beneficially entitled to a protected object intends to make an alteration, addition to, or to repair, destroy or deface or injure or cultivate or build on or near a protected object in breach of the terms of an agreement for its protection, the Minister may apply for an injunction to a court of competent jurisdiction.

5. Gift or bequest.

The Minister may accept a gift or bequest of any protected object which he or she shall deposit in the museum if portable.

6. Protection of certain places.

A place of worship or tomb declared to be a protected object under section 3(1) shall not be used for any purpose inconsistent with its character.

7. List of preserved or protected objects.

The Minister may, by statutory instrument, publish lists of the preserved or protected objects.

Maintenance.

8. Acts prohibited.

No person, whether owner or not, shall do any of the following acts to or in relation to any object declared to be preserved or protected under this Act—

- (a) cultivate or plough the soil so as to affect to its detriment any object declared to be preserved or protected;
- (b) make alteration, addition to, or repair, destroy, deface or injure any object declared to be preserved or protected;
- (c) allow any animal under his or her control to damage any object declared to be preserved or protected; and
- (d) write, draw or carve any writing or figure on the object.

9. Maintenance and inspection of objects.

For the purposes of maintenance and inspection of any preserved or protected object, there shall be a conservator of antiquities who shall be appointed by the Minister and shall be a public officer.

10. Duties of conservator of antiquities.

The duties of the conservator of antiquities shall include—

- (a) the entering and the inspection of preserved or protected objects;
- (b) the fencing, repairing and generally maintaining preserved or protected objects;
- (c) the erection of tablet or notice about any such object;
- (d) the performance of any duty which is connected with the preservation and protection of any preserved or protected object or monument or part of a preserved or protected object or monument; and
- (e) the maintenance and general administration of the museum.

11. Discovery.

- (1) Any person who discovers any object which may reasonably be

considered to be of archaeological, palaeontological, ethnographical, historical or traditional interest shall, within fourteen days, report to the conservator of antiquities or a district commissioner or the curator of the museum.

(2) Any person who discovers any such object shall take such measures as may be reasonable for its protection.

(3) Every district commissioner or the curator of the museum to whom a discovery of any object or a report is made under subsection (1) shall forthwith report the discovery in writing to the conservator of antiquities.

(4) The conservator of antiquities may enter and inspect any site or place of the discovery of any object.

(5) Where any object discovered is a part of ordinary habitation or occupation, the conservator of antiquities shall give the owner or occupier of the land on which the object is discovered reasonable notice of his or her intention to enter and inspect the site or place of the discovery.

(6) Where the conservator of antiquities is satisfied that any object discovered is an object of archaeological, palaeontological, ethnographical, traditional or historical interest, he or she shall report the discovery of the object to the Minister who, for the purposes of this Act, may, by statutory instrument, declare it to be a preserved or protected object.

12. Excavations prohibited without licence.

(1) The Minister may, for the purposes of excavation, issue a licence under this section.

(2) Unless a person is authorised by a licence issued by the Minister under subsection (1), no person shall whether on his or her own land or elsewhere—

- (a) excavate any object of archaeological, palaeontological, ethnographical or traditional interest; or
- (b) remove any object hitherto undiscovered from any site, place or monument or collect or remove any object which he or she knows or has reasonable cause to believe is an object of archaeological, ethnographical, historical or traditional interest.

(3) The Minister shall, before issuing a licence under this section, satisfy himself or herself that the applicant for a licence—

- (a) is competent by both training and experience to carry out satisfactorily an excavation in accordance with the most recent scientific methods;
- (b) has sufficient personnel and financial resources to enable him or her to carry out an excavation;
- (c) is able to arrange for the proper scientific study of any object discovered;
- (d) has, in the case of a protected object, had in writing the permission of the owner or a person beneficially entitled to the object; and
- (e) has not been convicted of an offence under this Act or has not been convicted of any other offence involving fraud or dishonesty at any time in Uganda or elsewhere.

13. Objects discovered to be surrendered.

(1) Any portable object discovered in the course of an excavation shall be surrendered to the Minister who shall deposit it in the museum.

(2) Notwithstanding subsection (1), where any object is discovered in a protected site, place or monument, the owner of the protected site, place or monument shall be entitled to a reasonable compensation.

14. Sale.

(1) The Minister may, acting in accordance with the advice of the advisory panel, issue a licence for sale of a protected object on such conditions as he or she may think fit.

(2) No person shall sell or exchange any protected object except in accordance with any condition attached to a licence issued under subsection (1).

(3) Notwithstanding section 12(2)(b), the Minister may, before issuing a licence under this section, require the applicant for a licence to produce to him or her the object if portable.

(4) The Minister may not grant under this section a licence to any person who has been convicted of an offence under this Act or who has been

convicted of any offence involving fraud, or dishonesty in Uganda or elsewhere.

15. Export.

(1) No person shall export any preserved or protected object except with the permission of the Minister in writing, acting in accordance with the advice of the advisory panel.

(2) For the purposes of study the Minister may, acting in accordance with the advice of the advisory panel, permit in writing the export of any preserved or protected object to a recognised institution of learning.

(3) The Minister may, at the request of the trustees of the museum or any interested party, permit temporary export of any object for exhibition outside Uganda.

16. Advisory panel.

(1) For the purposes of advising him or her to implement this Act, the Minister may appoint an advisory panel which shall consist of—

- (a) a member nominated by the trustees of the museum;
- (b) a member nominated by the vice chancellor of Makerere University;
- (c) two members nominated by the Minister responsible for mineral and water resources;
- (d) a member nominated by the Minister responsible for education;
- (e) a member nominated by the Minister responsible for tourism;
- (f) such other persons not exceeding five as he or she may from time to time think fit.

(2) The Minister may pay the members of the advisory panel such allowances as he or she may determine.

Miscellaneous.

17. Submission of a report.

A person licensed under section 12 shall submit to the Minister two copies of a full report in respect of his or her excavation within twenty-four months from the date of completion of the excavation and shall submit one copy of

the report to the curator of the museum.

18. Right of access by public to preserved or protected objects.

Subject to section 21(c), the public shall have a right of access to any preserved or protected object.

19. Offences and penalties.

Any person who—

- (a) destroys, alters, defaces, removes, repairs, injures or imperils any preserved or protected or discovered object;
- (b) contravenes any of the terms and conditions imposed in a licence issued under this Act; or
- (c) contravenes any of the provisions of this Act,

commits an offence and is liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

20. Application of the Mining Act.

(1) Subject to sections 11 and 15, nothing in this Act shall prevent an officer of the geological survey and mines department from undertaking his or her duties under the Mining Act.

(2) The holder of a prospecting or mining right, issued under the Mining Act, shall be subject to this Act.

(3) Any lands acquired under section 2(2) shall, for the purposes of section 11(a) of the Mining Act, be land dedicated or set apart for public purposes.

21. Regulations.

The Minister may, by statutory instrument, make regulations—

- (a) prescribing conditions relating to excavations under this Act;
- (b) prescribing conditions relating to any sale of a protected object;
- (c) regulating the right of access by the public to preserved or protected objects; and
- (d) generally for better carrying into effect the objects and purposes of this Act.

History: Act 22/1967; S.I. 72/1968; S.I. 78/1970; Decree 20/1972;
Decree 6/1977.

Cross References

Land Acquisition Act, Cap. 226.

Mining Act, Cap. 148.