



LAWS OF SARAWAK

Chapter 6

SARAWAK CULTURAL HERITAGE ORDINANCE, 1993

Date Passed by Dewan Undangan
Negeri 16th November, 1993

Date of Assent 1st December, 1993

Date of Publication in *Gazette* 13th December, 1993

UNESCO Cultural Heritage Laws Database
(Copyright and Disclaimer apply)

LAWS OF SARAWAK

Chapter 6

SARAWAK CULTURAL HERITAGE ORDINANCE, 1993

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title, commencement and application.
2. Interpretation.

PART II

DISCOVERY OF, AND PROPERTY IN, ANTIQUITIES

3. Antiquities and historical monuments to be the property of the Government.
4. Discovery of antiquities.
5. Antiquities to be registered.
6. Sale or disposal of antiquities and historical objects.
7. Compensation to finder of antiquities.

PART III

EXCAVATION

8. No search for antiquities or historical objects except under licence.
9. Conditions of licences.
10. Division of antiquities and historical objects.

PART IV

PROHIBITION OF EXPORT AND SALE OF ANTIQUITIES AND HISTORICAL OBJECTS

11. Export of antiquities prohibited except under licence.
12. Prohibition of export of historical object.
13. Production of licence.
14. Power of Director to prohibit export of antiquities.
15. Acquisition of antiquity or historical object sought to be exported.
16. Right to inspect antiquities and historical objects.
17. Authorisation for sale of antiquity or historical object.
18. Dealer's licence.
19. Loan of Government antiquities or historical objects.

SARAWAK CULTURAL HERITAGE

PART V

HISTORICAL MONUMENTS AND HISTORICAL SITES

Section

20. Acts prohibited in relation to certain building except under permit.
21. Schedule of historical monuments and sites.
22. Acts prohibited in regard to historical monuments and sites.
23. Care of historical monuments and sites.
24. Inspection of historical monuments and sites.

PART VI

TRADITIONAL ARTS AND HANDICRAFT

25. Promotion of traditional arts and handicraft.

PART VII

PENALTIES

26. Penalties.
27. Forfeiture.
28. Compounding of offences.
29. Who may prosecute.

PART VIII

MISCELLANEOUS

30. Appeal.
31. Delegation of powers.
32. Protection of officers and persons acting under direction of officers.
33. Public servants.
34. Exemption.
35. Rules.
36. Repeal and saving.

LAWS OF SARAWAK

Chapter 6

SARAWAK CULTURAL HERITAGE
ORDINANCE, 1993

An Ordinance to make better provisions for the preservation of antiquities, monuments and sites of cultural, archaeological, architectural, artistic, religious or traditional interest or value for the benefit of the State and as a heritage of the people, and for matters connected therewith or incidental thereto.

[]

Enacted by the Legislature of Sarawak—

PART I

PRELIMINARY

1.—(1) This Ordinance may be cited as the Sarawak Cultural Heritage Ordinance, 1993, and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint. Short title, commencement and application.

(2) This Ordinance shall apply to all antiquities, ancient and historical monuments and records and archaeological sites and remains other than those declared to be Federal by or under Federal law.

2.—(1) In this Ordinance—

Interpretation.

“antiquity” means—

(a) any object, whether movable or immovable or a part of the soil, which has been constructed, shaped, painted, carved, inscribed, erected or otherwise produced or modified by human agency and which is or is reasonably believed to be at least one hundred years old;

(b) any part of any such object which has been excavated, modified, added to, reconstructed or restored;

(c) any human, plant or animal remains or impressions which is or is reasonably believed to be at least one hundred years old; and

(d) any other object which in the opinion of the Director is of outstanding historic, artistic, cultural or traditional interest or value and ought to be preserved as a heritage of the people of Sarawak;

“building” means any building, structure or work (whether above or below the surface of the land or water), monument, commemorative statue or memorial;

“dealer” means any person who acquires antiquities or historical objects for resale, trade or other activity carried on for the purpose of gain;

“Director” means the Director of the Sarawak Museum;

“historical monument” means any monument which is or is reasonably believed to be at least one hundred years old or which is declared or deemed under the provisions of Part V of this Ordinance to be a historical monument;

“historical object” means any artefact or other object to which religious, traditional, cultural, artistic or historical interest or value is attached and includes any—

