

ACT No. LXXXIV OF 1950¹

[PASSED BY THE PAKISTAN CONSTITUENT ASSEMBLY (LEGISLATURE).]

(Received the assent of the Governor-General on the 7th December, 1950.)

An Act further to amend the Ancient Monuments Preservation Act, 1904.

WHEREAS it is expedient further to amend the Ancient Monuments Preservation Act, 1904, for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Ancient Monuments Preservation (Amendment) Act, 1950. Short title and commencement.

(2) It shall come into force at once.

2. In section 2 of the Ancient Monuments Preservation Act, 1904 (hereinafter referred to as the said Act),— Amendment of section 2, Act VII of 1904.

(a) after clause (3), the following new clause shall be inserted, namely :—

“ (3A) ‘ Director ’ means the Director of Archaeology in Pakistan ; ” ;

(b) in clause (4), after the word “ cleansing ” the words “ and keeping clean the premises and precincts ” shall be inserted ;

(c) at the end of clause (5), the word “ and ” shall be omitted ;

(d) for the word and full stop “ trustee. ” at the end of the proviso to clause (6), the words and semicolon “ trustee ; and ” shall be substituted ; and

(e) after clause (6), the following new clause shall be added, namely :—

“ (7) ‘ Superintendent ’ means the Superintendent of the Archaeological Survey of Pakistan (hereinafter referred to as the Survey). ”.

3. After section 2 of the said Act, the following new section shall be inserted, namely :— Insertion of new section 2A, Act VII of 1904.

“ 2A. Power to inspect.—(1) For the purpose of ascertaining whether the provisions of this Act or the rules made thereunder are being complied with or should be applied in respect of any place or area, the Director or any officer of the Survey authorised by him in this behalf in writing may, subject to any rules made under this Act, enter and inspect any place or area which he may have reason to believe to be or to contain an ancient monument or which in his opinion may contain buried or other antiquities :

Provided that no place or area actually in use for religious purposes shall be so entered save by a person who professes that religion, and that no such place or area nor any place or area in bona fide private occupation shall be so entered save with the permission of the person or body having the right to grant the same.

¹ For Statement of Objects and Reasons, see Gazette of Pakistan, 1950, Pt. V, p. 195.

- (2) Where such permission is refused without reasonable cause the matter shall be referred by the Director or officer authorised by him as aforesaid to the Collector who after such enquiry as he thinks fit may authorise the entry and inspection on such conditions as he may consider necessary.
- (3) Where the place or area to be inspected is closed and the whereabouts of the person or body having the right to grant permission as aforesaid are not known an application in this behalf shall be made by the Director or officer aforesaid to the Collector, who, after such enquiry as he thinks fit, and after publication of a notice in the prescribed manner requiring such person or body to open the place or area within such time as may be stated in the notice, may, upon such conditions as he may consider necessary, authorise the Director or officer aforesaid to open and enter the place or area and inspect the same.
- (4) The Director or officer aforesaid may, subject to any rule made under this Act and under the conditions specified in the preceding sub-sections enter any such place or area mentioned in sub-section (1) for the purpose of causing any site or building, monument, remains or antiquities therein to be photographed, copied or reproduced by any process suitable for the purpose."

Amendment of sections 4, 5, 9, 11 and 12, Act VII of 1904.

4. In sections 4, 5, 9, 11 and 12 of the said Act, for the word "Collector" or the word "Commissioner" wherever either word occurs, the word "Director" shall be substituted at all places.

Amendment of section 13, Act VII of 1904.

5. In section 13 of the said Act,—

(a) after sub-section (1), the following new sub-section shall be inserted, namely:—

"(1-A) A place of worship or a shrine in respect of which an order of protection or preservation under this Act has been made shall be maintained by the person or body in whom it is vested, or if there is no such person or body, by the Government, and a rule made under this section may provide that any person contravening the same shall be punishable with a fine which may extend to one hundred rupees, and, in the case of a continuing contravention, with a further fine of ten rupees for every day during which the contravention continues." ; and

(b) in sub-section (2) for the word "Collector" the word "Director" shall be substituted and the words "the Commissioner" shall be omitted.

Amendment of section 14, Act, VII of 1904.

6. In section 14 of the said Act, for the word "Commissioner" the word "Director" shall be substituted.

Amendment of section 17, Act VII of 1904.

7. In section 17 of the said Act, in sub-section (1), for the word "India" the word "Pakistan" shall be substituted.

8. In section 19 of the said Act, in sub-section (1), after the word and comma "decay," the words and comma "or is of opinion that it should be preserved in the interests of archaeological or historical research," shall be inserted. Amendment of section 19, Act VII of 1904.

9. For section 20 of the said Act, the following shall be substituted, namely :— Substitution of new section 20, Act VII of 1904.

" 20. Power to notify areas as protected areas.—

(1) The Central Government may, by notification in the official Gazette, declare any area, which, in its opinion, it is necessary in the interests of archaeological and historical research to protect, to be a protected area.

(2) A copy of the notification shall be affixed in a conspicuous place in or near the area, together with a notice in writing dated and signed by the Collector and stating that any objection to the declaration will be taken into consideration if received by the Central Government on or before a further date to be expressed in the notice, being a date not less than four and not more than five weeks from the date on which the notice is signed.

(3) On the expiry of the period limited by the notice the Central Government, after considering the objection, if any, shall, by a further notification, confirm or withdraw the notification under sub-section (1), and a copy of the further notification shall be affixed as provided in sub-section (2) but so as to obliterate the notification under sub-section (1).

(4) No person shall erect any construction or make any excavation for any purpose other than archaeological or historical research within a protected area without the permission of the Collector.

(5) The Collector shall not grant permission for any such construction or excavation if the Director certifies that the construction or the excavation is likely to hinder archaeological or historical research in the said area or to result in the loss of archaeological or historical material which in the national interest should be preserved :

Provided that the Collector shall not refuse permission if he is satisfied that the construction not being a dwelling house is required for purposes subservient to agriculture, or that the excavation is necessary for the proper cultivation of the land within the said area.

(6) Any person whose application for such permission is refused may appeal to the Commissioner whose orders shall be final.

- (7) Any person whose application as aforesaid has been rejected and who claims to have suffered loss by reason of such rejection may, by an application to the Collector, claim compensation and the Collector shall assess and grant the same :

Provided that compensation shall not be granted so as to exceed the difference between the market value of the land at the time of the claim having regard to the restrictions imposed on its use under this section and the market value immediately before the imposition of the same.

- (8) Any person who erects a construction or makes an excavation within an area in respect of which a notification has been published under sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.
- (9) The Collector may direct that any construction erected without permission after the publication of a notification under sub-section (1) shall be removed within such period as he may fix and if the owner does not comply with the order the Collector may cause the building to be removed and may recover from the owner the cost of removal as arrears of land revenue. "

Amendment of section 20A, Act VII of 1904. 10. In section 20A of the said Act, in sub-section (1), for the words "Archæological Department" the word "Survey" shall be substituted.

Amendment of section 21, Act VII of 1904. 11. In section 21 of the said Act, in sub-section (1) after the words "in respect of anything done under this Act" the words "except the compensation to be paid by Government under sub-section (7) of section 20" shall be inserted.