

(No. 27)

ANTIQUITIES LAW, 5738 — 1978 *

Chapter One : Interpretation

1. In this Law —

Definitions.

“antiquity” means —

(1) any object, whether detached or fixed, which was made by man before the year 1700 of the general era, and includes anything subsequently added thereto which forms an integral part thereof;

(2) any object referred to in paragraph (1) which was made by man in or after the year 1700 of the general era, which is of historical value, and which the Minister has declared to be an antiquity;

(3) zoological or botanical remains from before the year 1300 of the general era;

“antiquity site” means an area which contains antiquities and in respect of which the Director has made a declaration under section 28 (a);

“land” includes any part of any sea, lake, river or other water and the bottom thereof;

“excavation” or “digging” includes a search for antiquities and a trial digging;

“collection” means an assemblage of antiquities, other than antiquities in the possession of a dealer in antiquities as trading stock;

“collector” means a person who collects antiquities otherwise than for the purpose of trading therein;

* Passed by the Knesset on the 23rd Shevat, 5738 (31st January, 1978) and published in *Sefer Ha-Chukkim* No. 885 of the 3rd Adar Alef, 5738 (10th February, 1978), p. 76.; the Bill and an Explanatory Note were published in *Hatza'ot Chok* No. 1250 of 5736, p. 314.

“museum” means any permanent exhibition of antiquities open to the public and any institution keeping a collection and exhibiting it for purposes of research, education or entertainment ;

“the Department” means the Department of Antiquities and Museums of the Ministry of Education and Culture ;

“the Council” means the Archaeological Council ;

“the Director” means the Director of the Department ;

“the Minister” means the Minister of Education and Culture.

Chapter Two : State Ownership of Antiquities

- State ownership of antiquities. 2. (a) Where an antiquity is discovered or found in Israel after the coming into force of this Law, it and the area in which it is discovered or found and which is required for its preservation, shall within boundaries fixed by the Director become the property of the State.
- (b) A person who alleges that any antiquity was discovered or found before the coming into force of this Law shall bear the onus of proof.
- Notification of discovery of antiquity. 3. A person who discovers or finds an antiquity otherwise than in an excavation under a licence pursuant to this Law shall notify the Director within fifteen days of the discovery or find.
- Request for delivery. 4. The Director may in writing request a person in possession of an antiquity referred to in section 2(a) to deliver it up to him, and he may reward the deliverer if he considers that the circumstances justify his doing so.
- Request for loan of antiquity. 5. The Director may in writing request any person in possession of an antiquity to give it to him for the purpose of inspection or any other purpose for a period not exceeding ninety days.
- Discontinuance of work after discovery of antiquity. 6. (a) Where a person carrying out any works on land, whether his own land or the land of another, discovers an antiquity thereon, he shall notify the Director as provided in section 3 and shall discontinue the works until the expiration of fifteen days from

the date of delivery of the notification unless during that period he receives permission from the Director to continue the work.

(b) Within fifteen days from the date of delivery of notification as aforesaid, the Director may notify the owner and the occupier of the land, in writing, of the conditions for continuation of the work or may direct its permanent discontinuance.

7. (a) A person affected by a notification of the Director under section 6 (b) shall be entitled to compensation for the damage caused to him. Compensation.

(b) A demand for compensation shall be submitted to the Director in the manner and at the time prescribed by regulations.

(c) Where the demand of the person affected is not accepted, wholly or in part, the Court shall decide.

8. The Director may waive State ownership of an antiquity in writing, and upon his doing so the antiquity shall cease to be the property of the State. Waiver of rights of State.

Chapter Three : Excavations

9. (a) No person shall dig on any land, or otherwise search for antiquities, including the use of a metal detector, or gather antiquities, unless he has obtained a licence to do so from the Director (hereinafter referred to as an "excavation licence") and in accordance with the conditions of the licence. Excavation licence.

(b) When deciding upon an application for an excavation licence, the Director shall consult with the Council and shall make the scientific and financial ability of the applicant his prime consideration.

(c) An excavation licence shall define the area in which digging is permitted.

(d) The issue of an excavation licence shall not by itself confer on its holder the right of entry to land in another's domain.

