
Act 5 of 1920

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THE ANCIENT MONUMENTS PRESERVATION ACT, 1977  
(1920 A.D.).


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1. XL of 1966.
THE ANCIENT MONUMENTS PRESERVATION ACT, 1977
(1920 A. D.).


[Sanctioned by His Highness the Maharaja Sahib Bahadur per Chief Minister's endorsement No. 8372, dated 11th September, 1920 read with State Council Resolution No. 1, dated 8th April, 1925, (Notification No. 14-L/81)].

An Act to provide for preservation of Ancient Monuments and of objects of archaeological, historical or artistic interest.

 Whereas it is expedient to provide for the preservation of ancient monuments, for the exercise of control over traffic in antiquities and over excavation in certain places, and for the protection and acquisition in certain cases of ancient monuments and of objects of archaeological, historical or artistic interest; it is hereby enacted as follows:

1. Short title, extent and commencement.—(1) This Act may be called the Jammu and Kashmir Ancient Monuments Preservation Act, 1977.

(2) It extends to the whole of Jammu and Kashmir State. It shall come into force on the 1st day of Baisakh, 1978.

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

(1) "Ancient monument" means any structure, erection or monument, or any tumulus or place of interment, or any cave, rock-sculpture, inscription or monolith, which is of historical, archaeological or artistic interest, or any remains thereof and includes—

(a) the site of an ancient monument;

(b) any portion of land adjoining the site of an ancient monument by which may be required for fencing or covering in or otherwise preserving such monument; and
(c) the means of access to and convenient inspection of an ancient monument;

(2) "Antiquities" include any movable objects which the Government, by reason of their historical or archaeological associations, may think it necessary to protect against injury, removal or dispersion;

(3) Omitted.

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

(5) "land" includes a revenue-free estate, a revenue paying estate, and a permanent transferable tenure whether such estate or tenure be subject to incumbrance, or not;

(5-a) "Minister" means the Minister-in-charge of the Archaeological Department; and

(6) "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 ancient monument, 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.

3. Protected monuments.—(1) The Government may, by notification in the Government Gazette, declare an ancient monument to be a protected monument within the meaning of this Act.

(2) A copy of every notification published under sub-section (1) shall be fixed up in a conspicuous place on or near the monument, together with an intimation that any objections to the issue of the notification received by the Government within two months from the date when it is so fixed up will be taken into consideration.

(3) On the expiry of the said period of two months, the Government after considering the objections, if any, shall confirm or withdraw the notification.

(4) A notification published under this section shall, unless and until it is withdrawn, be conclusive evidence of the fact that the monument to which it relates is an ancient monument within the meaning of this Act.

4. Acquisition of rights in or guardianship of an ancient monument.—(1) The Superintendent of Archaeology, with the sanction of the Government, may purchase or take a lease of any protected monument.

(2) The Superintendent of Archaeology, with the like sanction, may accept a gift or bequest of any protected monument.

(3) The owner of any protected monument may, by written instrument, constitute the Minister the guardian of the monument, and the Minister may, with the sanction of the Government, accept such guardianship.

(4) When the Minister 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 Minister had not been constituted guardian thereof.

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

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

5. Preservation of ancient monument by agreement.—(1) The Superintendent of Archaeology may, with the previous sanction of the Government propose to the owner to enter into an agreement with the Government for the preservation of any protected monument.

2. Substituted for “His Highness” ibid.
(2) An agreement under this section may provide for the following matters, or for such of them as it may be found expedient to include in the agreement:

(a) the maintenance of the monument;

(b) custody of the monument, and the duties of any person who may be employed to watch it;

(c) the restriction of the owner's right to destroy, remove, alter or deface the monument or to build on or near the site of the monument;

(d) the facilities of access to be permitted to the public or to any portion of the public and to persons deputed by the owner or the Superintendent of Archaeology to inspect or maintain the monument;

(e) the notice to be given to the Government in case the land on which the monument is situated is offered for sale by the owner, and the right to be reserved to the Government to purchase such land, or any specified portion of such land, at its market value;

(f) the payment of any expenses incurred by the owner or by the Government in connection with the preservation of the monument;

(g) the proprietary or other rights which are to vest in the Government in respect of the monument when any expenses are incurred by the Government in connection with the preservation of the monument;

(h) the appointment of an authority to decide any dispute arising out of the agreement; and

(i) any matter connected with the preservation of the monument which is a proper subject of agreement between the owner and the Government.

