



**PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

**ANTIQUITIES (AMENDMENT)
ACT, No. 24 OF 1998**

[Certified on 21st May, 1998]

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Antiquities (Amendment) Act, No. 24 of 1998

[Certified on 21st May, 1998]

L.D.—O. 29/96.

AN ACT TO AMEND THE ANTIQUITIES ORDINANCE

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows :—

1. This Act may be cited as the Antiquities (Amendment) Act, No. 24 of 1998.

Short title.

2. The long title to the Antiquities Ordinance (hereinafter referred to as the “principal enactment”) is hereby repealed and the following long title substituted therefor :—

Replacement of long title to Chapter 188.

“An Ordinance to provide for the better preservation of the antiquities of Sri Lanka, and of sites and buildings of historical or archaeological importance in Sri Lanka.”

3. Section 2 of the principal enactment is hereby amended in subsection (3) thereof, by the substitution for the words “or lake, shall” of the words “or lake or within the territorial sea of Sri Lanka, shall”.

Amendment of section 2 of the principal enactment.

4. The following new sections are hereby inserted immediately after section 15 and shall have effect as sections 15A, 15B, 15C AND 15D respectively of the principal enactment :—

Insertion of new sections 15A, 15B, 15C and 15D in the principal enactment.

“OFFENCES RELATING TO THEFT AND DISTRUCTION OF ANTIQUITIES

Offences relating to theft of antiquities.

15A. Any person who commits theft within the meaning of section 366 of the Penal Code, in respect of antiquity, in the possession of any other person shall be guilty of an offence under this Ordinance and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding fifty thousand rupees or to imprisonment of either description for a term not less than two years and not more than five years or to both such fine and imprisonment.

Penalty for
distruction
& c. of
antiquity.

15b. Any person who wilfully destroys, injures, defaces or tampers with any antiquity or wilfully damages any part of it, shall be guilty of an offence under this Ordinance and shall on conviction after summary trial before a Magistrate be liable to a fine not exceeding fifty thousand rupees or to imprisonment of either description for a term not less than two years and not more than five years or to both such fine and imprisonment.

Offences
under this
Ordinance
to be
non-bailable.

15c. Notwithstanding anything to the contrary in the Code of Criminal Procedure Act, No. 15 of 1979 or any other written law, no person charged with, or accused of an offence under this Ordinance shall be released on bail.

Evidence.

15d. In a prosecution for an offence under this Ordinance, a certificate purporting to be signed by the Director-General and to the effect that the object described therein is an antiquity, shall be admissible in evidence without further proof, and shall be *prima facie* evidence of the facts stated therein."

Amendment of
section 16 of the
principal
enactment.

5. Section 16 of the principal enactment is hereby amended as follows :—

- (1) in subsection (1) thereof, by the substitution for the words "which dates or is believed to date from a period prior to the 1st day of January, 1850, shall", of the words "which has existed or is believed to have existed for a period of not less than hundred years, shall," ;
- (2) in the marginal note to that section, by the substitution for the words and figures "dating to period prior to 1850", of the words "in existence not less than hundred years".

Amendment of
section 31 of the
principal
enactment.

6. Section 31 of the principal enactment is hereby amended by the substitution for all the words from "and shall be liable" to the end of that section, of the words "and shall, notwithstanding anything to the contrary in any other written

law, be liable on conviction after summary trial before a Magistrate to a fine not exceeding fifty thousand rupees or to imprisonment of either description for a term not less than two years and not exceeding five years or to both such fine and imprisonment."

7. Section 32 of the principal enactment is hereby amended by the substitution for all the words from "and shall be liable" to the end of that section, of the words "and shall, notwithstanding anything to the contrary in any other written law, be liable on conviction after summary trial before a Magistrate to a fine not exceeding fifty thousand rupees or to imprisonment of either description for a term not less than two years and not exceeding five years or to both such fine and imprisonment."

8. The following new Part is hereby inserted immediately after Part V and shall have effect as Part VA of the principal enactment :—

"PART VA

ADVISORY COMMITTEE

39A. (1) The Minister may, by Order published in the Gazette, establish an Archaeological Advisory Committee (hereinafter referred to as "the Advisory Committee").

(2) It shall be the function of such Advisory Committee to advise the Director-General of Archaeology—

- (a) on any or all of the matters the Minister considers necessary for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance ; and
- (b) where advice is sought by him on matters connected to the performance of his duties under this Ordinance.

Amendment of
section 32 of the
principal
enactment.

