

LAWS OF BRUNEI

CHAPTER 31

ANTIQUITIES AND TREASURE TROVE ACT

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CHAPTER 31

ANTIQUITIES AND TREASURE TROVE ACT

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ANTIQUITIES AND TREASURE TROVE ACT

An Act to provide for the control and preservation of ancient and historical monuments, archaeological sites and remains and antiquities; to regulate the law relating to treasure trove; and for matters connected therewith

Commencement: 1st January 1967

PART I

CITATION AND INTERPRETATION

Citation.

1. This Act may be cited as the Antiquities and Treasure Trove Act.

Interpretation.

2. (1) In this Act, unless the context otherwise requires —

“ancient monument” means any monument in Brunei Darussalam which dates or may reasonably be believed to date from a period prior to 1st January 1894, and includes any other monument which has been declared in accordance with section 17 to be an ancient monument for the purposes of this Act;

“antiquity” means —

(a) any object movable or immovable or any part of the soil or of the bed of a river or lake or of the sea, which has been constructed, shaped, inscribed, erected, excavated or otherwise produced or modified by human agency at any date prior to or reasonably believed to be prior to 1st January 1894; and

(b) any part of any such object which has at any later date been added thereto or reconstructed or restored; and

(c) any human, plant or animal remains which date or may reasonably be believed to date from a period prior to 1st January 1894; and

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(d) any ancient monument:

Provided that no object or remains —

- (i) which has been imported into Brunei Darussalam on or after the commencement of this Act; or
- (ii) to which no public interest of a local or national historic, traditional, artistic, archaeological or other scientific character is attached,

shall be deemed to be an antiquity for the purposes of this Act;

“Director” means the Director of Museums;

“District Officer” means the officer in administrative charge of a district;

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

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

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

(c) manuscript, coin, currency note, medal, badge, insignia, coat of arms, crest flag, arm and armour;

(d) vehicle, ship and boat, in part or in whole, whose production has ceased;

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“historical site” means a site which has been declared in accordance with section 17 to be a historical site for the purposes of this Act;

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“Minister” means the Minister charged with the responsibility for museums;

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“monument” means any temple, mosque, church, building, monument, 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, the preservation of which is a matter of public interest, by reason of the religious, historic, traditional or archaeological interest attaching thereto, and includes the site of any monument and such portion of land adjoining such site as may be required for fencing or covering in or otherwise preserving any monument and the means of access thereto;

“occupier” includes the cultivator or person in actual possession, management or control of any land, and includes any person having the possession or control of any movable property;

“owner” means in relation to any land, the registered proprietor thereof in Brunei Darussalam and the legal owner or holder by customary tenure thereof in Brunei Darussalam;

“Permanent Secretary” means the Permanent Secretary of the Ministry charged with the responsibility for museums;

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“treasure trove” means any money, coin, gold, silver, plate, bullion, jewellery, precious stones or any object or article of value found hidden in, or in anything affixed to, the soil or the bed of a river or the sea, the owner of which is unknown or cannot be found, but shall not include any antiquity.

(2) For the purpose of deciding whether any object is or is not an antiquity or historical object there shall be established a Museum Committee, to be called the Museum Committee, in this subsection referred to as “the Committee”, consisting of —

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(a) The Permanent Secretary, who shall be Chairman of the Committee;

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(b) the Director, who shall be Secretary to the Committee;

(c) 7 members, to be nominated by the Minister,

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and the decision of the Committee whether any object is or is not an antiquity or historical object shall be final.

[S 33/91]

(3) The Museum Committee may make such regulations as are necessary for the proper discharge of its duties.

PART II

**DISCOVERY OF AND PROPERTY IN, ANTIQUITIES,
HISTORICAL OBJECTS AND ANCIENT MONUMENTS**

[S 33/91]

Property in antiquities.

3. (1) Subject to the provisions of this Act, every antiquity discovered in Brunei Darussalam on or after the date of the coming into force of this Act shall be the absolute property of the Government of His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam.

(2) Every ancient monument which on the date of the coming into force of this Act is now 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 of His Majesty.

