

L'Assemblée nationale a délibéré et adopté,
Le président de la République, chef de l'Etat,
Promulgue la loi dont la teneur suit ;

TITRE I - Dispositions générales

Chapitre unique - Objet

Article 1er : La présente loi a pour objet de protéger les biens culturels contre la destruction, l'altération, la transformation, les fouilles, l'aliénation, l'exportation et l'importation illicites.

Elle s'applique aux biens culturels, meubles et immeubles publics ou privés dont la protection est d'intérêt public.

Article 2 : Au sens de la présente loi, on entend par bien culturel, tout œuvre de l'homme ou tout produit de la nature présentant un intérêt scientifique, historique, artistique ou religieux, révélateur d'un certain stade d'évolution d'une civilisation ou de la nature et dont la protection est d'intérêt public.

Article 3 : Font partie du patrimoine culturel national :

- Les biens culturels créés ou trouvés sur le territoire national ;
- Les biens culturels reçus à titre gratuit ou acquis légalement avec le consentement des autorités compétentes du pays d'origine des biens.

TITRE II – De la protection

Chapitre premier - De l'inventaire

Section 1 - De la Définition de l'inventaire

Article 4 : L'inscription à l'inventaire consiste dans l'enregistrement des biens culturels publics ou privés qui, sans justifier une nécessité de classement immédiat, présentent néanmoins une certaine importance du point de vue de la science, de l'histoire, de l'art ou de la religion

Article 5 : L'inscription à l'inventaire est prononcée, après avis de la commission nationale de protection des biens culturels, par décision du ministre chargé de la culture, qui la notifie au propriétaire ou détenteur du bien.

Section 2 - Des effets de l'inventaire

Article 6 : L'inscription à l'inventaire entraîne l'obligation pour le propriétaire ou le détenteur du bien d'informer le Ministre chargé de la culture, un mois avant d'entreprendre toute action ayant pour but ou pouvant entraîner la destruction, l'altération, la transformation, l'aliénation, le déplacement, la réparation ou la restauration du bien.

Le Ministre chargé de la culture ne peut s'opposer à une telle action qu'en engageant une procédure de classement.

Article 7 : L'inscription à l'inventaire est caduque si elle n'est pas suivie, dans les six mois de sa notification, d'une proposition de classement.

Chapitre deuxième - Du classement

Section 1 - De la définition et de la procédure de classement

Article 8 : Le classement est l'acte par lequel l'Etat déclare désormais protégés des biens culturels publics ou privés déjà inventoriés et dont la protection présente un intérêt public du point de vue de la science, de l'histoire, de l'art ou de la religion.

Article 9 : La proposition de classement est faite soit à la demande du propriétaire, soit sur l'initiative du Ministre chargé de la Culture qui, dans ce cas, la notifie au propriétaire ou au détenteur.

Article 10 : La proposition de classement devient caduque si elle n'est pas suivie d'une décision de classement douze mois après sa notification.

Article 11 : Le classement est prononcé par arrêté du Ministre chargé de la Culture, après avis de la commission nationale de protection des biens culturels.

Article 12 : Le Ministre chargé de la Culture dans un délai de trois mois à compter de la saisine, après avoir entendu le propriétaire ou le détenteur.

Article 13 : Le classement est notifié au propriétaire ou au détenteur et, le cas échéant au service de la conservation foncière.

Article 14 : A défaut de consentement du propriétaire, le classement est prononcé d'office.

Article 15 : Le classement peut donner lieu au paiement d'une indemnité en réparation du préjudice devant en résulter.

La demande doit être présentée dans les trois mois à dater de la notification de l'arrêté de classement.

L'indemnité est fixée par arrêté conjoint du Ministre chargé des finances et du Ministre chargé de la Culture, après avis de la commission nationale de protection des biens culturels.

Les contestations portant sur le principe ou le montant de l'indemnité sont portées devant l'autorité judiciaire compétente ;

Article 16 : Le Ministre chargé de la Culture dresse la liste des biens culturels classés au cours d'une année.

Cette liste, publiée au Journal officiel et établie par province, indique notamment :

- a) La nature des biens culturels classés ;
- b) Le lieu où ils sont déposés ;
- c) Les noms et les prénoms de leurs propriétaires et/ ou détenteurs ;
- d) La date de classement.

Section 2 - Des effets de classement

Article 17 : Tout bien culturel classé, appartenant à l'Etat, à des collectivités publiques ou à des personnes morales de droit public, est inaliénable et imprescriptible.

