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ROYAL AFGHAN MINISTRY OF EDUCATION

DIRECTORATE-GENERAL OF MUSEUMS & PRESERVATION OF
ANTIQUITIES IN AFGHANISTAN

CODE FOR THE PROTECTION OF ANTIQUITIES
IN AFGHANISTAN

TRANSLATED INTO ENGLISH BY

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PART - I

RULES AND DEFINITIONS:

Clause - 1: All artistic relics and monuments erected before the reign of Emperor Ahmad Shah Baba (1160 A.H. corresponding to 1748 A.D.) in Afghanistan, whether moveable or immovable, are counted among national antiquities and are under the protection of the State. All these relics, whether possessing archaeological, or historical and artistic, or ethnographical value, shall include the following categories of articles:

- (a) Articles of historical or prehistorical value.
- (b) Coins.
- (c) Manuscripts, missives, documents, and rare photogravures.
- (d) Palaces and gardens of historical and artistic interest, and ancient caves which have served as human habitation in the past. Also slabs of stone upon which humans have painted or etched pictures and figures.

Clause - 2: Antiquities are either moveable or immovable. The are 'immovable' when attached to the ground and incapable of being shifted, i.e. ancient monuments, historical buildings, caves, inscribed rocks, and all those things which are integral parts of a building, such as embellishments.

Moveable antiquities, on the other hand, include all those antiquities which can be moved and transported from one place to another.

Clause - 3: All antiquities, whether moveable or immovable, unearthed or buried underground, are part of national antiquities and under the protection and surveillance of the State. No one can possess or claim possession of these antiquities except in accordance with the conditions laid down in this Code.

Clause - 4: Demolition, mutilation, transformation, and transportation of all moveable and immovable antiquities are strictly prohibited.

Clause - 5: The power to determine the artistic value of antiquities is vested in the Directorate-General of Museums & Preservation of Antiquities in Afghanistan.

PART - II

IMMOVEABLE ANTIQUITIES:

Clause - 6: The Directorate-General of Museums & Preservation of Antiquities in Afghanistan shall carry out a scientific stock-taking, and prepare a list of all immoveable antiquities of a historical value the existence of which is presently known; other immoveable antiquities shall be entered in this list as and when they are discovered.

Clause - 7: Whenever the existence of any such antiquities is reported to the Directorate-General of Museums & Preservation of Antiquities in Afghanistan the Minister of Education is authorized to place, in accordance with scientific needs, such relics under the category of places of historical value and to declare it as such in official publications. In such cases, however, the historical relic does not cease to be the sole property of the owner and he can, therefore, continue to use it.

Clause - 8: If an immoveable antiquity is discovered on private land the Government can acquire that piece of land on which the monument is found against payment according to prevailing rates.

Clause - 9: No one is entitled to erect anything on the site of ancient monuments even though they are located on privately-owned land.

Clause - 10: Local Municipalities are debarred from drawing up plans for building, or authorizing anyone to build on the site of ancient monuments except with the prior permission of the Directorate-General of Museums & Preservation of Antiquities in Afghanistan.

Clause 11: Ancient artistic and historical monuments shall be entered in official 'Property Records' on the proposal of the Directorate-General of Museums & Preservation of Antiquities in Afghanistan and with the sanction of the Minister of Education. It is the duty of owners, and the administrative and municipal authorities of the area, to communicate this information to the Department of Property Registration. The latter Department is bound to enter such memoranda in the Registry of Property.

Clause - 12: If a person should inadvertently discover or unearth a moveable or immovable ancient monument, he must inform the nearest administrative agency within a period of two days. The latter is bound to pass on the information to the Directorate-General of Museums & Preservation of Antiquities in Afghanistan without delay.

Clause 13: The owner of an immovable antiquity cannot prevent the representative of the Directorate-General of Museums & Preservation of Antiquities in Afghanistan from inspecting and examining it.

Clause - 14: Burying the dead on sites of ancient and historical monuments is prohibited.