(3) All discovered antiquities (other than ancient monuments), whether lying on or hidden beneath the surface of the ground or in any river or lake or in the sea, shall be deemed to be the absolute property of the Government of His Majesty.

(4) In any legal proceedings relating to an antiquity it shall be presumed until the contrary is proved that it was discovered after the date of the coming into force of this Act.

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Notice of discovery of antiquities.

4. (1) Any person who discovers any object or monument which he has reason to believe to be an antiquity or ancient monument shall forthwith give notice of his discovery to the Penghulu or Ketua Kampung of the area or to the District Officer of the District wherein the antiquity was discovered, and if it is practicable so to do, shall deliver the antiquity to the District Officer, who shall give a receipt therefor.

(2) A Penghulu or Ketua Kampung receiving notice as in subsection (1) shall inform the District Officer of the District wherein the antiquity was discovered.

(3) 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 the District Officer of the District in which the same was discovered, and the District Officer on delivery to him of such object shall give a receipt therefor.

(4) A District Officer receiving notice under subsection (1) of this section shall communicate the same to the Director.

(5) Where any object has been delivered to a District Officer under the provisions of subsection (1) or (3) of this section or where the District Officer has reason to believe that any object or monument discovered in his District is an antiquity, the District Officer in which such object was discovered or such monument is situated as the case may be, shall give notice thereof to the Director who shall forthwith report the discovery to the Museum Committee.

Compensation on for certain antiquities.

5. (1) On the discovery of any antiquity other than an ancient monument a District Officer shall be entitled to the custody and possession of the same on behalf of the Director and shall be responsible for its recording, and shall forthwith deliver the same to the Director.

(2) In any case the Museum Committee may decide not to retain such antiquity and the same shall then be returned to the person who delivered up possession thereof to the District Officer and thereupon the property in such antiquity shall be deemed to have been transferred to the person to whom such antiquity would have belonged if section 3 had never been enacted.

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(3) When any antiquity is retained by the Museum Committee, there shall, subject to section 7, be paid by the Committee —

(a) reasonable compensations to the finder of the antiquity and to the owner of the land in or on which the same was discovered, or, where the same person is both the finder of the same and the owner of such land, the whole of such value to such person; or

[S 33/91]

(b) where the antiquity is found in or on the State land by any person (other than a person acting under authority in the discharge of any function or duty under this Act) a reasonable compensation to the finder thereof:

[S 33/91]

Provided that on the retention of any antiquity no such payment as aforesaid shall be made to the finder thereof where the finder has failed to report the discovery of the same in accordance with the provisions of section 4.

Apportionment of antiquities.

6. (1) Notwithstanding the provisions of section 3 or 5, the Museum Committee may enter into an agreement in writing with any person who would under the provisions of the said section be entitled to a reasonable compensation for such antiquity or any part thereof, whereby such person shall receive from the Government, in place of such value or part thereof, a share of such antiquity to be apportioned in such manner as may be provided in the said agreement.

[S 33/91]

(2) Every agreement under subsection (1) shall have force and effect notwithstanding anything in section 5:

Provided that where the finder of any antiquity does not report the discovery thereof in accordance with section 4 he shall not be entitled to receive any share of such antiquity under any such agreement.

Compensation of antiquity preserved in place of finding.

7. If the Museum Committee is of the opinion that the antiquity should be preserved in the place where it was found, then only such reasonable

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compensation as the Committee shall determine shall be paid to the finder thereof.

[S 33/91]

Payment of rewards.

8. If in any case, in the opinion of the Museum Committee which had retained any antiquity in accordance with the provisions of this Act, the amount payable to the finder or to the owner of the land under section 5 would not be adequate and such finder or owner as the case may be consents thereto the Committee may in its discretion pay to such finder or owner a reward of such sum of money as it may think fit in place of any payment payable under section 5 provided that no such reward shall be paid to the finder where the finder has failed to report the discovery of the same in accordance with the provisions of section 4 of this Act.

[S 33/91]

Sale or disposal of antiquities.

9. (1) The Minister may by notice in writing require any person in possession of an antiquity or historical object or lawfully entitled to sell or dispose of the same not to sell or otherwise dispose of such antiquity or historical object without giving notice of any such proposed transaction.