Article 18 : Quiconque offre d'aliéner un bien culturel privé proposé pour le classement ou classé est tenu, à peine de nullité de l'acte :

- a) de faire connaître préalablement au bénéficiaire le statut de ce bien ;
- b) d'informer par écrit le Ministre chargé de la culture, au plus tard quinze jours avant l'accomplissement de l'acte d'aliénation, en lui communiquant les nom(s), prénom(s) et domicile de l'acquéreur, ainsi que la date de l'aliénation.

Article 19 : L'aliénation de matériaux ou de fragments illégalement détachés du bien culturel proposé pour classement ou classé, de même que tout acte ayant pour effet de transférer à des tiers la possession ou la détention de tels matériaux ou fragments, sont nuls et de nullité absolue.

Les tiers, tenus solidairement responsables de la remise en état des matériaux et fragments ayant été délivrés, ne peuvent prétendre à aucune indemnité de la part de l'Etat.

Article 20 : Aucun bien culturel proposé pour classement ou classé ne peut être détruit, altéré ; transformé, déplacé ou soumis à des travaux de réparation ou de restauration sans l'autorisation du ministre chargé de la culture, qui en fixe les conditions et en contrôle l'exécution.

Avant de rendre sa décision, le ministre chargé de la culture consulte la commission nationale de protection des biens culturels.

Article 21 : Le propriétaire d'un bien culturel classé doit participer à sa protection.

Le propriétaire qui demande l'autorisation de transformer, réparer ou restaurer un bien culturel proposé pour le classement ou classé, doit soumettre au ministre chargé de la culture tous les plans, projets et documents utiles.

Les dépenses occasionnées par l'entretien, la réparation ou la restauration de ce bien sont prises en charge, en tout ou partie, par l'Etat.

Article 22 : L'Etat exécute à ses frais les travaux urgents de restauration des biens culturels classés.

Le propriétaire desdits biens ne peut s'opposer à ces travaux.

Article 23 : Les effets du classement s'appliquent de plein droit à partir de la date de notification de la proposition de classement. Ils sont opposables à tous.

Section 3 - Du déclassement

Article 24 : Le déclassement consiste à soustraire aux effets du classement le bien culturel classé.

Il ne peut intervenir que si le bien culturel en question ne revêt plus un intérêt du point de vue de la science, de l'histoire, de l'art ou de la religion.

Le déclassement est prononcé dans les mêmes formes que le classement.

Chapitre troisième - Du droit de préemption et d'exportation

Section 1 - Du droit de préemption

Article 25 : L'Etat peut exercer un droit de préemption sur toute vente de biens culturels inscrits à l'inventaire, proposés pour le classement ou classés.

Toute vente de biens visés à l'alinéa ci-dessus doit être portée à la connaissance du Ministre chargé de la culture quinze jours à l'avance.

Article 26 : Dans les quinze jours à compter de la date de réception de l'avis prévu à l'article 25 deuxième alinéa ci-dessus, le ministre chargé de la culture doit notifier au propriétaire sa décision d'acheter le bien proposé à la vente aux conditions et prix fixés ou de renoncer à l'acquisition.

Le défaut de réponse à l'expiration du délai de quinze jours visé à l'alinéa précédent vaut renonciation à l'exercice du droit de préemption.

Section 2 - Du droit d'expropriation

Article 27 : L'Etat peut exproprier, dans les formes et conditions prévues par la législation sur l'expropriation pour cause d'utilité publique, les propriétaires des biens culturels inscrits à l'inventaire proposés pour le classement ou classés ;

Chapitre quatrième - Du commerce des biens culturels

Section 1 - De l'agrément

Article 28 : Le commerce des biens culturels est autorisé, dans les conditions prévues de la présente loi, par un agrément. Celui-ci est délivré par le ministre chargé du commerce, après avis favorable du ministère chargé de culture.