(3) An agreement under this section may be executed by the Superintendent of Archaeology on behalf of the Government.

1. Substituted for "His Highness" by Act No. X of 1996.
but shall not be so executed until it has been approved by 1[the Government.]

(4) The terms of an agreement under this section may be altered from time to time with the sanction of 1[the Government] and with the consent of the owner.

(5) With the previous sanction of 1[the Government] the Superintendent of Archaeology may terminate an agreement under this section on giving six month's notice in writing to the owner.

(6) The owner may terminate an agreement under this section on giving six month’s notice to the Superintendent of Archaeology.

(7) An agreement under this section shall be binding on any person claiming to be owner of the monument to which it relates, through or under a party by whom or on whose behalf the agreement was executed.

(8) Any rights acquired by Government in respect of expenses incurred in protecting or preserving a monument shall not be effected by the termination of an agreement under this section.

6. Owner under disability or not in possession.—(1) If the owner is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 5.

(2) In the case of village property, the headman or other village officer exercising powers of management over such property may exercise the powers conferred upon an owner by section 5.

(3) Nothing in this section shall be deemed to empower any person not being of the same religion as the persons on whose behalf he is acting to make or execute an agreement relating to a protected monument which or any part of which is periodically used for the religious worship or observances of that religion.

7. Enforcement of agreement.—(1) If the Superintendent of Archaeology apprehends that the owner or occupier of a monu-

1. Substituted for "His Highness" by Act No. X of 1996.
(2) If an owner or other person who is bound by an agreement for the preservation or maintenance of a monument under section 5, refuses to do any act which is in the opinion of the Superintendent of Archaeology necessary to such preservation or maintenance, or neglects to do any such act within such reasonable time as may be fixed by the Superintendent of Archaeology, the Superintendent of Archaeology may authorise 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.

(3) A person aggrieved by an order made under this section may appeal to the Minister, who may cancel or modify it and whose decision shall be final.

8. Purchasers at certain sales and persons claiming through owner bound by instrument executed by owner.—Every person who purchases, at a sale for arrears of land revenue or any other public demand, an estate or tenure in which is situated a monument in respect of which any instrument has been executed by the owner for the time being, under section 4 or section 5, and every person claiming any title to a monument from, through or under an owner who executed any such instrument, shall be bound by such instrument.

9. Application of endowment to repair of an ancient monument.—(1) If any owner or other person competent to enter into an agreement under section 5 for the preservation of a protected monument, refuses or fails to enter into him by the Superintendent of Archaeology, and if any endowment has been created for the purpose of keeping such monument in repair, or for that purpose among others, the Superintendent of Archaeology may institute a suit in the Court of the District Judge, or, if the estimated cost of repairing the monument does not exceed one thousand rupees, may make an application to the District Judge for the proper application of such endowment or part thereof.

1. Substituted by Act X of 2010 for "Governor".
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(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.

10 Compulsory purchase of ancient monument.—(1) If 1[the Government] apprehends that a protected monument is in danger of being destroyed, injured or allowed to fall into decay, 1[the Government] may proceed to acquire it under the provisions of the Land Acquisition Act, as if the preservation of a protected monument were a “public purpose” within the meaning of that Act.

(2) The powers of compulsory purchase conferred by sub-section (1) shall not be exercised in the case of—

(a) any monument which or any part of which is periodically used for religious observances; or

(b) any monument which is the subject of a subsisting agreement executed under section 5.

(3) In any case other than the cases referred to in sub-section (2) the said powers of compulsory purchase shall not be exercised unless the owner or other person competent to enter into an agreement under section 5 has failed, within such reasonable period as the Superintendent of Archaeology may fix in this behalf, to enter into an agreement proposed to him under the said section or has terminated or given notice of his intention to terminate such an agreement.

2[10-A. Power of Government to control mining etc., near ancient monuments.—(1) If the Government is of opinion that mining, quarrying, excavating, blasting and other operations of a like nature should be restricted or regulated for the purpose of protecting or preserving any ancient monument, the Government may, by notification in the Government Gazette, make rules:

(a) fixing, the boundaries of the area to which the rules are to apply.