[S 33/91]

(2) No person shall sell or otherwise dispose of any antiquity or historical object until 30 days have lapsed after the receipt of the notice in compliance with subsection (1) and in the meanwhile it shall be lawful for the Government to purchase such antiquity or historical object at a reasonable price, notwithstanding any agreement which the owner may have entered into with another person.

[S 33/91]

Dispute as to value, price or apportionment.

10. Where there is any dispute between the Museum Committee and any person as to the reasonable compensation for, any antiquity or historical object or as to the apportionment of any antiquity or historical object in terms of an agreement under section 6, such dispute shall be submitted to the Minister whose decision shall be final.

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PART III

EXCAVATIONS

No excavation except upon licence.

11. Subject as hereinafter provided, no person shall excavate for the purpose of discovering antiquities, whether on land of which he is the owner or occupier or otherwise, except under the authority of a licence issued by the Permanent Secretary:

[S 33/91]

Provided that nothing in this section shall apply to any excavation carried out by or on behalf of the Director.

Application for licence to excavate.

12. (1) Every application for a licence to excavate shall —

(a) be made to the Secretary of the Museum Committee in the prescribed form; and

(b) contain a full and accurate description of the land on which it is proposed to carry out the excavation, the nature and extent of the proposed excavation, and such other particulars as may be prescribed.

(2) The Secretary of the Museum Committee shall forward every such application to the Permanent Secretary together with the recommendation of the Director thereon.

[S 33/91]

Grant or refusal of licence to excavate.

13. The Permanent Secretary may in his discretion grant or refuse any application for a licence to excavate and shall inform the Director of his decision:

[S 33/91]

Provided that no such licence shall be granted unless the Permanent Secretary is satisfied after such enquiry as he may deem it necessary to make —

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(a) that the owner of the land where the proposed excavation is to be made has consented to the excavation; and

(b) that the proposed excavation will not cause any damage or inconvenience to persons residing in the vicinity of such land or to any place used for religious purposes, or to any cemetery, school, water source or supply, irrigation or drainage works or public road, or that if any such damage is likely to be caused adequate provision has been made by the applicant for the payment of compensation therefor; and

(c) that the applicant is able to furnish security for the due observance by him of the provisions of this Act or any rule made thereunder, and of any conditions subject to which the licence may be issued.

Terms and conditions of licence.

14. (1) A licence issued under section 13 shall be granted for such period (subject to the provisions of section 15) and subject to such conditions as may be specified therein.

(2) In addition to any other conditions which may be either prescribed generally or specified in any particular case, every licence granted under section 13 shall be subject to the following conditions —

(a) the holder of the licence shall take all reasonable measures for the preservation of the antiquities discovered by him;

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

(c) the holder of the licence shall keep a record of all antiquities discovered in the course of the excavation;

(d) the holder of the licence shall, within a reasonable time, deposit with the Director such photographs, casts, squeezes or other reproductions of any antiquity apportioned to him in accordance with the provisions of section 6 of this Act as the Director may require;

(e) the holder of the licence shall furnish such plans and photograph, of his excavations as the Director may require.

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Extension and cancellation of licence.

15. (1) Any licence to excavate may, at the expiration period for which it was granted, be extended by the Permanent Secretary for such further period or periods as he shall deem fit, after receiving the recommendation of the Director.

[S 33/91]

(2) Any licence to excavate may, at any time before the expiration of the period for which it was granted, be cancelled by the Permanent Secretary and the holder thereof shall not be entitled to claim compensation for any loss or damage suffered or alleged to have been suffered by him by reason of such cancellation.

[S 33/91]

Saving of private rights and immunity of Government.

16. (1) Nothing contained in this Part shall be deemed to authorise the infringement of any private right or the contravention of any written law in force in Brunei Darussalam.

(2) Neither the Museum Committee nor the Government shall incur any liability in respect of any loss sustained by any person or 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.

PART IV

ANCIENT MONUMENTS AND HISTORICAL SITES

Declaration and Schedule of ancient monuments and historical sites.

17. (1) His Majesty in Council may by order declare any monument to be an ancient monument and any site to be a historical site and may determine the limits of such monument or site.