Article 29 : L'agrément doit contenir notamment les noms et prénoms, domicile du commerçant et l'indication précise du local où il désire exercer son commerce, ainsi que la référence de l'avis du ministère de la culture ;

Section 2 - Des obligations du commerçant

Article 30 : Tout commerçant agréé doit observer les obligations suivantes :

- a) afficher à l'entrée de son local de vente un avis indiquant qu'il est titulaire d'un agrément de commerce de biens culturels ;
- b) ne déposer aucun bien culturel destiné à la vente hors du local dans lequel il est autorisé à exercer son activité ;
- c) tenir des registres où il est inscrit, en détail, les biens culturels qu'il possède, les opérations quotidiennes de vente et d'achat ;
- d) présenter aux agents les registres visés à l'alinéa ci-dessus ;
- e) afficher à un endroit apparent de son local de vente les dispositions de la présente loi relatives à l'exportation des biens culturels ;
- f) présenter aux agents de contrôle, en cas d'inscription, tout le bien qu'il possède ;
- g) fournir aux agents de contrôle une photographie de tout bien culturel qu'il possède ou leur permettre de le photographier s'ils le désirent ;
- h) assister les agents de contrôle et faciliter leur tâche en cas d'inspection ;
- i) informer l'autorité compétente en cas de déplacement de son local de vente.

Section 3 - Des associations à caractère culturel

Article 31 : Est considéré comme association à caractère culturel, au sens de la présente loi, tout regroupement d'au moins deux personnes ou toute fondation dont le but est la collecte, la protection, la conservation, la promotion, l'exploitation, à quelque titre que ce soit, des biens culturels constitutifs du patrimoine national.

Article 32 : Sont soumises à un avis technique préalable, du ministère chargé de la culture, avant déclaration d'utilité publique, les associations quelque soit leur dénomination, dont la vocation est l'exploitation du patrimoine culturel ;

Article 33 : Les demandes de constitution d'association à caractère culturel doivent être adressées au ministère chargé de la culture qui, après avis technique favorable, les transmet dans un délai maximum de trois mois au ministère chargé de l'administration du territoire pour autorisation. Notification en est faite au demandeur.

Dans tous les cas, le dossier devra comprendre les nom(s) prénom(s), âge et profession ou raison sociale, le siège l'identité des fondateurs, l'objet de la future association.

Le ministre chargé de la culture peut également solliciter l'avis de la commission nationale de protection des biens culturels.

Article 34 : Toute personne ou association qui se propose d'organiser une manifestation culturelle à caractère public doit en informer le ministre chargé de la culture dans un délai d'un mois, avant la tenue de la cérémonie.

En cas de violation de l'alinéa ci-dessus, le ministre chargé de la culture peut interdire la manifestation.

Chapitre cinquième - Des découvertes fortuites

Section 1 - De l'arrêt des travaux

Article 35 : Lorsque, par suite de travaux ou d'un fait quelconque, des monuments, ruines, vestiges d'habitation, sépultures anciennes, inscriptions ou autres biens susceptibles d'intéresser la préhistoire, l'archéologie, l'ethnologie ou d'autres branches des sciences historiques ou humaines en général, sont mis à jour, l'inventeur de ces biens et le propriétaire de l'immeuble où ils ont été découverts sont tenus d'arrêter les travaux, d'en faire la déclaration immédiate à l'autorité administrative compétente du lieu de la découverte.

Article 36 : l'autorité compétente doit, dans le délai de trente jours à compter de la déclaration de l'article visé 35 ci-dessus, notifier la suspension provisoire des travaux et les mesures de sauvetages à entreprendre.

Si la notification de ces mesures n'intervient pas dans ce délai, les effets de la suspension provisoire cessent.

Le ministre chargé de la culture statue sur les mesures définitives à prendre à l'égard des découvertes à caractère immobilier faites fortuitement.

Section 2 - De la propriété des trouvailles

Article 37 : La propriété des trouvailles à caractère mobilier faites fortuitement est réglementée par la législation en vigueur.

Toutefois, le ministre chargé de la culture peut revendiquer ces trouvailles, au profit des collections publiques, moyennant une indemnité fixée à l'amiable ou à dire d'expert.

Article 38 : Les épaves lacustres, lagunaires fluviales ou marines d'intérêt archéologique, historique numismatique, artistique ou culturel découvertes dans les eaux territoriales, dues à une perte remontant à plus de cinq ans, sont réputées d'office propriété de l'Etat et classées parmi les monuments historiques.

Toutefois l'inventeur d'une épave régulière déclarée ainsi que le sauveteur, ont droit à une indemnité ou une rémunération, éventuellement en argent, dans un délai de deux ans à compter du jour marquant la fin des opérations de sauvetage et de fouilles, conformément à la législation en vigueur.