10. (a) No person shall enter any land for which an excavation licence has been issued unless he is the occupier thereof or has been authorised on behalf of the occupier and subject to the consent of the holder of the licence. Right of entry.

(d) During the excavation, no person, other than the Director or a person empowered by him, shall photograph, paint, draw or

otherwise depict the excavation or the antiquities discovered in it, save with the permission of the holder of the licence.

Safety
measures.

11. (a) The holder of an excavation licence shall, both during the excavation and thereafter, until the expiration of the period stipulated in the licence, take all measures required —

(1) to ensure the well-being of workers and visitors at the place of the excavation and the fencing off of such place;

(2) to protect, and ensure the preservation of, the place of the excavation and the antiquities discovered thereat;

(3) to prevent all damage or nuisance to neighbouring property.

(b) Where the holder of a licence does not comply with the provisions of subsection (a), the Director may, without prejudice to the provisions of section 13, after warning the holder of the licence in writing, take the required measures in his stead and collect from him the expenses involved.

Particulars and
publications
relating to
excavation.

12. (a) At the dates prescribed by the Director, but not less than once a year from the date of commencement of the excavation, the holder of an excavation licence shall deliver to the Director in writing —

(1) a report as detailed as possible of the excavation, including sketches, plans and photographs of the work carried out;

(2) particulars of the antiquities discovered in the excavation, including photographs and other pictures.

(b) The holder of a licence shall have an exclusive right of publication in respect of the excavation for ten years from the termination thereof. Publication in contravention of this subsection shall be a civil wrong under the Civil Wrongs Ordinance (New Version)¹⁾.

(c) Within five years from the date of termination of the excavation, the holder of the licence shall bring out an appropriate scientific publication concerning the findings and results of the excavation and shall deliver two copies of the same to the Director; he shall also deliver to the Director two copies of every other publication brought out by him concerning the findings and results of the excavation.

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¹⁾ *Dinei Medinat Yisrael (Nusach Chadash)* No. 10, p. 268; *NV* vol. II, p. 5.

13. Where the holder of an excavation licence infringes any of the provisions of this Law or the regulations made thereunder or any of the conditions of the licence, the Director may revoke or suspend the licence or attach further conditions thereto; and where he infringes the provision of section 12 (c), the Director may refrain from granting him another excavation licence until he complies with the said provision.

Revocation and withholding of excavation licence.

14. The Director may, after consultation with the Council, enter into an agreement with the holder of an excavation licence concerning a waiver of the rights of the State in antiquities discovered in the excavation and concerning the apportionment of such antiquities between the State and the holder of the licence.

Waiver by agreement.

Chapter Four : Dealing in and Export of Antiquities

15. A person may only deal in antiquities if he is in possession of a licence therefor from the Director and in accordance with the conditions of the licence, which shall be prescribed by regulations.

Licence.

16. (a) A licence to deal in antiquities shall indicate the place of business. It shall only be valid for that place and shall be displayed there in a conspicuous position.

Place of business of dealer.

(b) A person shall not exhibit a licence which has expired.

17. A dealer in antiquities shall keep an inventory in the manner prescribed by regulations.

Duty to keep inventory.

18. (a) The Director may revoke a licence to deal in antiquities permanently or suspend it for a period prescribed by him if the holder is convicted of an offence under this Law or the regulations made thereunder.

Revocation of licence.

(b) A dealer whose licence has been revoked or suspended shall be treated as a collector.

19. (a) The Director may in writing notify the owner or possessor of an antiquity that the antiquity is of national value.

Antiquity of national value.

(b) Within three months of notification under subsection (a), the Director may request that the antiquity be sold to the State.

(c) (i) Where a person wishes to sell or otherwise transfer an antiquity of national value, he shall give advance notice to the Director.

(2) Within three months of receipt of notice under paragraph (1), the Director may request that the antiquity be sold to the State. If the Director does not so request, the owner of the antiquity may sell or otherwise transfer it after he or the possessor thereof has, in writing, communicated to the Director the name and address of the purchaser or transferee.

(d) Where the antiquity is an integral part of a group of antiquities, the Director may only request as provided in subsection (b) or (c) in respect of the group as a whole.