(2) The Director shall, on the direction of His Majesty in Council and may, with the approval of His Majesty in Council, publish in the *Gazette* a schedule of ancient monuments and historical sites together with the limits

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thereof and may from time to time, with the like approval, add to or amend such schedules.

Acts prohibited in regard to ancient monument and historical sites.

18. (1) No person shall, without the permission in writing of the Permanent Secretary and except in accordance with such conditions as he may impose in granting such permission after consultation with the Minister —

[S 33/91]

(a) dig, excavate, build, plant trees, quarry, irrigate, burn lime or do similar work or deposit earth or refuse on or in the immediate neighbourhood of an ancient monument or a historical site included in the schedule published in accordance with section 17, as added to or amended from time to time, or establish or extend a cemetery on a historical site so included; or

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

(c) make alteration, additions or repairs to any ancient monument; or

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

(2) Every application for permission under subsection (1) of this section shall be referred to the Director for his recommendations.

Care of ancient monuments and historical sites.

19. (1) Where any ancient monument or historical site is on a private property the Government may after consultation with the Director —

(a) make arrangements with the owner of the occupier thereof for its preservation, inspection and maintenance and for such purposes make a contribution from its revenue towards the cost of carrying out any works of repair or conservation which it deems necessary and which the owner or occupier may be willing to undertake:

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Provided that where such a contribution towards the cost of carrying out such works is made, such works shall be carried out in accordance with such direction as the Government after consultation with Director may give; or

(b) purchase or lease the site by private treaty or acquire the same in accordance with the provisions of any written law relating to the acquisition of land for a public purpose for the time being in force in Brunei Darussalam; or

(c) in the case of an ancient monument remove 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 shall be submitted to the Minister whose decision shall be final.

[S 33/91]

(2) If the Government is unwilling to exercise its powers under subsection (1) it shall be lawful for the Museum Committee to exercise any of such powers on behalf of the Government, provided that the Government in such case shall make the payments and incur the obligations which the Government would have been required under this section to pay or would have incurred under this section if it had exercise such powers.

Inspection of ancient monuments and historical sites.

20. (1) The owner or occupier of an ancient monument or historical site shall at all reasonable times permit the Permanent Secretary and the Director or any person or officer authorised by the Permanent Secretary, either generally or specially in that behalf, to enter upon the site for inspection or to carry out any study of work necessary for the restoration, repair, alteration, maintenance or conservation thereof as to him may seem expedient or necessary:

[S 33/91]

Provided that the liability imposed by this section shall arise only if such owner or occupier shall have received not less than 7 days' notice in writing of proposed entry:

Provided further that if any person objects to such entry or to execution of any such works on conscientious or religious grounds such entry or works

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shall not be effected or executed except with the permission in writing first obtained of the Minister with the approval of His Majesty the Sultan and Yang Di Pertuan.

[S 33/91]

(2) No such owner or occupier shall be entitled to claim compensation for any loss or damage suffered or alleged to have been suffered by him by reason of the execution of such work or any part of such work in any case in which the owner or occupier has undertaken to do such work under section 19.

PART V

ARCHAEOLOGICAL RESERVES

Declaration of archaeological reserves.

21. His Majesty in Council may by order declare any State land to be archaeological reserve for the purposes of this Act.

Activities forbidden except under licence.

22. No person shall, except under licence of the Permanent Secretary issued after consultation with the Director —

[S 33/91]

(a) clear to break up for cultivation or cultivate any part of an archaeological reserve; or

(b) erect any building or structure upon any such reserve; or

(c) fell or otherwise destroy any tree standing on any such reserve; or

(d) otherwise encroach on any such reserve.

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PART VI

TREASURE TROVE

Notice of recovery of treasure trove.

23. (1) Any person who discovers any treasure trove shall, except in any case in which he had already given notice of his discovery and delivered up the objects so discovered under the provisions of section 4, to this Act, forthwith give notice of such discovery to the District Officer of the District wherein the treasure trove was discovered and shall deliver the treasure trove to the District Officer, who shall give a receipt therefor.