PART - III

MOVEABLE ANTIQUITIES:

Clause - 15: The Directorate-General of Museums & Preservation of Antiquities in Afghanistan is authorized to enter in the General List, and transfer to the Museum in Kabul, all parts of ancient structures removed from their proper places and embedded in walls, or placed upon tombs and in mosques.

Clause - 16: Particulars of all moveable antiquities in the possession of private individuals at the time of the enforcement of this Code should be entered in the records of the Directorate-General of Museums & Preservation of Antiquities in Afghanistan within a period of six months after the promulgation of the law, but such articles shall remain, as hitherto, in the possession of their owners. If the owners should fail in declaring such articles for entry in the Register of the Preservation of National Antiquities, they shall be punished under the provisions of this Code.

Clause - 17: A person inadvertently discovering an antique article and then informing the Directorate-General of Museums & Preservation of Antiquities in Afghanistan of his discovery shall be properly rewarded.

Clause - 18: A person who inadvertently discovers antique articles and then makes a present of them to one of the museums in Afghanistan, such a gesture shall be officially acknowledged and appreciated by the Ministry of Education.

PART - IV

PROTECTION OF ANTIQUITIES:

Clause - 19: Owners, caretakers and trustees of mosques, mausoleums, temples, monasteries and other ancient buildings are responsible for repairing and maintaining them. If they are unable to keep them in good repair, they should immediately communicate the situation to the Directorate-General of Museums & Preservation of Antiquities in Afghanistan.

Clause -20: Local revenue and administrative officials are duty bound to prevent the people from demolishing operations, removing soil and stones, planting or cutting trees, irrigating, excavating, storing materials, burying the dead, or erecting buildings in regions recognized as sites of ancient and historical monuments. Prior permission in such cases should, however, be obtained from the Directorate-General of Museums & Preservation of Antiquities in Afghanistan.

Clause - 21: Neighbors living near immoveable ancient monuments and relics are bound to prevent others from damaging and mutilating such monuments and relics. In case any damage is inflicted the matter should be immediately reported to the local authorities.

Clause - 22: Every owner or trustee of registered monuments is bound to carry out the task of protecting and repairing needed by such places and recommended by the Directorate-General of Museums & Preservation of Antiquities in Afghanistan.

Clause - 23: The owner of a registered or unregistered ancient monument is not entitled to carry out any changes in, or demolish it, or to indulge in any act which might change its artistic, historical, and technical form and quality.

Clause 24: Construction of bakeries and kilns at a distance of less than half kilometre without the permission of the Directorate-General of Museums & Preservation of Antiquities in Afghanistan is prohibited.

Clause - 25: The Directorate-General of Museums and Preservation of Antiquities in Afghanistan has the duty of performing all tasks designed to preserve immovable national antiquities.

Clause - 26: Owners of moveable antiquities are debarred from repairing, or carrying out the least possible change, in their possessions without the advice of the Directorate-General of Museums and Preservation of Antiquities in Afghanistan.

Clause - 27: No one in possession of registered antique articles can shift them from one place to another without prior notice to the Directorate-General of Museums and Preservation of Antiquities in Afghanistan and permission of the authorities.

Clause - 28: No one in possession of registered antique articles can produce moulded replicas of such articles without the permission of the Directorate-General of Museums and Preservation of Antiquities in Afghanistan.

PART - V

Registration of ANTIQUE ARTICLES:

Clause - 29: Registration of an immovable antiquity, or a place forming a part of an immovable antiquity, in the list of national antiquities shall be proposed by the Chief of Museums in Afghanistan to the Minister of Education. The Minister of Education will thereupon decide the feasibility or otherwise of such a registration. In the case of approval, the Minister of Education will order the necessary registration and the question of ownership will be investigated.