Insertion of new
Part VA in the
principal
enactment.

(3) The Minister may appoint to such Advisory Committee such number of members and on such terms and conditions as he may determine.

(4) The Advisory Committee shall have the power to fix and regulate its own procedure including the power to determine the number of members necessary to form a quorum for its meetings. Every member of the Advisory Committee shall hold office for two years unless he earlier resigns, dies or is removed from office.

(5) A member of the Advisory Committee may resign from office by letter addressed to the Minister.

(6) A member vacating his office by resignation or by expiration of his term of office shall be eligible for reappointment.

(7) Where a member of the Advisory Committee becomes by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the Minister may appoint another person to act in his place.

(8) The Minister may, if he considers it expedient so to do, remove from office, by Order published in the Gazette, any member of the Advisory Committee."

9. The heading appearing in Part VI immediately before section 40 of the principal enactment is hereby repealed and the following substituted therefor :—

Replacement of heading appearing immediately after Part VI of the principal enactment.

"POWERS AND DUTIES OF DIRECTOR-GENERAL OF ARCHAEOLOGY"

10. Section 40 of the principal enactment is hereby repealed and the following section substituted therefor :—

Replacement of section 40 of the principal enactment.

"Powers of Director-General of Archaeology 40. The Director-General of Archaeology is hereby empowered—

- (a) to formulate a national archaeological policy and to co-ordinate and implement such policy after it is approved by the Government ;
- (b) to inventorise the archaeological heritage of Sri Lanka ;
- (c) to protect and maintain such archaeological heritage ;
- (d) to conduct research into every aspect of the archaeological heritage of Sri Lanka and specially, into the prehistoric, protohistoric, early historic, middle historic and late historic periods and into general or specific theory, method and practice ;
- (e) to enhance public awareness of the archaeological heritage of Sri Lanka through appropriate displays of antiquities, publications and by other means ;
- (f) to levy an entrance fee where it is considered necessary at selected sites or visitor centers ;

(g) to conduct archaeological impact assessment of areas that may be affected by development, industrial or other projects proposed by the Government or any person and implement any mitigatory measures that may be required.”.

11. Section 43 of the principal enactment is hereby repealed and the following section substituted therefor :—

“Authorisation of Government Agents and other officers to exercise powers of Director-General of Archaeology.

43. (1) The Director-General of Archaeology may, generally or specially authorize the exercise, performance or discharge of any of his powers, duties or functions under this Ordinance—

(a) by the Government Agent or the District Secretary of a district or Divisional Secretary of any division within that district, or division respectively ;

(b) by any officer of the Archaeological Department ; or

(c) by any person possessed of special expertise and resources in or for, the exploration, excavation, conservation, restoration or maintenance of monuments and antiquities, in such areas and on such terms and conditions as may be specified in such authorization :

Provided that the Director-General of Archaeology may at any time revoke or withdraw such authorization if in his view the purpose and objectives thereof are not being satisfactorily served.

Replacement of section 43 of the principal enactment.

(2) The authorization shall be in writing specifying, among other things, the objectives of the authorization, the system of supervision by the Director-General of Archaeology or his nominees, the recording of procedures employed, the reporting of progress, and the writing of reports.”.

12. The following new sections are hereby inserted immediately after section 43 and shall have effect as sections 43A and 43B of the principal enactment :—

“Impact assessment of proposed development projects.

43A. (1) Whenever any development or industrial scheme or project is proposed by the Government or other institution or person entailing the use, encroachment or submergence of any land falling within the inventory prepared under section 40(b), or any land as may be prescribed, such scheme or project shall not be approved or permitted until after a report is submitted by the Director-General of Archaeology, as to the effects the implementation of such scheme, or project may have upon such land or any antiquities within it.

(2) The Director-General of Archaeology shall cause an impact assessment survey to be undertaken at the expense of the sponsors of such project or scheme to assess the consequences thereof upon the antiquarian, historical or archaeological aspects or value of the land in question or on any antiquities upon it and shall, within such period of time as may be agreed on (in any event not later than six weeks from deposit of the cost of such survey with the Director-General of Archaeology), submit to the Minister, his written report recommending, objecting to, or recommending subject to such conditions or alterations as may be specified in the report, the proposed project, or scheme, together with an estimate of any such additional costs as may be

Insertion of new sections 43A and 43B in the principal enactment.

necessary for the taking of any measures to protect, preserve, excavate, document and publish, and if necessary relocate, any antiquities upon such land at the expense of the project's sponsors.