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

(3) Where the District Officer has reason to believe that any object delivered up to him under this section is an antiquity he shall give notices as are required under section 4(4) and the provisions of this Act relating to antiquities shall thereupon apply to such object provided that if such object is determined by the Museum Committee not to be an antiquity the provisions of this Part shall thereupon apply thereto.

(4) If the District Officer has reason to believe that any treasure trove has been discovered in his District and the discovery of the same has not been notified to him under any of the provisions of this Act he shall by notice in writing require the finder or suspected finder thereof to appear personally before him on a day and at a place mentioned and to deliver up to him all such treasure trove or suspected treasure trove so discovered, and the District Officer shall give a receipt therefor.

Notification requiring claimants to appear.

24. (1) On receiving a notice under section 23 of this Act or where any such treasure trove or suspected treasure trove has been delivered to him under section 23(4) the District Officer shall cause a notice to be published in the *Gazette* in 2 successive issues requiring all persons claiming the treasure trove or any part thereof to appear personally or by agent before the District Officer on a day and at a place therein mentioned such day not being earlier than 2 months or later than 3 months after the date of the first publication of such notification in the *Gazette*. Such notice may also be published locally in the District for a period not less than one month and a copy thereof shall be posted at the place where the treasure trove was found.

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(2) Where the owner or occupier of the place in which the treasure trove appears to the District Officer to have been discovered was at the date of discovery some person other than the finder, the District Officer shall also serve on such person a notice in writing to the same effect.

Forfeiture of right for failing to appear.

25. Any person having any right, howsoever arising, to such treasure trove or any part thereof, and wilfully failing to appear as required by the notification issued under section 24, shall forfeit such right.

Matters to be enquired into.

26. (1) On the day and at the place notified under section 24 the District Officer shall cause the treasure trove to be produced before him and shall enquire as to and determine —

(a) whether any object or article is treasure trove;

(b) the person by whom, the place in which, and the circumstances under which, such treasure trove was discovered; and

(c) as far as possible, the person by whom, and the circumstances under which such treasure trove was hidden.

(2) The District Officer may adjourn the hearing at any stage or for any period and shall record his reasons for such adjournment.

Time to be allowed for suit by claimant.

27. If upon an enquiry made under section 26 the District Officer has reason to believe that the treasure trove was hidden within 50 years before the date of the discovering, by a person appearing as required by the said notification and claiming such treasure trove, or by some other person under whom such person claims, the District Officer shall make an order adjourning the hearing of the case for such period as he deems sufficient to allow of the suit being instituted in a court of competent jurisdiction by the claimant to establish his right.

When treasure trove may be declared ownerless.

28. (1) If upon such enquiry the District Officer sees no reason to believe that the treasure trove was so hidden; or

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if, where a period is fixed under section 27, no suit is instituted as aforesaid within such period to the knowledge of the District Officer; or

if such suit is instituted within such period and the plaintiff's claim is finally rejected; the District Officer may declare the treasure trove to be ownerless.

(2) Any person aggrieved by a declaration made under subsection (1) may appeal against the same within 2 months from the date thereof to the High Court.

(3) Subject to such appeal, every such declaration shall be final and conclusive.

When treasure trove vests in Government.

29. When a declaration has been made in respect of any treasure trove under section 28, such treasure trove shall vest in and belong to the Government.

Rewards to finder and owner.

30. The Government may in its discretion pay as a reward to the finder of any treasure trove and to the owner of any land in which it was found such sums as it may think fit.

PART VII

EXPORT OF ANTIQUITIES AND HISTORICAL OBJECTS

[S 33/91]

Prohibition of export except on licence.

31. (1) No person shall export any antiquity unless he has obtained a licence to export the same from the Director provided that the Director before issuing any export licence should consult the Permanent Secretary.

[S 33/91]

(2) The Director shall not issue a licence if in his opinion the antiquity is of lasting national importance or interest and should be acquired on behalf of the Government or for any other reason it is not desirable in the public interest that such antiquity should be exported or if the Permanent

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Secretary objects to the export thereof on the ground that such antiquity ought to be acquired on behalf of the Government.

[S 33/91]

(3) An applicant for a licence to export any antiquity shall submit a list of the antiquities or historical objects sought to be exported, shall declare the value thereof and furnish any other particulars in regard thereto which the Director may require and shall, if so required by the Director, deposit any such antiquity with the Director for the purpose of inspection.