(e) Where the Director and the owner or possessor of the antiquity do not reach agreement as to the consideration, the court shall decide the matter.

Presumption of knowledge.

20. Where a dealer in antiquities offers any article for sale as an antiquity, his plea that he did not know that the article was not an antiquity shall not be heard.

Restriction as to replica or composite.

21. (a) A person shall not sell or display for sale a replica or imitation of an antiquity without indicating thereon, in the manner prescribed by regulations, that it is not a genuine antiquity.

(b) A person shall not sell an antiquity consisting of parts of different antiquities — whether with or without supplements or additions — without indicating the composite character in the manner prescribed by regulations.

Restrictions on export of antiquities.

22. (a) A person shall not take out of Israel an antiquity of national value save with the written approval of the Minister.

(b) A person shall not take out of Israel any other antiquity save with the written approval of the Director.

Chapter Five : Collectors of Antiquities

Notice to Director.

23. A collector shall communicate to the Director, at his request, particulars prescribed by regulations in consultation with the Committee on Education and Culture of the Knesset concerning antiquities in his possession and shall permit the Director or a person empowered by him in writing to make a photograph or sketch or a cast, print or other reproduction thereof.

24. (a) The Director or a person empowered by him may notify a collector that an antiquity in his possession is of particular scientific importance (any such antiquity hereinafter referred to as a "special antiquity").

Antiquity of particular scientific importance.

(b) The Director or a person empowered by him shall keep a record of special antiquities and of the particulars, photographs and sketches obtained or made under section 23 which shall be open to inspection by the public as he shall prescribe.

25. (a) Where a collector wishes to sell or otherwise transfer a special antiquity, he shall give advance notice to the Director.

Transfer of special antiquity.

(b) Within twenty-one days of receiving the notice, the Director may request that the antiquity be sold to the State. Where the antiquity is an integral part of a group of antiquities, the Director may only request as aforesaid in respect of the group as a whole.

(c) Where the Director and the collector do not reach agreement as to the consideration, the court shall decide the matter.

Chapter Six : Museums

26. (a) Where the owner or director of a museum wishes to sell or otherwise transfer an antiquity which is in the museum or in the museum's collections or to dispose of one of the museum's collections, he shall give advance notice to the Director.

Removal of antiquity from control of museum.

(b) Within twenty-one days of receiving the notice, the Director may request that the antiquity or collection be sold or transferred to the State, as the case may be.

(c) Where the Director and the owner or director of the museum do not reach agreement as to the consideration to be paid for the antiquity or collection, the court shall decide the matter.

27. The provision of section 23 shall apply to the owner or director of a museum in respect of the antiquities in the museum and in its collection.

Notice to director.

Chapter Seven : Antiquity Sites

28. (a) The Director may declare a particular place to be an antiquity site. The declaration shall be published in *Reshumot*.

(b) Where the Director declares as aforesaid, a note to such effect shall be entered in the Land Register and notice shall be given to the owner and the occupier of the place, if their identity

or addresses are known, and to the District Planning and Building Commission.

Prohibition of operations on antiquity site.

29. (a) A person shall not carry out, or allow to be carried out, any of the following on an antiquity site, save with the written approval of the Director and in accordance with the conditions thereof :

- (1) building, paving, the erection of installations, quarrying, mining, drilling, flooding, the clearing away of stones, ploughing, planting, or interment ;
- (2) the dumping of earth, manure, waste or refuse, including the dumping thereof on adjoining property ;
- (3) any alteration, repair or addition to an antiquity located on the site ;
- (4) the dismantling of an antiquity, the removal of part thereof or the shifting thereof ;
- (5) writing, carving or painting ;
- (6) the erection of buildings or walls on adjoining property ;
- (7) any other operation designated by the Director in respect of a particular site.

(b) Notice of the designation of an operation under paragraph (7) of subsection (a) shall be published in *Reshumot*.

(c) Where an antiquity site is used for religious requirements or devoted to a religious purpose, the Director shall not approve digging or any of the operations enumerated in subsection (a) save with the approval of a Committee of Ministers consisting of the Minister as chairman, the Minister of Religious Affairs and the Minister of Justice.

Saving of Law.