Chapitre sixième - Des fouilles archéologiques

Article 39 : Nul ne peut effectuer des fouilles ou sondages terrestres ou subaquatiques, dans le but de mettre à jour des biens culturels pouvant intéresser la préhistoire, l'archéologie, la paléontologie, obtenu d'autres branches des sciences historiques ou humaines en général, sans avoir obtenu préalablement l'autorisation conjointe du ministre chargé de la culture et du ministre chargé de la recherche scientifique.

Article 40 : Seuls peuvent être autorisés à effectuer des fouilles, les institutions scientifiques ou chercheurs exerçant au Gabon dont les compétences sont reconnues et qui disposent des moyens financiers nécessaires.

Les conditions d'autorisation de fouilles ainsi que les droits ou obligations du fouilleur sont déterminés par décret conjoint des ministres chargés de la recherche scientifique et de la culture.

Les institutions scientifiques étrangères bénéficiaires d'une autorisation de fouilles doivent associer les institutions scientifiques nationales à leurs travaux ou à défaut, un commissaire du gouvernement.

Chapitre septième - De l'exportation et de l'importation des biens culturels

Section 1 - De l'exportation

Article 41 : Il est interdit d'exporter du territoire national un bien culturel, à moins que le ministre chargé de la culture n'ait, après avis de la commission nationale de protection des biens culturels, autorisé cette exportation par une licence spéciale.

S'agissant des biens culturels exportés illicitement, la République gabonaise se réserve le droit d'entreprendre toute action visant à leur rapatriement conformément à la législation internationale en vigueur.

Article 42 : Le ministre chargé de la culture doit se prononcer dans un délai de trois mois à partir de la déclaration fournie à la douane par l'exportateur.

Article 43 : L'exportation des biens culturels est soumise à une taxe dont le montant est fixé par un arrêté conjoint du ministre chargé des finances et du ministre chargé de la culture. Il ne peut excéder vingt pour cent de la valeur déclarée du bien culturel à exporter.

Sont exemptés de toute taxe les catégories de biens culturels énumérées à l'article 44 ci-dessous.

Article 44 : Avant d'accorder une licence d'exportation le ministre chargé de la culture doit s'assurer que :

- a) L'exportation envisagée n'entraînera pas l'appauvrissement du patrimoine culturel national ;
- b) Les collections publiques contiennent un bien culturel semblables à celui dont l'exportation est demandée ;
- c) Le bien culturel à exporter n'a pas une signification inestimable pour l'étude d'une branche particulière des sciences du passé ou des sciences humaines en général.

Article 45 : Le ministre chargé de la culture est tenue de délivrer la licence, lorsqu'il s'agit de l'exportation des biens culturels suivants :

- a) Biens prêtés à une institution scientifique étrangère titulaire en d'une autorisation de fouilles, conformément et à l'article 39 ci-dessus ;
- b) Biens exportés temporairement aux fins d'expositions ou à d'autres fins scientifiques ;
- c) Biens échangés contre d'autres biens provenant d'autres musées ou institutions similaires étrangères ;
- d) Biens préalablement importés légalement au Gabon.

Article 46: L'exportation ou la tentative d'exportation illicite des biens culturels entraîne la saisie et la confiscation de ces biens au profit des collections publiques.

Article 47 : Le ministre chargé de la culture peut revendiquer, au profit des collections publiques et moyennant le paiement d'un juste prix fixé à l'amiable ou à dire d'expert, tout bien culturel dont l'exportation a été refusée, lorsque :

- a) La commission nationale de protection des biens culturels, consultée conformément à l'article 40 lui en fait la proposition ;
- b) Il existe des indices sérieux rendant plausible une tentative d'exportation frauduleuse.

Section 2 - De l'importation des biens culturels

Article 48 : L'importation des biens exportés en violation de la législation nationale du pays d'origine est illicite.

Article 49: les biens culturels importés illicitement sont saisis, placés sous la protection de l'état et, sous réserve de réciprocité restitués à leur pays d'origine conformément aux accords et aux normes internationales.

- Les dépenses afférentes à la restitution sont à la charge de l'Etat requérant ;
- Les biens culturels légalement importés doivent être déclarés en douane ;
- Le récépissé délivré au détenteur par la douane fait foi et doit être produit en cas de réexportation.