[S 33/91]

(4) No licence to export an antiquity shall be issued to any person unless he proves to the satisfaction of the Director that he is the owner of such antiquity or that he is acting on behalf of and with the authority of such owner.

Production of licence.

32. A licence to export shall be produced by the holder to the Director or the proper officer of customs on demand.

Power to prohibit export of antiquities.

33. (1) Where the issue of a licence to export an antiquity is refused on the grounds set out in section 31(4) any person aggrieved by such refusal may appeal to the Minister within one month of receiving notice of such refusal.

[S 33/91]

(2) Where the issue of a licence to export an antiquity is refused on the ground that such antiquity ought to be acquired on behalf of the Government or on the ground of public interest any person aggrieved thereby may, within one month of the receipt of such notice, appeal to the Museum Committee whose decision shall be final.

Acquisition of antiquity sought to be exported.

34. Where a licence to export any antiquity has been refused on the ground that such antiquity should be acquired on behalf of the Government, or where a historical object is prohibited from being exported under section 31, the Government shall pay to the owner thereof the reasonable compensation for such antiquity and thereupon the said owner shall deliver

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up the same to the Director who shall dispose of the same in accordance with the direction of the Government.

[S 33/91]

PART VIII

POWERS OF THE DIRECTOR

Power of Director to inspect any antiquities or treasure trove.

35. The Director or any officer authorised by him in writing for that purpose may at all reasonable times inspect any antiquity or historical object which he has reason to believe is or will be or of lasting national importance or interest or ancient monument or treasure trove in the possession of any person; and it shall be the duty of every such person to permit such inspection and further to give the Director or such officer all reasonable facilities to study such antiquity or historical object which he has reason to believe is or will be or of lasting national importance or interest or ancient monument or treasure trove and to make drawings, photographs, squeezes or reproduction thereof by the making of casts or by any other means:

[S 33/91]

Provided that no such drawings, photographs, squeezes or reproductions shall be sold without the consent of the person in possession of the antiquity or historical object which he has reason to believe is or will be or of lasting national importance or interest or ancient monument or treasure trove:

[S 33/91]

Provided further that if such person objects to such inspection on conscientious or religious ground the Director or officer authorised by the Director shall not make such inspection unless with the permission in writing first obtained of the Minister with the approval of His Majesty the Sultan and Yang Di Pertuan.

[S 33/91]

Delegation of powers.

36. The Director may, with the approval of the Permanent Secretary generally or specially authorise the exercise, performance or discharge of any of his powers, duties or functions under this Act or any regulations or rules made thereunder by any other officer.

[S 33/91]

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PART IX

PENALTIES

Penalties.

37. (1) Any person who, being the finder of any antiquity or treasure trove fails to report the same or to deliver up the same or to state the circumstances of the discovery or origin of the same, or wilfully makes a false report of such circumstances or such origin, shall be guilty of an offence: Penalty, imprisonment for one year and a fine of \$3,000.

[S 33/91]

(2) Any person, not being the holder of a licence to excavate granted under section 13, who wilfully or negligently digs for antiquities or demolishes or damages any ancient monument, whether above or below the ground, even though the acts are done upon land of which he is the owner, shall be guilty of an offence: Penalty, imprisonment for 3 months and a fine of \$1,000.

[S 33/91]

(3) Any person who contravenes any of the provisions of section 18 shall be guilty of an offence: Penalty, imprisonment for 3 months and a fine of \$1,000.

[S 33/91]

(4) Any person who contravenes any of the provisions of section 22 shall be guilty of an offence: Penalty, imprisonment for 3 months and a fine of \$1,000.

[S 33/91]

(5) Any person who, not being the holder of a licence to export granted under section 31, exports or attempts to export any antiquity shall be guilty of an offence: Penalty, imprisonment for 3 months and a fine of \$1,000.

[S 33/91]

(6) Any person who exports or attempts to export any antiquity or historical object which the Director has prohibited from being exported in respect of which a licence to export has been refused in accordance with section 34 shall be guilty of an offence: Penalty, imprisonment for one year and a fine of \$4,000.