(3) The sponsors of every such scheme or project as is referred to in this section shall provide for and set apart, a sum not exceeding one *per cent* of its total cost for the purposes and objectives referred to in this section.

(4) The provisions of this section shall have effect notwithstanding anything to the contrary in any other law.

Conditions to be complied with.

43B. (1) Where approval or permission has been granted for any scheme or project subject to any condition or alteration, it shall be the duty of the sponsors to comply with it. Failure to comply with any condition or alteration shall be an offence under this Ordinance and the Director-General of Archaeology may cause such scheme or project to be stopped forthwith.

(2) Where a scheme or project has been so stopped, work on such scheme or project shall not be commenced until the condition or alteration subject to which the approval or permission was granted is adequately complied with by the sponsors and a written permission in that behalf is obtained from the Director-General of Archaeology."

13. Section 44 of the principal enactment is hereby amended by the substitution for the words "not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding three months", of the words "not exceeding fifty thousand rupees or to imprisonment of either description for a term not exceeding five years".

Amendment of section 44 of the principal enactment.

14. Section 46 of the principal enactment is hereby repealed and the following section substituted therefor:—

"Reward Fund. 46. (1) There shall be established under the control and administration of the Director-General of Archaeology a fund known as the "Antiquities Reward Fund" (hereinafter referred to as the "Fund") for the purpose of rewarding informants and enforcement officers contributing, to the recovery of illegally appropriated antiquities or to the protection of sites, and antiquities.

(2) There shall be credited to the Fund:—

- (a) one half of all fines recovered by any court in respect of convictions for offences under this Ordinance;
- (b) donations to the Fund from individuals, societies or institutions;
- (c) any other prescribed payment.

(3) The Auditor General shall annually audit the Fund."

15. Section 47 of the principal enactment is hereby amended in subsection (2) thereof as follows:—

- (a) by the relettering of paragraph (j) of that subsection as paragraph (l) thereof ;
- (b) by the deletion of the word "and" appearing at the end of paragraph (i) ; and
- (c) by the insertion of the following paragraphs immediately after paragraph (i) of that subsection :—
 - "(j) the manner in which the payment of rewards from the Fund shall be determined;
 - (k) the administration of the Fund; and"

Replacement of section 46 of the principal enactment.

Amendment of section 47 of the principal enactment.

Amendment of section 48 of the principal enactment.

16. Section 48 of the principal enactment is hereby amended as follows:—

(1) by the insertion immediately after the definition of the word “antiquity” of the following definition:—

“Archaeological heritage” means that part of the material heritage of mankind in respect of which archaeological methods provide primary information and includes all vestiges of human existence and places relating to all manifestations of human activity, abandoned structures and remains of all kinds (including subterranean and underwater sites), together with all the portable cultural material associated with them;”

(2) by the repeal of the definition of the word “monument” and the substitution therefor of the following:—

“monument” means any building, or other structure or erection, or any tomb, tumulus or other place of interment, or any other immovable property of a like nature or any part or remains of the same or any other site where the material remains of historic or prehistoric human settlement or activity may be found; and includes the site of any monument and such portion of land adjoining such site as may be required for fencing or covering in or otherwise preserving any monument;”

(3) by the addition immediately after the definition of the word “regulation” of the following definition:—

“territorial sea” means the area declared to be the territorial waters of Sri Lanka by Proclamation made under the Maritime Zones Law, No. 22 of 1976.

17. Wherever, in any provisions of the principal enactment, the words “Archaeological Commissioner” occurs, there shall be substituted the words “Director-General of Archaeology”:

General amendment of the provisions of the principal enactment.

18. Wherever, in any provision of any written law (other than the principal enactment) or of any notice, certificate, communication, form or other document issued, made, required or otherwise, by or under such written law, the words “Archaeological Commissioner” to denote the Archaeological Commissioner appointed under the principal enactment prior to the commencement of this Act occurs, there shall be substituted therefor, the words “Director-General of Archaeology”.

Amendment of other written law.

19. Every contract, agreement or other document or instrument whatsoever made, issued or executed prior to the date of commencement of this Act by or in favour of the Archaeological Commissioner appointed under the principal enactment in his capacity as such, shall be deemed, on and after that date, to be and to have been made, issued, or executed, by or in favour of the Director-General of Archaeology.

Savings for contracts.

20. In the event of any inconsistency between the Sinhala and the Tamil texts of this Act, the Sinhala text shall prevail.

Sinhala text to prevail in case of inconsistency.