(a) ethnographic material such as a household, trade or agricultural implement, tool or equipment, decorative article, personal ornament;

(b) work of art or craft such as a carving, sculpture, painting, architecture, textile, musical instrument, weapon and any other handicraft;

(c) manuscript, coin, currency note, medal, badge, insignia, coat of arm, crest, flag, arm, armour or any article of symbolic significance and importance;

SARAWAK CULTURAL HERITAGE

5

(d) vehicle, ship and boat or any other article or object in part or in whole, whose production have ceased,

which in the opinion of the Director is to be preserved by reason of its cultural, religious, traditional, artistic or historic interest or value as a heritage of the people;

“historical site” means any place, site or area which is, in the opinion of the Director, to be preserved by reason of its archaeological, palaeontological, religious, traditional or historic interest or value and declared under section 21 to be an historical site;

“Minister” means the Minister charged with the responsibility for the Sarawak Museum;

“monument” means any temple, mosque, church, building, port, earthwork, standing stone, *keramat*, cave or other structure, erection or excavation, and 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, which ought to be preserved as a heritage of the people by reason of the cultural, architectural, archaeological, religious, historic, traditional interest or value attaching thereto; and includes any part of the site of any monument and such portion of land adjoining such site as may be required for fencing, covering in, cordoning off or otherwise preserving any monument from damage, and also includes the means of access thereto.

(2) For the purpose of deciding whether any object is or is not an antiquity or an historical object, the Director may examine it and may seek the assistance of any person whom he considers to be competent or qualified to help him with the investigation and examination.

(3) Without prejudice to the provisions for appeal to the Minister under section 30, the decision of the Director whether any object is or is not an antiquity or an historical object within the meaning of this Ordinance shall be final.

(4) The Minister may give to the Director directions of a general character (not inconsistent with this Ordinance) as to the exercise of the functions of the Director under this Ordinance, and the Director shall give effect to any directions so given.

(5) In the Ordinance, a reference to the Yang di-Pertua Negeri shall be construed as a reference to the Yang di-Pertua Negeri acting in accordance with the advice of the Majlis Mesyuarat Kerajaan Negeri or of a member thereof acting under the general authority of the Majlis.

PART II

DISCOVERY OF, AND PROPERTY IN, ANTIQUITIES

Antiquities and historical monuments to be the property of the Government.

3.—(1) Every antiquity found in Sarawak subsequent to the 1st day of October, 1954, shall, subject to the provision of section 9(1) (c), be the property of the Government.

(2) Every historical monument which on or after the date of the coming into force of this Ordinance is not owned by any person or the control of which is not vested in any person as a trustee or manager, shall be deemed to be the absolute property of the Government.

Discovery of antiquities.

4.—(1) Any person who discovers any object or monument which he has reason to believe to be an antiquity shall forthwith give notice of his discovery to the Director or to the District Officer of the District wherein the antiquity was discovered, and shall take all reasonable care and precautions and exercise all due diligence to avoid or prevent damage or loss to the antiquity and, if it is practicable so to do, shall deliver the antiquity to the Director or the District Officer, who shall issue a receipt therefor.

(2) If the District Officer has reason to believe that any object discovered in his District is an antiquity, he may by notice in writing require the person having possession thereof, if it is practicable so to do, to deliver the same forthwith to him and the District Officer on receiving such object shall give a receipt therefor.

(3) A District Officer receiving notice under subsection (1) shall communicate the same to the Director.

(4) Where any object has been delivered to a District Officer under subsection (1) or (2) or where the District Officer has reason to believe that any object discovered in his District is an antiquity, he shall give notice thereof to the Director.

5.—(1) Any person other than a native of Sarawak in possession of any antiquity shall register such antiquity with the Director or any officer specially authorised by him in such manner and at such times as may be prescribed by rules made under section 35.

Antiquities to be registered.

(2) Certificates of registration in such form as may be prescribed by rules made under section 35 shall be issued by the Director, or any officer specially authorised by him, in respect of antiquities registered under subsection (1), and such certificates shall, until the contrary is proved, be proof of ownership.

6.—(1) Any person wishing to sell or otherwise dispose of an antiquity shall give notice of the proposed transaction to the Director or, if such person is a native of Sarawak, to a District Officer, who shall forthwith inform the Director thereof.