TITRE III – De l'organisation du contrôle

Chapitre premier - Des organes et opérations de contrôles

Section 1 - Des organes de contrôle

Article 50 : Sous l'autorité du ministre chargé de la culture, les opérations de contrôle de la protection des biens culturels sont assurées par

- le directeur général de la culture,
- le directeur de la promotion du patrimoine culturel,
- les chefs de service habilités par le directeur général de la culture et assementés à cet effet,
- les officiers de police judiciaire désignés par le code de procédure pénale,
- les agents de douanes.

Section 2- Des opérations de contrôle

Article 51 : Les agents désignés par l'article 50 ci-dessus, à l'exception des officiers de police judiciaire, sont qualifiés pour procéder sur instruction du directeur général de la culture aux enquêtes relatives à la protection des biens culturels.

Ces fonctionnaires ou agents peuvent sur présentation de leur mandat :

- 1) Pénétrer dans les locaux de vente et les inspecter, examiner ou enregistrer les biens culturels qui s'y trouvent et consulter les registres ;
- 2) Inspecter le domicile du commerçant, s'il est utilisé comme dépôt ou local de commerce en vertu de l'agrément qui lui a été délivré ;
- 3) Procéder à toutes visites des sites et monuments, établissements commerciaux lieux d'exposition des biens culturels ;
- 4) Exiger copie des documents nécessaires à l'accomplissement de leur mission et, le cas échéant, procéder à leur saisie.

Ils peuvent également consulter tout document dans les administrations publiques ou privées sans se voir opposer le secret professionnel.

Article 52 : Le directeur général de la culture peut donner mandat à tout expert de procéder à l'examen de tous les biens culturels proposés pour le classement ou classés.

Article 53 : Les fonctionnaires, agents et experts visés aux 50 et 51 ci-dessus sont tenus au secret professionnel.

Article 54 : Le ministre chargé du commerce peut retirer l'agrément de commerce de biens culturels lorsqu'il apparaît que son titulaire néglige ou enfreint l'une quelconque de ses obligations ou qu'il a été condamné par un tribunal compétent en raison d'un acte constituant une infraction aux dispositions de la présente loi.

L'initiative de la procédure de retrait appartient également au ministre chargé de la culture.

Article 55 : Lorsque l'agrément a été retiré conformément aux dispositions de l'article 54 ci-dessus, le commerçant doit s'abstenir d'acheter des biens culturels ;

Il sera autorisé à vendre des biens culturels qu'il détient encore durant une période ne pouvant excéder six mois.

Chapitre deuxième - De la commission nationale de protection des biens culturels

Section 1- Composition

Article 56 : Il est créé une commission nationale de protection des biens culturels.

Article 57 : La commission nationale de protection des biens culturels comprend :

- un représentant du ministère de la culture,
- un représentant du ministère de la justice,
- un représentant du ministère de la défense,
- un représentant du ministère de l'administration du territoire,
- un représentant du ministère de l'artisanat,
- un représentant du ministère du tourisme,
- un représentant du ministère du contrôle d'Etat,
- un représentant du ministère des finances et du budget,
- un représentant du ministère de l'éducation nationale,
- un représentant du ministère de l'enseignement supérieur,
- un représentant du ministère des travaux publics,
- un représentant du ministère du commerce,
- un représentant du ministère de la recherche scientifique,
- un représentant du ministère du cadastre et de l'urbanisme,
- le directeur général des douanes,
- huit représentants des artistes comédiens, peintres et sculpteurs élus par leurs pairs,
- quatre représentants des chercheurs élus par leurs pairs,
- le directeur des services provinciaux de la culture, représentant les commissions provinciales.

Section 2 - Attributions

Article 58 : La commission a notamment pour rôle de :

- a) Conseiller le ministre chargé de la culture en matière de protection des biens culturels ;
- b) Donner son avis sur les propositions d'inventaire ou de classement ;
- c) Se prononcer sur toutes les demandes d'autorisations prévues par la loi ;
- d) Coopérer de manière générale à l'exécution de la loi.

Section 3 - Organisation

Article 59 : La commission est présidée par le représentant du ministre de la culture.

La vice-présidence est assurée par le représentant du ministère de la culture. Le secrétariat est assuré par le

directeur général de la culture.

Article 60 : La commission se réunit, sur convocation de son président, à la demande du ministre chargé de la culture, lequel établit l'ordre du jour.

La commission peut consulter toute personne qualifiée.

Article 61 : La commission ne peut valablement délibérer que si la moitié plus un de ses membres sont présents ou représentés.

Les avis de la commission sont constatés par des procès-verbaux de séances, signés du président et du secrétaire de séance.