2. Section 10-A inserted by Act No. 1 of 1996.
(b) forbidding the carrying on of mining, quarrying, excavating, blasting or any operation of a like nature except in accordance with the rules and with the terms of a licence, and

(c) prescribing the authority by which and the terms on which licences may be granted to carry on any of the said operations.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(3) A rule made under this section may provide that any person committing a breach thereof shall be punishable with fine which may extend to two hundred rupees.

(4) If any person or occupier of land included in a notification under sub-section (1) proves to the satisfaction of the Government that he has sustained loss by reason of such land being so included, the Government shall pay compensation in respect of such loss.

11. Maintenance of certain protected monuments.—(1) The Minister shall maintain every monument in respect of which the Government has acquired any of the rights mentioned in section 4 or which the Government has acquired under section 10.

(2) When the Minister has accepted the guardianship of a monument under section 4, he shall, for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself or 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.

12. Voluntary contributions.—The Minister may receive voluntary contributions towards the cost of maintaining a protected monument and 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.
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13. Protection of place of worship from misuse, pollution or desecration.—(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 Superintendent of Archaeology has, under section 4, purchased or taken a lease of any protected monument, or has accepted a gift or bequest, or the Minister has, under the same section, accepted the guardianship thereof, and such monument or any part thereof is periodically used for religious worship or observances by any community, the Superintendent of Archaeology in consultation with the Deputy Commissioner shall make due provision for the protection of such monument, or such part thereof from pollution or desecration—

(a) by prohibiting the entry therein, except in accordance with conditions prescribed with the concurrence of the persons 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 taking such other action as he may think necessary in this behalf.


(a) where rights have been acquired by Government in respect of any monument under this Act by virtue of any sale, lease, gift or will, relinquish the rights so acquired 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 monument which it has accepted under this Act.

15. Right of access to certain protected monuments.—(1) Subject to such rules as may after previous publication be made by 1[the Government], the public shall have a right of access to any monument maintained by the Government under this Act.

(2) In making any rule under sub-section (1) 1[the Government] may provide that a breach of it shall be punishable with fine which may extend to twenty rupees.

1. Substituted for "His Highness" by Act No. X of 1996.
16. Penalties.—Any person other than the owner who destroys, removes, injures, alters, defaces or imperils, a protected monument, and any owner who destroys, removes, injures, alters, defaces or imperils a monument maintained by Government under this Act or in respect of which an agreement has been executed under section 5, and any owner or occupier who contravenes an order made under section 7, sub-section (1), shall be punishable with fine which may extend to five thousand rupees, or with imprisonment which may extend to three months, or with both.

TRAFFIC IN ANTIQUITIES.

17. Power of Government to control traffic in antiquities.—

(1) If [the Government] apprehends that antiquities are being sold or removed to the detriment of the State or of any neighbouring country, it may, by notification in the Government Gazette, prohibit or restrict the bringing or taking of any antiquities or class of antiquities described in the notification into or out of the State or any specified part of the State.

(2) Any person who brings or takes or attempts to bring or take any such antiquities into or out of the State or any part of the State in contravention of a notification issued under sub-section (1), shall be punishable with fine which may extend to five hundred rupees.

(3) Antiquities in respect of which an offence referred to in sub-section (2) has been committed shall be liable to confiscation.

(4) A Revenue Officer not lower in rank than a Naib-Tehsildar, an Officer of Customs, or an Officer of Police of a grade not lower than Assistant Inspector or Deputy Inspector, duly empowered by [the Government] in this behalf, may search any vessel, cart or other means of conveyance, and 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 (2) are contained therein.

(5) A person who complains that the power of search mentioned in sub-section (4) has been vexatiously or improperly exercised

may address his complaint to the Government and the Government shall pass such order and may award such compensation, if any, as appears to it to be just.

PROTECTION OF SCULPTURES, CARVINGS, IMAGES, BAS-RELIEFS, INSCRIPTIONS OR LIKE OBJECTS.

18. Power of Government to control moving of sculptures, carvings or like objects.—(1) If the Government consider that any sculptures, carvings, images, bas-reliefs, inscriptions or other like objects ought not to be moved from the place where they are without the sanction of the Government, the Government may, by notification in the Government Gazette, direct that any such object or any class of such objects shall not be moved unless with the written permission of the Superintendent of Archaeology.

(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 Superintendent of Archaeology may require.

(3) If the Superintendent of Archaeology refuses to grant such permission, the applicant may appeal to the Minister, whose decision shall be final.