Sale or disposal of antiquities and historical objects.

(2) The Director may by notice in writing require any person in possession of or lawfully entitled to sell or dispose of any antiquity or any historical object not to sell or otherwise dispose of any such antiquity or historical object without giving notice in writing to him of such proposed transaction.

(3) No person shall sell or otherwise dispose of—

- (a) any antiquity; or
- (b) any historical object,

in respect of which a notice under subsection (2) has been given by the Director, until after a lapse of thirty days after the giving of notice by such person of his intention to sell or otherwise dispose of the antiquity or historical object and, in the meanwhile, it shall be

lawful for the Director to purchase such antiquity or historical object at a reasonable price, notwithstanding any agreement which the owner may have entered into with another person.

(4) Such price shall be fixed by agreement between the parties or, in default of such agreement, by submission to arbitration under the law relating to arbitration for the time being in force in Sarawak.

(5) In any case where the Director has decided to purchase such antiquity or historical object, he shall be entitled to the custody and possession of the same on behalf of the Government and shall be responsible for its recording, preservative treatment and ultimate disposal.

Compensation to finder of antiquities.

7.—(1) Save as provided in subsection (3), the Director shall pay to any person who discovers and gives notice of his discovery of an antiquity under section 4 compensation equal to the value thereof, or shall renounce Government ownership in the object and return it to the finder, who shall receive a certificate of discovery in such form as may be prescribed.

(2) Such value shall be fixed by agreement between the parties or, in default of such agreement, by submission to arbitration under the law relating to arbitration for the time being in force in Sarawak.

(3) No compensation shall be payable to the finder of any antiquity if—

(a) the discovery of the antiquity was made in contravention of any provision of this Ordinance;

(b) the Director is of the opinion that the antiquity should be preserved in the place where it was found; or

(c) the land on or in which the antiquity was discovered in a State land.

PART III

EXCAVATION

8.—(1) No person shall dig or otherwise search for antiquities or historical objects, whether on his own land or elsewhere, unless he is in possession of a valid licence to excavate issued by the Director.

No search for antiquities or historical objects except under licence.

(2) A licence issued under this section shall be granted for such period and subject to such conditions as the Director may prescribe:

Provided that the Director may, at the expiration of any such licence, extend it for such further period or periods as he shall deem fit.

(3) Nothing herein contained shall be deemed to authorise the infringement of any private right or the contravention of any law in force in Sarawak.

(4) Neither the Director nor the Government shall incur any liability in respect of any loss sustained by the person or of any damage caused to any person in the course of or as a result of any excavation carried on under the authority of a licence granted under this Part by reason merely of the grant of such licence.

9.—(1) In addition to any other conditions that may be prescribed, either generally by rules made under section 35 or by the Director in any particular case, every licence granted under the provisions of section 8 shall be subject to the following conditions—

Conditions of licences.

(a) the licensee shall take all reasonable measures for the preservation of the antiquities or historical objects discovered by him and, if the preservation of the antiquity or historical object be beyond the means of the licensee, he may apply to the Director for assistance, and the Minister may, if he thinks the antiquity or historical object merits it, approve the necessary aid subject to such conditions as he may deem fit to impose;

(b) the licensee shall carry out his excavations in a scientific manner, and to the satisfaction of the Director;

(c) at the close of the excavation, or at such other times as the Director may require, the licensee shall afford an opportunity to the Director to divide the antiquities or historical objects so found in accordance with the provisions of section 10;

(d) the licensee shall, within a reasonable time, deposit with the Director any photographs, squeezes or other reproductions which the Director may require of antiquities or historical objects falling to the licensee in such division.

(2) In the event of a breach by a licensee of any of the conditions upon which a licence to excavate is granted or of any of the provisions of this Ordinance, the Director may forthwith suspend or cancel such licence.

Division of
antiquities
and
historical
objects.

10.—(1) In making the division provided for in section 9(1) (c) the Director shall, with the permission of the Minister, retain for the Government all antiquities or historical objects which are in his opinion desirable for the scientific completeness of the Sarawak Museum or for the purpose of illustrating the history, arts or crafts of Sarawak or of preserving the same as a cultural heritage of the people, and, as to the remainder, he may on behalf of the Government renounce ownership.