Clause - 30: Officials of the Museum entrusted with the task of preparing a list of national antiquities shall, at the time of registering immovable antiquities, prepare complete dossiers of each immovable antiquity

giving all information that has been accumulated about it. These dossiers shall embody the following information:

- 1) The name by which the immovable property is known in the place where it is located.
- 2) Its real name.
- 3) Its correct geographical position.
- 4) The name of its founder and architect.
- 5) Date of construction.
- 6) A summary of its plan.
- 7) Some photographs of the place.
- 8) Any other particulars not mentioned above but suitable for entry.

Clause - 31: Officials of the Museum entrusted with the task of preparing a list of antiquities are bound to make a detailed report of their work to the Minister of Education when the job is finished. If certain of the immovable antiquities are discovered to be in need of repairs and supervision the Ministry of Education shall issue necessary orders to the department concerned.

Clause - 32: Persons in possession of registered immovable antiquities shall continue to enjoy inviolable rights of possession but they must refrain from opposing any measures designed by the Government for the protection of an antiquity.

PART - VI

ARCHAEOLOGICAL MATTERS:

Clause 33: The right of excavating for discovering, acquiring and studying antiquities belongs, solely and wholly, to the Government.

Clause - 34: The Government can exercise this right by itself by carrying out excavations through the department entrusted with the task of preserving antiquities, or delegate this right on a temporary basis to scientific organizations through permission granted on the basis of an agreement for archaeological excavations.

Clause - 35: Permission for excavations shall be given by the Council of Ministers to scientific organizations alone; excavations for commercial purposes will not be possible in any way.

Clause - 36: Application for excavations should be made to the Minister of Education; it must contain the following information:

- 1) Object of excavations and its programme.
- 2) The place where excavations are required to be made and the regions to which excavations will be limited.
- 3) The period of time needed for excavations.
- 4) Name of the organization applying for permission to carry out excavations.
- 5) Names and descriptions of persons taking part in the excavations.

Clause - 37: Foreign scientific organizations granted concessions to carry out excavations are bound to finish operations without any interruption of work at the appointed place; they cannot postpone it for a year.

Clause - 38: At the end of every season of work the person in charge of excavations shall deliver the following documents to the Directorate-General of Museums and Preservation of Antiquities in Afghanistan:

- 1) Plan of place or places of excavations together with a description of the structures and articles that have been unearthed.
- 2) A detailed list of all articles that have been unearthed.
- 3) A brief report of operations with authorization of publication in one of the periodicals and publications of the Directorate-General of Museums.

Clause - 39: Excavations should be carried out under the supervision of the following persons:

- 1) One Director, as chief of operations. He should be experienced and well-informed about archaeological matters and the subject for which excavations are being made.
- 2) One engineer, well-versed in archaeological matters.
- 3) A person, as Assistant, well-acquainted with archaeological operations and capable of sketching and photographing.
- 4) If the subject of excavations relates to the pre-Islamic era, in that case an epigrapher fully acquainted with ancient Indian and European languages should also be present. In the case of excavations for Islamic civilization the expert should know 'Kufi' and Arabic scripts. Excavations for prehistoric relics can, of course, be made in the absence of an epigrapher.

Clause - 40: During all stages of excavations foreign teams should recognize the representatives of the Directorate-General of Museums in Afghanistan as representing the authority for the preservation of antiquities. They are not entitled to commence operations in the absence of the representative of the Directorate-General of Museums.

Clause - 41: Representative of the Directorate-General of Museums shall always be present at the site of excavations.

Clause - 42: Persons deputed to accompany foreign teams engaged in the task of excavations should not number less than two.

Clause - 43: The moment an article is unearthed the delegation must inform the representatives of the Museum about the discovery and the place where it was discovered.

Clause - 45: The Directorate-General of Museums and Preservation of Antiquities in Afghanistan cannot publish reports of excavations in newspapers, or sell photographs of the same, prior to the publication of such reports by, and approval of the archaeological team.

Clause - 46: If the archeological team publishes something before the end of the excavations in that case it should provide a copy of the same, before publication, to the Directorate-General of Museums & Preservation of Antiquities in Afghanistan.