(4) Any person who moves any object in contravention of a notification issued under sub-section (1), shall be punishable with fine which may extend to five hundred rupees.

(5) If the owner of any property proves to the satisfaction of the Government 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 Government shall either—

(a) exempt such property from the said notification;

(b) purchase such property, if it be movable, at its market-value; or

2. Substituted for “His Highness” ibid.
(c) pay compensation for any loss or damage sustained by
the owner of such property, if it be immovable.

19. Purchase of sculptures, carvings or like object by the
Government.—(1) If the Government apprehend that any
object mentioned in a notification issued under section 18, sub-
section (1), is in danger of being destroyed, removed, injured or
allowed to fall into decay, the Government may pass orders
for the compulsory purchase of such object at its market value,
and the Superintendent of Archaeology shall thereupon give
notice to the owner of the object to be purchased.

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

(a) any image or symbol actually used for the purpose of any
religious observance; or

(b) anything which the owner desires to retain on any reason-
able ground personal to himself or to any of his ancestors or to
any member of his family.

ARCHAEOLOGICAL EXCAVATION.

1[20. Power of Government to notify areas as protected.—
(1) If the Government is of opinion that excavation for archeo-
logical purposes in any area should be restricted or regulated in
the interest of archaeological research, the Government may, by
notification in the Government Gazette specifying the boundaries
of the area, declare it to be a protected area.

(2) From the date of such notification all antiquities buried in
the protected area shall be the property of Government and shall
be deemed to be in the possession of Government, and shall
remain the property and in the possession of the Government
until ownership thereof is transferred; but in all other respects
the rights of any owner or occupier of and in such area shall not
be affected.

20-A Power to enter upon and make excavation in a protected
area.—(1) Any officer of the Archaeological Department or any
person holding a licence under section 20-B may, with the written

2. Section 20 substituted and sections 20-A, 20-B and 20-C added by Act
No. I of 1996.
permission of the 1[Deputy Commissioner of the District] or in
the case of Ladakh District, the 2[Deputy Commissioner] of that
District, enter upon and make excavations in any protected area.

(2) Where in the exercise of the power conferred by sub-
section (1) the rights of any person or infringed by the occupa-
tion or disturbance of the surface of any land, the Government
shall pay to that person compensation for the infringement.

20-B. Power of Government to make rules regulating archaeo-
logical excavation in protected areas.—(1) The Government may
make rules,—

(a) prescribing the authorities by whom licences to excavate
for archaeological purposes in a protected area may be granted;

(b) regulating the conditions on which such licences may be
granted, the form of such licences and the taking of security
from licensees,

(c) prescribing the manner in which antiquities found by a
licensee shall be divided between Government and the licensee;
and

(d) generally to carry out the purposes of section 20.

(2) The power to make rules given by this section is subject to
the condition of rules being made after previous publication.

(3) Such rules may be general for all protected areas for the
time being, or may be special for any particular protected area or
areas.

(4) Such rules shall provide that any person committing a
breach of any such rule or any condition of a licence issued under
this section shall be punishable with fine which may extend to
one thousand rupees, and may further provide that where the
breach has been by the agent or servant of a licensee, the licensee
himself shall be punishable.

20-C. Power to acquire a protected area.—If the Government
is of opinion that a protected area contains an ancient monument

1. Substituted for “Governor of the Province” by Act No. III of 2008.
2. Substituted for “Wazir” ibid.
or antiquities of national interest, it may acquire such area, or any part thereof, under the State Land Acquisition Act No. 10 of 1990 as for a public purpose.]

GENERAL.

21. **Assessment of market-value or compensation.**—The market-value of any property which Government is empowered to purchase at such value under this Act, or the *[^1]* compensation to be paid by Government in respect of anything done under this Act, shall, where any dispute arises *[^2]* in respect of such market value or compensation, be ascertained in the manner provided by the Land Acquisition Act, so far as it can be made applicable:

Provided that when making an inquiry under the said Land Acquisition Act, the Collector shall be assisted by two assessors, one of whom shall be a competent person nominated by the Collector and one a 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 Superintendent of Archaeology.

3[^22. Jurisdiction.—]Every offence under this Act, shall be triable by a Judicial Magistrate.]

23. *[^4]* The Government] may make rules for carrying out any of the purposes of this Act.

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

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1. The words “amount of” omitted by Act No. I of 1996.
2. The words “in respect” substituted for “touching the amount” ibid.