(2) The Director shall pay to the licensee, as compensation for any antiquity or historical object retained for the Government, a sum equivalent to the reward, other than wages, reasonably disbursed by the excavator to the workers who found them:

Provided that the compensation shall not exceed the value of the antiquity or historical object found. In the case of disagreement between the Director and the licensee as to the adequacy of the compensation, the matter shall be submitted to arbitration under the law relating to arbitration for the time being in force in Sarawak.

(3) Without prejudice to any compensation payable under subsection (2) the Director may, with the approval of the Minister, transfer to the licensee antiquities or historical objects belonging to Government, other than those the subject matter of the decision, and shall register such antiquities or historical objects in the name of the licensee.

(4) The Director shall issue to the licensee a certificate of discovery in respect of all those antiquities or historical objects the ownership of which is renounced by him under subsection (1).

(5) If the division takes place on the field of excavation, the cost of transport to the Sarawak Museum of any antiquity or historical object which the Government may retain shall be borne by the licensee, unless the Minister directs that the whole or part of such cost shall be borne by public funds.

PART IV

PROHIBITION OF EXPORT AND SALE OF ANTIQUITIES AND HISTORICAL OBJECTS

11.—(1) No person shall export from Sarawak any antiquity unless he has obtained from the Director a licence to export such antiquity.

Export of
antiquities
prohibited
except under
licence.

(2) Every applicant for a licence to export an antiquity shall produce the certificate of registration or discovery of such antiquity.

12.—(1) Where an officer authorised in writing by the Director or any police officer or customs officer has reason to believe that any object which is to be exported is an historical object he may detain such object and forthwith report such detention to the Director.

Prohibition
of export of
historical
object.

(2) If the Director is satisfied that the historical object ought to be preserved as a heritage for the people of Sarawak, on account of its artistic, historical, cultural or traditional beauty, interest or value, he may prohibit the export thereof.

Production of licence.

13. A licence to export any antiquity shall be produced by the holder to the Director, or any officer specially authorised by him, on demand.

Power of Director to prohibit export of antiquities.

14. The Director may, with the approval of the Minister, prohibit the exportation from Sarawak of any antiquity, the retention of which in Sarawak he considers to be necessary or desirable in the interest of preserving the cultural heritage of the people.

Acquisition of antiquity or historical object sought to be exported.

15.—(1) Where—

(a) a licence to export any antiquity has been refused; or

(b) an historical object is prohibited from being exported,

on the ground that such antiquity or historical object should be acquired on behalf of the Government, the Director shall pay to the owner thereof a reasonable compensation for such antiquity or historical object and thereupon the said owner shall deliver up the same to the Director who may dispose or deal with it in such manner as he deems fit.

(2) Where there is any dispute between the Director and the owner as to the reasonable compensation for the antiquity or historical object, the matter shall be submitted to arbitration under the law relating to arbitration for the time being in force in Sarawak.

Right to inspect antiquities and historical objects.

16. Any person in possession of an antiquity or historical object shall, at the request of the Director, permit the same to be inspected and studied at any reasonable time by any person or officer authorised by the Director in that behalf, and shall give to him all reasonable facilities to make drawings, photographs or reproductions thereof, by the making of replicas, casts or by any other means:

Provided that any such drawing, photograph or reproduction shall not be sold without the prior consent of the person in possession of such antiquity or historical object.

17.—(1) The Director may, with the approval of the Minister, authorise the sale of any antiquity or historical object which is the property of the Government and which, in the opinion of the Director, is not required for the Sarawak Museum or to be preserved as a cultural heritage of the people.

Authorisation for sale of antiquity or historical object.

(2) A record of each such sale shall be kept by the Director, and every antiquity or historical object so purchased from the Director shall be deemed to have been duly registered under Part II of this Ordinance.

18.—(1) No person, unless specifically exempted by the Director, shall deal in antiquities or historical objects unless he is in possession of a dealer's licence granted by the Director.

Dealer's licence.

(2) A dealer of antiquities and historical objects who applies for a dealer's licence to the Director shall submit a listing of his present stock inventory to be duly inspected and stamped by the Director or any officer duly authorised in that behalf by the Director.