30. The provisions of this Law shall not derogate from the requirement of a permit under the Planning and Building Law, 5725 — 1965¹⁾.

Restoration to previous condition.

31. A person who has carried out one of the operations specified in section 29 without approval or in contravention of the conditions of the approval, shall take action, in accordance with the directions of the Director, to restore the antiquity site or the antiquities situated thereon to its or their former condition ; but the Director may, after giving the person written notice, himself take all the steps required for that purpose and recover from him the expenses incurred.

¹⁾ *Sefer Ha-Chukkim* of 5725, p. 307 ; *LSI* vol. XIX, p. 330.

Chapter Eight : Expropriation

32 (a) The Minister may expropriate —

Power to expropriate.

(1) an antiquity site the expropriation of which is, in his opinion, required for purposes of conservation and research ;

(2) any land the expropriation of which is, in his opinion, required in order to enable digging thereon.

(b) Subsection (a) shall not apply to an antiquity site used for religious requirements or devoted to a religious purpose and owned by a religious institution :

Provided that a Committee of Ministers consisting of the Minister, the Minister of Religious Affairs, the Minister of Justice and the Minister of Foreign Affairs may, with the approval of the Committee on Education and Culture of the Knesset, make it applicable thereto* with or without restriction.

33. Expropriation shall be in accordance with the Land (Acquisition for Public Purposes) Ordinance, 1943¹⁾, and for this purpose the Minister shall, *mutatis mutandis*, have all the powers and functions of the Government under that Ordinance.

Mode of expropriation.

Chapter Nine : Archaeological Council and Objection Committee

34. (a) The Minister shall appoint an Archaeological Council and shall by regulations prescribe its composition and period of tenure and procedure for its deliberations and work.

Archaeological Council.

(b) The Council shall advise the Minister and the Director on matters of archaeology and antiquities they may bring before it and shall carry out the functions assigned to it by this Law.

(c) The Council may delegate powers to committees from among its members.

35. There shall be established by the side of the Council an Objection Committee of three members, two of them appointed by the Council otherwise than from among its members and one a Judge, or person qualified to be a Judge, appointed by the Minister of Justice to be chairman of the Committee.

Objection Committee.

¹⁾ P.G. of 1943, Suppl. I, p. 44 (English Edition).

Powers of
Objection
Committee.

36. (a) A person who considers himself aggrieved by any of the following decisions of the Director may object thereto before the Objection Committee, but without the filing of objection voiding the decision :

- (1) the fixing of the boundaries of an area referred to in section 2 (a) ;
- (2) a second or subsequent request for delivery of an antiquity under section 5 ;
- (3) a refusal to grant, the revocation or suspension of, or the attachment of conditions to, an excavation licence
- (4) a refusal to grant, or the revocation or suspension of, a licence to deal in antiquities ;
- (5) a refusal to grant a permit under section 22 (b) .
- (5) notification that a particular antiquity is of national value ;
- (7) notification to a collector that an antiquity in his possession is a special antiquity ;
- (8) notification that a particular antiquity is or is not an integral part of a group of antiquities ;
- (9) refusal to grant approval under section 79.

(b) In an objection proceeding, the Objection Committee may give any decision the Director is competent to give under this Law.

(c) An Objection Committee shall have all the powers vested in a committee of inquiry within the meaning of the Commission of Inquiry Law, 5729 -- 1968¹⁾.

Chapter Ten : Offences and Penalties

Offences and
penalties.

37. (a) A person who wilfully injures or, in any manner, wilfully defaces any antiquity or antiquity site or contravenes any of the provisions of section 9 (a) is liable to imprisonment for a term of three years or a fine of 150,000 pounds.

(b) A person who contravenes any of the provisions of section 6 is liable to imprisonment for a term of two years or a fine of 150,000 pounds.

(c) A person who contravenes any of the provisions of sections 3, 15, 19 (b), 21 or 29 is liable to imprisonment for a term of two years or a fine of 100,000 pounds.

¹⁾ *Sefer Ha-Chukkim* of 5729 p 28 ; *LSI* vol XXXII p 32

(d) A person who contravenes any of the provisions of section 11(a) is liable to imprisonment for a term of one year or a fine of 30,000 pounds.