Clause - 47: An archeological delegation which has concluded an agreement for excavations with the Government of Afghanistan can carry out excavations on privately-owned agricultural land provided it is done during off-season and it is restored to its former position at the end of the same term of excavations. However, if they should wish to carry on operations during the farming season they must compensate the owner of the land for the losses sustained by him.

Clause - 48: The Directorate-General of Museums & Preservation of Antiquities in Afghanistan has the right to photograph and make moulded-replicas of all those antique specimens which fall to the share of the foreign delegation as a result of the distribution.

Clause - 49: A foreign delegation which has concluded an agreement for excavations with the Government of Afghanistan must maintain a permanent office in Kabul where its representative must always be present.

Clause - 50: Articles unearthed must be transferred by the delegation to the warehouse of the Museum in Kabul after the end of the excavations.

Clause - 51: If the leader of the delegation should wish to keep one of the articles that has been unearthed, for the purpose of study and on a temporary basis in his room, he should obtain the permission of the Directorate-General of Museums & Preservation of Antiquities in Afghanistan before doing so.

Clause - 52: If two or more teams are engaged in excavations in Afghanistan and a relic is surreptitiously discovered, the Directorate-General of Museums shall have the right to entrust it to any one of the teams it may wish.

Clause - 53: The local revenue and administrative officer should appoint two guards at the site of operations throughout the time that excavations are being carried out.

Clause - 54: Distribution of antique articles unearthed during excavations shall take place in accordance with the terms of the agreement concluded with the excavating delegation.

Clause 55: If an organization which has concluded an agreement for excavations with the Government of Afghanistan fails to commence operations within one year, the Government of Afghanistan is entitled to cancel its agreement and to transfer the stipulated site to another applicant.

Clause - 56: The delegation which has concluded an agreement for excavations with the Government of Afghanistan must provide, free of cost, five copies of all publications issued by it concerning its archeological researches in Afghanistan, to the Directorate-General of Museums & Preservation of Antiquities in Afghanistan.

Clause - 57: The owner of the land in which moveable antiquities are unearthed as a result of excavations is not recognized as the owner of such articles.

Clause - 58: Immoveable relics discovered through excavations on privately-owned land shall remain the property of the owner. The Government can, however, purchase it from the owner if necessary.

PART - VII

EXPORT OF ANTIQUITIES:

Clause - 59: It is prohibited to export antique articles out of Afghanistan without the written permission of the Directorate-General of Museums & Preservation of Antiquities in Afghanistan.

Clause - 60: Anyone wishing to export an antique in his possession must apply in writing to the Directorate-General of Museums & Preservation of Antiquities in Afghanistan giving the following particulars:

- 1) Name, description, profession, place of residence and nationality of exporter.
- 2) How did he acquire the antique?
- 3) Purpose of exporting it.
- 4) Description and sketch of the article.
- 5) If he has purchased the article, its price and the name of the seller.

Clause - 61: The Directorate-General of Museums & Preservation of Antiquities in Afghanistan has the right to grant or refuse permission of exporting antique articles. Similarly, it can, if it wishes, purchase the said article at the same price which the owner paid for it.

PART - VIII

TRADE IN ANTIQUITIES:

Clause - 62: No one can indulge in selling and purchasing antiquities without the written permission of the Directorate-General of Museums & Preservation of Antiquities in Afghanistan. Such written permission must be signed by the Director of the department and the Minister of Education.

Clause - 63: Sale and purchase of only those articles which have been registered under the terms of this law, and are in possession of individuals, are permitted; trade in unregistered antique articles is prohibited.

Clause - 64: Application for trade in antiquities should be addressed to the Directorate-General of Museums & Preservation of Antiquities in Afghanistan giving the name of the city where the trade is to be carried on or the town where such articles are being taken for trading purposes, together with the name and address of the firm wishing to deal in antiques.