(3) Upon compliance with the requirements of subsection (2), a dealer's licence shall be issued upon payment of such fee as may be prescribed by rules made under section 35.

(4) Subsequent replenishment of the inventory and sales of stock shall be recorded and open to inspection at any time by the Director or any officer duly authorised in that behalf by the Director.

(5) Nothing in this section contained shall release any dealer from any obligation imposed under sections 11, 13 and 15 relating to exportation of antiquities or historical objects.

19.—(1) The Director, with the approval of the Minister, may make loans or exchanges of any antiquities or historical objects belonging to the Government to or with learned societies or museums, or with any specialist or expert, and may authorise the exportation of such antiquities or historical objects from Sarawak for such purposes.

Loan of Government antiquities or historical objects.

(2) Any agreement for a loan under subsection (1) shall contain adequate provisions for the preservation, insurance and, if the Director considers necessary, the return to Sarawak of the antiquities or historical objects.

PART V

HISTORICAL MONUMENTS AND HISTORICAL SITES

Acts prohibited in relation to certain building except under permit.

20.—(1) The Director shall, in consultation with the Minister, compile a register of buildings situated in Sarawak which—

(a) were built before the year 1940 and are of such historical significance to warrant their preservation; or

(b) are of special architectural, artistic or cultural interest or beauty; or

(c) are closely associated or connected with a person or event important to the history of Sarawak,

that in the opinion of the Director ought to be retained as a cultural heritage for the benefit of the people.

(2) Any building entered by the Director in the register compiled under subsection (1) shall be deemed an historical monument and the land upon which the building is situated shall be an historical site.

(3) The register compiled under this section shall be open for inspection by the public upon payment of such fees as may be prescribed by the Director with the approval of the Minister.

(4) The Director shall, as soon as practicable after including in the register an entry relating to any building, notify—

(a) the owner and (if the owner is not the occupier) the occupier of the building;

(b) the local authority having jurisdiction over that building; and

SARAWAK CULTURAL HERITAGE

15

(c) the Director of Lands and Surveys,

by notice in writing (to be called a preservation notice) that the building shall not be demolished, dismantled, altered, defaced or interfered with, except in accordance with a permit granted by the Director.

(5) The preservation notice issued under this section shall bind all subsequent owners or occupiers of the land upon which the building is situated and shall have the effect of a special condition of title.

(6) The owner or the lawful occupier of any building, in respect of which a preservation notice has been served, who wishes to obtain a permit for any of the purposes specified in subsection (4), shall apply to the Director.

(7) On receipt of the application, the Director may grant or refuse the application subject to such terms and conditions as he may deem fit to impose.

(8) Where the Director agrees to grant the application, he may stipulate in the permit that the demolition, dismantlement, alteration or defacement of, or interference with, the building shall not take effect except with the prior approval of the local authority having jurisdiction over the building and only after the Director had the opportunity of examining it and make such records as he may deem necessary in respect thereof.

(9) (a) Where the Director refuses to grant the application, he may, unless he first obtains the consent in writing of the owner or the lawful occupier to agree to carry out the work for the maintenance, preservation or restoration of the building, pay the owner or the lawful occupier such sum of money, as may be approved by the Minister, for the purpose of assisting the owner or the lawful occupier to carry out the work.

(b) The local authority shall be informed in writing of such refusal and it shall give effect to such refusal by not giving approval to any building operation prohibited under subsection (4).

(10) (a) A person aggrieved by any decision of the Director made under this section or under section 21(3) may, within fourteen (14) days after the date of being notified of such decision, appeal to the Minister who may confirm, vary, reverse or revoke such decision.

(b) The decision of the Minister on the appeal shall be final.

(11) Any person who—

(a) carries out or causes or permits to be carried out any building operation which is prohibited under subsection (4) without a permit granted by the Director under that section; or

(b) contravenes or fails to comply with subsection (8); or

(c) fails to carry out any necessary work for the maintenance, preservation or restoration of a building, where the duty to provide for such facilities had been agreed upon and paid in accordance with subsection (9),

shall be guilty of an offence: Penalty imprisonment for five years and a fine of twenty thousand ringgit.

Schedule of
historical
monuments
and sites.