(e) A person who contravenes any other provision of this Law or the regulations thereunder is liable to imprisonment for a term of six months or a fine of 30,000 pounds.

38. If a person is found on an antiquity site with digging implements in his possession or nearby with which it must be supposed digging has recently been done on that site or is found with a metal detector in his possession or nearby, he shall, unless he proves otherwise, be presumed to have intended to discover antiquities. Presumption.

Chapter Eleven : Miscellaneous

39. A certificate by the Director that some particular land contains antiquities or that some object is an antiquity shall be *prima facie* evidence thereof. Certificate by Director to be *prima facie* evidence.

40. The Director or a person empowered by him in that behalf in writing may at any reasonable time enter upon any land to examine whether the provisions of this Law or the regulations made or conditions of any certificate issued thereunder have been complied with thereon or to examine any antiquity discovered or found thereon and to make a sketch or photograph or a cast, print or other reproduction thereof. Powers of entry and examination.

41. Subject to any regulation, the Director may, by notice in *Reshumot*, delegate any of his powers under this Law, other than his powers under sections 8, 13 and 14. Delegation of powers.

42. (a) In this section, "controlled place" means --
(1) land in the possession of the Department;
(2) an antiquity site.

Controlled places.

(b) A police officer or a person authorised in that behalf by the Director in writing may remove from a controlled place any person who contravenes therein any of the provisions of this Law or the regulations thereunder.

(c) The Minister may by regulations enact provisions as to visits to controlled places and the behaviour of visitors therein, fees for admission thereto, the protection thereof and the protection of the antiquities, accessories and furniture situated therein.

Application of Law in military area.

43. (a) The following provisions shall apply in a military area :
- (1) no person shall enter it for purposes of this Law save with the prior approval of a person empowered in that behalf by the Minister of Defence ;
 - (2) no act shall be done therein on behalf of the Director save with the consent of the Minister of Defence ;
 - (3) no antiquity shall be dealt with therein on behalf of a military body save with the approval of the Director.
- (b) For the purposes of this section, "military area" means any land occupied by the Defence Army of Israel or any other branch of the Defence Establishment approved by the Minister of Defence, and includes an area used for military exercises.

Inapplicability.

44. The Minister may, in consultation with the Council and with the approval of the Committee on Education and Culture of the Knesset, prescribe, by order, that any of the provisions of this Law or the regulations thereunder shall not apply to antiquities, museums, excavations and antiquity sites defined in the order.

Saving of validity.

45. This Law shall add to, and not derogate from, any obligation imposed or power conferred by another enactment

Implementation and regulations.

46. (a) The Minister is charged with the implementation of this Law and may make regulations as to any matter relating to its implementation, including the collection of fees for licences issued under it.

(b) The Minister of Justice may make rules of procedure for proceedings under this Law by the Objection Committee established under section 35.

Applicability to State.

47. (a) For the purposes of this Law, the State shall be treated like any person.

(b) The provision of subsection (a) shall not derogate from the provision of section 8 of the Civil Wrongs (Liability of the State) Law, 5712 — 1952¹⁾.

Repeal.

48. There are hereby repealed —
- (1) the Antiquities Ordinance²⁾ ;
 - (2) the Antiquities (Enclosures) Ordinance, 1935³⁾.

¹⁾ *Sefer Ha-Chukkim* of 5712, p. 339 ; *LSI* vol. VI, p. 147.

²⁾ *Laws of Palestine* vol. 1, p. 28 (English Edition).

³⁾ *P.G.* of 1935, Suppl. I, p. 147 (English Edition).

49. (a) A licence issued under the Antiquities Ordinance which was in force immediately before the coming into force of this Law shall be deemed to have been issued under this Law. Transitional provisions.

(b) The schedules of historical monuments and sites published under the Antiquities Ordinance which were in force immediately before the coming into force of this Law shall be deemed to have been published under section 28 of this Law.

50. This Law shall be published in *Reshumot* within fifteen days of the date of its adoption by the Knesset. Publication.

MENACHEM BEGIN YEHOEL HAMMER
Prime Minister *Minister of Education
and Culture*

EFRAYIM KATZIR •
President of the State