Clause - 65: State-owned immovable antiquities can never be sold nor can they be placed under any law governing sale of property.

Clause - 66: Privately-owned immovable antiquities cannot be sold without the prior permission of the Directorate-General of Museums & Preservation of Antiquities in Afghanistan. The Directorate-General has the option to purchase such ancient relics.

Clause - 67: Anyone inadvertently finding an antiquity cannot sell it to anyone else without the permission of the Directorate-General of Museums & Preservation of Antiquities.

Clause - 68: The owner of an antique article wishing to dispose of it is required first to produce it before the Directorate-General of Museums & Preservation of Antiquities in Afghanistan in order to give it a chance of purchasing it on equal terms with other bidders. If the Directorate should decline to purchase it in that case the owner will be free to dispose of it in accordance with the provisions of this law, but he will be required to notify the Directorate-General of Museums & Preservation of Antiquities in Afghanistan with the name, designation and address of the purchaser.

Clause - 69: Persons who purchase antique articles must register these in their own name in the register of National Antiquities at the Directorate-General of Museums & Preservation of Antiquities in Afghanistan.

Clause - 70: Permission to carry on trade in antique articles will be given for a period of one year renewable in succeeding years. The Directorate-General of Museums & Preservation of Antiquities in Afghanistan shall, however, have the right to renew or refuse to renew such licenses.

Clause - 71: The Directorate-General of Museums & Preservation of Antiquities in Afghanistan is entitled to enter and examine, whenever necessary, the premises of an antique dealer. If the latter should have established such a business at his home with the approval of the Directorate-General of Museums & Preservation of Antiquities in Afghanistan even then he cannot prevent the representative of the Directorate-General from doing so.

Clause - 72: Every dealer in antiques is bound to observe the following conditions, and other conditions which may be imposed by the Directorate-General of Museums & Preservation of Antiquities from time to time:

- a) He should display a notice on the door inscribed with the words "Authorized to Deal in Antiques."

- b) It is not necessary for a dealer to maintain a special warehouse for such articles.
- c) The dealer shall maintain, according to the instructions of the Directorate-General of Museums & Preservation of Antiquities in Afghanistan a stock and sales register of the antique articles owned by the firm.
- d) Every antique article which comes into his possession must be placed before the Directorate-General of Museums & Preservation of Antiquities in Afghanistan or its representative, when he comes on a round of inspection. The said representative has the right to photograph and take moulded impressions of such an article.
- e) An antique dealer acquiring a piece of antique must inform, in writing, the Directorate-General of Museums & Preservation of Antiquities in Afghanistan on the very next day.
- f) If an antique dealer should desire to shift his place of business to another place he should notify the Directorate-General of Museums & Preservation of Antiquities in Afghanistan, in writing, at least one week before taking such a step.

Clause - 73: A dealer in antiques is required to pay one hundred Afghanis as license fees to the Directorate-General of Museums & Preservation of Antiquities in Afghanistan.

Clause - 74: The Directorate-General of Museums & Preservation of Antiquities in Afghanistan is authorized to purchase, under the provisions of this law, any artistic relic in possession of a dealer.

Clause - 75: Anyone wishing to sell or present any antique article in his possession to anyone else must first notify the Directorate-General of Museums & Preservation of Antiquities in Afghanistan.

Clause - 76: Every merchant found involved in the sale of illegally procured antiques during excavations shall be considered to be an accessory to the crime and shall be prosecuted accordingly.

Clause - 77: If the Directorate-General of Museums & Preservation of Antiquities in Afghanistan finds it necessary to acquire, for the national collection, an antique article for the export of which permission has been requested, it will have the right to do so. If the owner of such article should refuse to part with it in that case permission for its export will not be granted to him.

PART - IX

PUNISHMENT:

Clause - 78: Anyone trying to destroy or mutilate, deliberately, an antique article, shall be punished with a fine of one hundred to ten thousand Afghanis.