Ces procès-verbaux sont transmis sans délai au ministre chargé de la culture par le secrétariat, qui assure également la conservation des archives de la commission.

Section 4 - Des commissions provinciales de protection des biens culturels

Article 62 : Il est créé dans chaque province une commission provinciale de protection des biens culturels. La présidence en est assurée par le gouverneur ou son représentant ; la vice-présidence par le procureur de la République ou son représentant ; et le secrétariat par le responsable provincial de la culture et des arts.

Les commissions provinciales donnent leurs avis en matière de protection des biens culturels à l'échelon provincial et coopèrent de manière générale à l'exécution de la loi.

Elles comprennent, outre le responsable du service provinciale de la culture et des arts :

- un représentant du service provincial du trésor,
- un représentant du service provincial des domaines,
- un représentant du service provincial de l'habitat,
- les responsables des forces de sécurité,
- trois notables désignés par le gouverneur,
- trois notables désignés par le responsable provinciale de la culture et des arts en fonction de leurs compétences en matière artistique.

TITRE IV – Du contentieux

Chapitre premier - Des infractions

Article 63 : Constitue une infraction la non-observation des prescriptions des articles 6, 18, 20, 21, 25, 28, 35, 40, 47, 49.

Article 64 : Au regard de la présente loi, est considéré comme refus d'informer le ministre, le fait pour un propriétaire ou un détenteur d'un bien inscrit à l'inventaire, de le détruire, l'aliéner, le déplacer, le réparer ou le restaurer sans en informer au préalable le ministre chargé de la culture.

Article 65 : Constitue un délit de destruction, aliénation, déplacement ou restauration illicite, la destruction, l'aliénation, le déplacement ou la restauration effectuée sans l'autorisation du ministère chargé de la culture.

Article 66 : Constitue le délit de défaut de protection ou de protection insuffisante le fait pour un propriétaire ou un détenteur de s'abstenir d'assurer l'entretien normal en vue de la conservation du bien proposé pour le classement ou classé.

Article 67 : Constitue le délit de vente illicite, le fait pour un propriétaire d'aliéner un bien culturel proposé pour le classement ou classé, sans faire connaître à l'acquéreur le statut de ce bien et sans en avoir informé le ministre chargé de la culture dans le délai fixé à l'article 25 ci-dessus.

Article 68 : Constitue un délit d'exportation frauduleuse le fait d'exporter un bien culturel hors du territoire national, sans l'autorisation du ministre chargé de la culture.

Article 69 : Constitue le délit d'importation illicite le fait d'importer un bien culturel exporté en violation de la législation

nationale du pays d'origine.

Article 70 : Constitue le délit de commerce illicite le fait d'acheter ou de vendre des culturels sans autorisation.

Article 71 : Sont également passibles de sanctions au regard de la présente loi, les infractions suivantes :

- 1) Le refus de communication de documents ;
- 2) La dissimulation de documents ;
- 3) L'entrave à l'action des fonctionnaires et agents chargés du contrôle, ainsi que les injures et voies de leurs fonctions, nonobstant l'application des articles du code pénal relatifs aux infractions commises contre les officiers de police judiciaire et agents publics.

Chapitre deuxième - De la constitution des infractions

Article 72 : Les infractions visées au titre IV chapitre premier ci-dessus sont constatées au moyen des procès-verbaux ou par infirmation judiciaire.

Article 73 : Les procès-verbaux sont adressés au directeur général de la culture par les fonctionnaires et agents habilités, désignés à l'article 53 ci-dessus.

Article 74 : Les procès-verbaux sont rédigés dans le plus court délai. Ils énoncent la nature, la date et le lieu des constatations ou contrôles effectués.

Dans le cas où l'auteur des faits n'a pas pu être identifié, ils sont dressés contre inconnu. Dans les autres cas, ils indiquent que le délinquant a été informé de la date et du lieu de rédaction.

Ils sont dispensés des formalités et droits de timbre et d'enregistrement. Ils font foi jusqu'à inscription de faux.

Article 75 : Les procès-verbaux peuvent porter déclaration de saisie des biens ayant fait l'objet de l'infraction ou des véhicules ou moyens de transport ayant servi à commettre l'infraction.

La saisie peut donner lieu à gardiennage sur place ou en tout lieu désigné par l'agent verbalisateur.