21.—(1) The Director shall, with the approval of the Yang di-Pertua Negeri, and subject to subsection (4), publish in the *Gazette* a schedule of historical monuments and historical sites and may, with the like approval, make additions or amendments thereto.

(2) The Director shall have the power to determine the limits of any historical monument or historical site.

(3) If any land or site (without any building) is intended by the Director to be declared an historical site under subsection (1) is or within a private land, the Director shall, prior to the making of the declaration, serve on the owner and any lawful occupier of the private land a notice in writing of his intention to declare the land or site as an historical site.

(4) In the event that the owner or occupier of the land shall fail to lodge any appeal within the period stipulated for appeal under section 20(10) or if there shall be such appeal and the Minister decides to affirm the Director's decision, the Director shall declare the land or site an historical site and cause the land or site to be gazetted under subsection (1).

(5) The declaration by the Director under this section shall bind all subsequent owners or occupiers of the land and shall have the effect of a special condition of title.

(6) Where the Director is desirous of acquiring, for the purposes of this Ordinance, any land, site or monument which is declared to be an historical monument or an historical site under subsection (1), the Director may, with the approval of the Minister, acquire such land, site or monument for an undertaking which is of public interest by compulsory acquisition in accordance with the provisions of Part IV of the Land Code.

*Cap. 81.
(1953 Ed.).*

22. No person shall, without the permission in writing of the Director or other lawful authority—

Acts prohibited in regard to historical monuments and sites.

(a) dig, excavate, build, plant or fell trees, quarry, irrigate, burn lime or do similar work, or deposit earth or refuse, on or in the immediate neighbourhood of an historical monument or an historical site included in the schedule published under section 21 or establish or extend a cemetery on an historical site so included;

(b) demolish an historical monument or disturb, obstruct, modify, mark, pull down or remove any such monument or any part thereof;

(c) make alterations, additions or repairs to any historical monument; or

(d) erect buildings or walls abutting upon an historical monument or an historical site.

23. Where any historical monument or historical site is on private property, the Director may—

Care of historical monuments and sites.

(a) make arrangements with the owner or lessee for its preservation, inspection and maintenance and may, with the approval of the Minister, make a contribution from public funds towards the cost of carrying out any works of repair or conservation which he deems necessary and which the owner or lessee may be willing to undertake:

Provided that, where the Director so contributes towards the cost of carrying out such works, they shall be performed subject to any conditions which he may impose;

(b) with the approval of the Minister purchase or lease the area where the historical monument or historical site is situated by private treaty; or

(c) in the case of an historical monument, remove, with the approval of the Minister, the whole or any part thereof, making good any damage done to the site or to buildings thereon by such removal, and paying compensation therefor:

Provided that the amount of such compensation shall be fixed by agreement or, in the case of dispute, by arbitration under the law relating to arbitration for the time being in force in Sarawak.

Inspection
of historical
monuments
and sites.

24. The owner or lessee of an historical monument or historical site shall at all reasonable times permit the Director, or any person or officer authorised by the Director either generally or specially in that behalf, to enter upon the site for inspection or to carry out any study or work necessary for the maintenance or conservation thereof:

Provided that the liability imposed by this section shall arise only if such owner or lessee shall have received not less than two days' notice in writing, under the hand of the Director, of any proposed entry.

SARAWAK CULTURAL HERITAGE

19

PART VI

TRADITIONAL ARTS AND HANDICRAFT

25.—(1) The Director shall, subject to the directions of the Minister and to such rules as may be made under section 35, take such measures as may be expedient or reasonably necessary—

Promotion of traditional arts and handicraft.

(a) to promote and, where necessary, to stimulate interest and rehabilitate skills in traditional arts and handicraft;

(b) to develop, maintain or enhance the standards and appreciation of traditional arts and handicraft;

(c) to preserve such traditional arts and handicraft which ought to be preserved as a cultural heritage of the people;

(d) to provide incentives, by way of awards, grants or other forms of monetary rewards, to any person or body of persons, actively involved in the promotion, preservation, perpetuation and development of traditional arts and handicraft; and

(e) to establish centres, workshops and other facilities for the making, promotion, exhibition, display, development of, and the dissemination of information on, traditional arts and handicraft.

(2) For the purpose of this section—

“traditional arts and handicraft” means any work of art, craft, carving, handiwork or product derived from manual skill which is associated with or depicting the culture, traditions, customs, way of life and history of the natives and the various communities in Sarawak.