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(7) Any person who sells or otherwise disposes of any antiquity or historical object, contrary to section 9, shall be guilty of an offence: Penalty, imprisonment for 6 months and a fine of \$2,000.

[S 33/91]

(8) Any person who fails to give reasonable facilities to the Director, or any officer authorised by the Director, to inspect, study, make drawings, photographs, squeezes or other reproductions of any antiquity or historical object or to enter and carry out any necessary work for the restoration, repair, alteration, maintenance or conservation of any ancient monument or historical site, where the duty to give such facilities is imposed by this Act, shall be guilty of an offence: Penalty, a fine of \$1,000.

[S 33/91]

(9) Any person who maliciously or negligently destroys, injures, defaces, displaces, disturbs or disfigures any antiquity or historical object shall be guilty of an offence: Penalty, imprisonment for one year and a fine of \$4,000.

[S 33/91]

(10) Any person who wilfully deceives or attempts to deceive any public officer acting in the course of his duty by any description, statement or other indication as to the genuineness or age of any antiquity or historical object or object of archaeological interest shall be liable to imprisonment for one year and to a fine of \$4,000.

[S 33/91]

Restriction on prosecution.

38. A prosecution for any offence against this Act shall not be instituted except by or with the consent of the Public Prosecutor.

Forfeiture of claims to and interest in antiquities or treasure trove.

39. (1) Any person who is convicted of any offence under this Act in respect of any antiquity or historical object (other than an ancient monument) or treasure trove shall by virtue of such conviction forfeit all claim to or interest in the same or the value thereof or any reward in connection with the finding thereof, and in any such case the magistrate may order the antiquity or historical object or treasure trove to be delivered up to the District Officer on behalf of the Government and where the magistrate makes such order it

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shall be the duty of any person in whose possession the antiquity or historical object or treasure trove may be, to deliver it up accordingly.

[S 33/91]

(2) The Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan may order any antiquity or historical object or treasure trove forfeited under the provisions of this section to be delivered to the owner or other person entitled thereto or returned to the finder, as the case may be, upon such terms and conditions as he may deem fit.

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PART X

MISCELLANEOUS AND RULES

Authorisation of sale of antiquities.

40. (1) The Government may after consultation with the Director, sell any antiquity or historical object which is the property of the Government.

[S 33/91]

(2) Where any antiquity or historical object is sold under provisions of subsection (1) by the Government to any person then unless it is otherwise expressly agreed in writing between the parties to such sale the provisions of section 9 shall cease to apply to such antiquity or historical object and a licence to export such antiquity or historical object shall notwithstanding the provisions of section 31(4) be granted to an applicant in respect of such antiquity or historical object.

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Loan of antiquities.

41. (1) The Government may, with the approval of the Director, make loans or exchanges of any antiquities or historical objects which are the property of the Government to or with learned societies or museums or with any expert specialist and may authorise the export of the same for such purposes.

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(2) Any agreement for a loan under the preceding subsection shall contain adequate provisions for the preservation, insurance and, if the

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Director or the Government concerned considers necessary, the return to the Government of the antiquities or historical objects.

[S 33/91]

Magistrate's Court to have full jurisdiction.

42. A Magistrate's Court shall have jurisdiction to pass any sentence provided in this Act or any rule made thereunder for such offence.

Dealers.

43. No person shall deal in antiquities in any District unless he is in possession of a dealer's licence granted by the Permanent Secretary.

[S 33/91]

Rules.

44. His Majesty in Council may make rules for the purpose of carrying out or giving effect to the provisions of this Act, and, without prejudice to the generality of the foregoing, may make rules —

(a) prescribing the conditions and restrictions (including the payment and amount of a fee) subject to which any licence or permit under this Act may be granted or issued;

(b) prescribing the conditions and restrictions (including the payment and amount of a fee) subject to which members of the public may have access to any ancient monuments in Brunei Darussalam; and

(c) prescribing a penalty of a fine not exceeding \$1,000 for the contravention or failure to comply with any of the provisions of any rule made under this section or with the restrictions or conditions of any licence or permit granted under any such rules.

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