Clause - 79: Anyone discovering an antique article and failing to report his finding to the nearest Governmental authority shall be punished with a fine of fifty to one thousand Afghanis.

Clause - 80: Persons found guilty of erecting buildings on sites of ancient monuments in contravention of the provisions of Clause - 20 shall be ordered to demolish such structures. The Directorate-General of Museums & Preservation of Antiquities in Afghanistan is authorized to demolish, if necessary, all buildings erected on such sites after the promulgation of this law, and to carry out excavations there.

Clause - 81: In the case of a contravention of the provisions of Clause - 10 of this law the local municipality shall be considered to be guilty and responsible for payment of all losses and compensations.

Clause - 82: Persons found guilty of contravening the provisions of Clause - 14 of this Code shall be punished by the Directorate-General of Museums & Preservation of Antiquities in Afghanistan in the form of excavations at the site of cemeteries established after the promulgation of this law.

Clause - 83: Persons found guilty of contravening the provisions of Clause - 16 of this Code shall be punished with a fine of one hundred Afghanis for each antique article during the first year and twice and thrice the amount in succeeding years.

Clause - 84: Owners, caretakers and trustees of mosques, temples, mausoleums and monasteries and such other ancient structures, who are incapable of keeping them in good repair, shall be liable to bear all losses emanating from their carelessness.

Clause - 85: If an immovable ancient monument is deliberately damaged the local revenue and administrative officer shall be liable to pay half of the fine imposed upon the culprit.

Clause - 86: Neighbours living near sites of ancient monuments and contravening the provisions of Clause - 21 shall be liable to pay half of the fine imposed upon the culprit.

Clause - 87: Those contravening the provisions of Clause 24 of this Code shall be punished with a fine of one thousand Afghanis and shall be ordered to close down their brick and lime kilns.

Clause - 88: Persons found guilty of contravening the provisions of Clause 26 of this law shall be punished by the Directorate-General of Museums & Preservation of Antiquities in Afghanistan through the imposition of a fine consistent with the value of the article and also its proper restoration at their own personal cost.

Clause - 89: In the event of a contravention of the provisions of Clause - 27 of this Code the owner shall be punished with a fine of one hundred Afghanis for each antique article.

Clause - 90: Persons found guilty of producing moulded replicas of antique articles without the permission of the Directorate-General of Museums & Preservation of Antiquities shall be punished with a fine of one hundred to one thousand Afghanis.

Clause - 91: If representatives of the Directorate-General of Museums fail to appear, without valid, good reason, at the site of excavations, they shall be punished with a deduction of five days's salary for every day of absence.

Clause - 92: Persons found guilty of contravening the provisions of Clause 53 of this law shall be punished with a deduction of pay equalling the salary of one day up to one month.

Clause - 93: Researchers indulging in excavations without official permission shall be punished with six months' imprisonment and a fine of one to ten thousand Afghanis.

Clause - 94: Antique articles being exported from Afghanistan without the permission of the Directorate-General of Museums and Preservation of Antiquities in Afghanistan by exporters of such articles (including diplomats and Consuls) are liable to confiscation. Such confiscated articles shall be placed in Kabul Museum.

Clause - 95: Persons found guilty of trading in unregistered antique articles shall be punished with a fine amounting to the value of that article.

Clause - 96: Those who contravene the provisions of Clause 67 of this code shall be punished with a fine of one hundred Afghanis.

Clause - 97: Any dealer found guilty of delay in renewing his license shall be punished with a fine of one thousand Afghanis.

Clause - 98: Anyone found guilty of selling any antique article without the permission of the Directorate-General of Museums & Preservation of Antiquities shall be liable to pay a fine equalling the value of that article.

Clause - 99: If a dealer in antique articles should fail to comply with any of the conditions laid down in the license the Directorate-General of Museums & Preservation of Antiquities can withdraw and cancel his license.

Clause - 100: Any goldsmith found guilty of melting valuable antique coins shall be punished with six months' imprisonment.