PART VII

PENALTIES

26.—(1) Any person who, being the finder of an antiquity, fails to report the antiquity, or to take action to protect it, or to state the circumstances of the

Penalties.

discovery of the origin of the antiquity, or wilfully makes a false statement of such circumstances or such origin, shall be guilty of an offence: Penalty, imprisonment for two years and a fine of ten thousand ringgit.

(2) Any person who fails to give reasonable facilities to an officer of the Government, or any person or officer authorised, by the Director, to inspect, copy, study and make drawings, photographs, squeezes or other reproductions of an antiquity or historical object, or to enter and carry out any necessary work for the maintenance and conservation thereof, where the duty to give such facilities is imposed under this Ordinance, shall be guilty of an offence: Penalty, a fine of two thousand ringgit.

(3) Any person, not being the holder of a licence to excavate granted under section 8, who digs for antiquity or historical object, or demolishes any ancient walls or other structures or objects which are antiquities or historical objects within the meaning of this Ordinance, whether above or below the ground, even though these acts are done upon land of which he is the owner or lessee, shall be guilty of an offence: Penalty, imprisonment for two years and a fine of ten thousand ringgit.

(4) Any person who, not being the holder of a licence to export granted under section 11, exports or attempts to export any antiquity shall be guilty of an offence: Penalty, imprisonment for five years and a fine of twenty thousand ringgit.

(5) Any person who exports or attempts to export an antiquity or historical object, the exportation of which has been prohibited in accordance with the provisions of section 12(2) or 14 shall be guilty of an offence: Penalty, imprisonment for five years and a fine of twenty thousand ringgit.

(6) Any person who commits an offence against any of the provisions of section 22 shall be guilty of an offence: Penalty, imprisonment for one year and a fine of three thousand ringgit.

(7) Any person who fails to register an antiquity in accordance with the provisions of Part II of this Ordinance shall be guilty of an offence: Penalty, imprisonment for two years and a fine of ten thousand ringgit:

Provided that nothing herein shall apply to the owner or lessee of land on which an antiquity has remained undiscovered, if the owner or lessee reports such antiquity to the Director or his deputy as soon as it is found.

(8) Any person who sells or otherwise disposes of an antiquity or historical object contrary to the provisions of section 6 shall be guilty of an offence: Penalty, imprisonment for five years and a fine of twenty thousand ringgit.

(9) Any person who maliciously or negligently destroys, injures, defaces, displaces, disturbs or disfigures any antiquity in his possession or registered under section 5 or any antiquity or historical object in respect of which a notice under section 6(2) has been given shall be guilty of an offence: Penalty, imprisonment for one year and a fine of three thousand ringgit.

(10) When any notice under this Ordinance or any rules made hereunder requires any act to be done or work to be executed by any person and the person fails to comply with the requirements of the notice, he shall be guilty of an offence and shall, on conviction, where no fine is specially provided, be liable to a fine of three thousand ringgit and to a further fine of five hundred ringgit for each day that the offence continues after conviction.

(11) Any person who by any act or omission contravenes or fails to comply with any of the provisions of this Ordinance or of any rules made hereunder shall be guilty of an offence and if no penalty is expressly provided shall, on conviction, be liable to imprisonment for one year and a fine of three thousand ringgit.

(12) Where an offence under this Ordinance or any rules made hereunder has been committed by

a body corporate, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate or was purporting to act in such capacity shall, as well as such body corporate, be deemed to be guilty of that offence.

Forfeiture. 27. In every case where a person is found guilty of an offence against this Ordinance, any antiquity or historical object in respect of which such offence is committed may, by order of the court, be forfeited to Government.

Compounding of offences. 28.—(1) The Director or any officer authorised in writing in that behalf by the Director may compound any offence committed under this Ordinance or any rules made hereunder by accepting from the person reasonably suspected of having committed such offence a sum of money not exceeding one thousand ringgit.

(2) The manner of compounding the offences shall be prescribed by rules made under section 35.

Who may prosecute. 29. Proceedings for any offence against this Ordinance or any rules made hereunder may be conducted by the Director or any officer duly authorised in that behalf by the Director.

PART VIII

MISCELLANEOUS

Appeal. 30.—(1) Whenever any person is dissatisfied with the exercise of any discretion given to the Director by or under this Ordinance, or with any action or decision of the Director either as to the carrying out, or as to the meaning, of any of the provisions of this Ordinance, or whenever any of the provisions of this Ordinance are, owing to special conditions, undesirable, the person so dissatisfied may, unless express provision is made for reference to arbitration, appeal to the Minister who, if in his opinion the exercise of such discretion or such action or decision requires modification, revocation, or setting aside, or such special conditions exist as render any such provision undesirable, may make such order in respect thereof as may be just.

(2) The grounds of such appeal shall be concisely stated in writing and shall be delivered to the Minister who shall determine the matter in the absence of, and without further reference to, the Director.

(3) The Permanent Secretary of the Ministry responsible for the Sarawak Museum shall furnish the appellant with a copy of the evidence and documents submitted by the Director for the consideration of the Minister.

31. The Director may, with the prior approval of the Minister, in writing generally or specially authorise the exercise, performance or discharge of any of his powers, duties or functions under this Ordinance or rules made hereunder by any other officer.

Delegation of powers.

32. No action or prosecution shall be brought, instituted or maintained in any court against the Director, any person or officer authorised under this Ordinance for or on account of or in respect of any act ordered or done for the purpose of carrying into effect this Ordinance, and no suit or prosecution shall lie in any court against any other person for or on account of or in respect of any act done or purported to be done by him under the order, direction or instruction of the Director, any such person or officer if the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served thereby.

Protection of officers and persons acting under direction of officers.

33. Any person acting for and on behalf of or under the direction of the Director under this Ordinance shall be deemed to be a public servant within the meaning of the Penal Code.

Public servants.
F.M.S.
Cap. 45.

34. The Director may, with the approval of the Minister, by order direct that any person or class or description of persons specified in the order shall be exempt from the operation of this Ordinance or any rules made hereunder or any part thereof.

Exemption.

35.—(1) The Minister may, with the approval of the Yang di-Pertua Negeri, make rules generally for carrying out the provisions of this Ordinance and, in particular, such rules may provide for—

Rules.

(a) determining the conditions and the fees, if any, upon which licences or permits under this Ordinance may be issued or granted;

(b) governing the registration of antiquities;

(c) prescribing the forms necessary for the implementation of this Ordinance;

(d) governing the grant of dealer's licence or of licences to export antiquities or of permits to export historical objects or any other licences or permits which are required to be prescribed or which may be prescribed under this Ordinance;

(e) giving incentives or due recognition to traditional craftsmen;

(f) developing, preserving and perpetuating traditional arts and handicraft;

(g) establishing a special fund to be employed for the purpose of defraying expenses for the maintenance, preservation or restoration of buildings, monuments or sites registered under section 20 or included in the schedule published under section 21 and such other expenditure as the Director may properly incur in carrying out his functions and exercising his powers under this Ordinance, and generally for the purpose of paying any expenses for carrying into effect the provisions of this Ordinance;

(h) regulating the demolition or alteration of any building operation approved under section 20;

(i) regulating the conduct of excavations and searches for antiquities;

(j) providing for the management and control of antiquities, historical objects, monuments and sites;

(k) imposition of penalties for contravening any rules made under this section which penalties shall not exceed one year's imprisonment and a fine of three thousand ringgit;

(l) prescribing the forms to be used in and the method and procedure for compounding offences; and

(m) prescribing anything which is required to be, or may be, prescribed under this Ordinance.

(2) No rules made under this Ordinance shall—

(a) prohibit or restrict the right of access to an historical site of the owner or lawful occupier of the historical monument or historical site or of any person beneficially interested therein, or of any person authorised by the owner, occupier or such person; or

(b) confer upon a person any right which he would not otherwise have had to enter upon private land.

36.—(1) The Antiquities Ordinance is hereby repealed. Repeal and saving.
Cap. 134.
(1958 Ed.).

(2) All notifications made or licences or permits issued under the repealed Ordinance shall, if still in force at the commencement of this Ordinance, continue in force, and shall have effect as if made or issued under this Ordinance, until other provision shall be made or issued under or by virtue of this Ordinance or until the dates upon which they expire.