Chapitre troisième - De la procédure

Article 76 : Les procès-verbaux dressés en application des dispositions ci-dessus et les dossiers y relatifs sont transmis sans délai au directeur général de la culture habilité à transiger dans les conditions fixées à l'article 77 ci-dessous. A défaut de transaction, le directeur général transmet le dossier au parquet pour la suite judiciaire à donner.

Le parquet doit aviser le directeur général de la culture, dans le mois de la réception du dossier, de la décision qu'il a prise.

Article 77 : L'auteur des faits peut bénéficier d'une transaction pécuniaire si les renseignements recueillis sur son compte sont favorables et s'ils n'y a pas récidive dans un délai d'un an depuis la dernière infraction.

Les modalités de la transaction sont les suivantes :

- Un avis de la transaction, accompagné d'un projet d'acte transactionnel en double exemplaire est remis à l'auteur des faits, soit directement, soit par pli recommandé avec accusé de réception ;
- Les actes transactionnels revêtus de la signature du délinquant sont remis ou renvoyés par celui-ci au directeur général de la culture.

Le paiement du montant des transactions doit être effectué entre les mains du trésorier du lieu de constatation de l'infraction ou de résidence du délinquant tenu de rapporter la preuve de son exécution dans les trois mois de la transaction.

En cas de non-réalisation de la transaction, le dossier est remis au parquet.

Le montant des transactions est reversé sous forme de ristourne en vue de la promotion et de la créativité des œuvres artistiques et culturelles. Les modalités de cette ristourne sont fixées par arrêté conjoint des ministres des finances et de la culture.

Article 78 : La procédure judiciaire en matière d'infractions à la protection des biens culturels est suivie conformément au droit commun.

Toutefois le directeur général de la culture peut déposer des conclusions qui sont jointes à celles du ministère public ou les faire développer oralement à l'audience par un fonctionnaire dûment mandaté.

Chapitre quatrième - Des pénalités

Article 79 : Les infractions aux articles 6, 18, 189, 25 sont punies d'un emprisonnement d'un mois à trois mois et d'une amende de 25.000 à 250.000 francs ou de l'une des de ces deux peines seulement.

Article 80 : Les infractions aux articles 20, 47, 49, sont punies d'un emprisonnement de deux mois à six mois et d'une amende de 50.000 à 500.000 francs ou de l'une de ces deux peines seulement.

Article 81 : Les infractions aux articles 28, 35, 40, sont punies d'un emprisonnement de trois mois à neuf mois et d'une amende de 100.000 à 1.000.000 de francs ou de l'une de ces deux peines seulement.

Article 82 : Le refus de communication, la dissimulation de pièces sont punis d'un emprisonnement de six mois à neuf mois et d'une amende de 5.000 à 500.000 francs ou de l'une de ces deux peines seulement.

Article 83 : Quiconque, ayant fait l'objet depuis moins de un an d'une sanction pour l'une de ces; infractions visées dans la présente loi, commet une nouvelle infraction de même nature, est puni du double des peines prévues.

Article 84 : En cas de condamnation, le tribunal peut ordonner la confiscation des biens saisis au profit de l'Etat.

Article 85 : Pour garantir le recouvrement des amendes et des valeurs des confiscations prononcées par les tribunaux, il peut être ordonné la mise sous séquestre de tout ou partie des biens du condamné jusqu'à concurrence des sommes dues.

Articles 86 : Le tribunal peut prononcer, à titre temporaire ou définitif, la fermeture des locaux ou ateliers du condamné. Il peut également lui interdire l'exercice de sa profession.

Article 87 : La juridiction compétente peut ordonner que sa décision soit publiée intégralement ou par extrait dans les journaux qu'elle désigne et affichée en caractère très apparent dans les lieux qu'elle indique, le tout aux frais du condamné.

TITRE V – Dispositions finales

Article 88 : Les décisions prises en vertu de la présente loi sont susceptibles de recours devant les différentes juridictions compétentes.

La commission dispose également d'un droit de recours contre les décisions prises par le Ministre chargé de la culture.

Le tribunal compétent est celui de situation ou de détention du bien culturel.

Les dispositions générales de la procédure civile et administrative sont applicables.

Les peines prévues au titre IV chapitre quatrième sont applicables nonobstant les sanctions civiles et administratives prévues aux articles 18, 19, 47, et 50 de la présente loi.

Article 89 : La présente loi qui abroge toutes dispositions antérieures contraires sera enregistrée, publiée selon la procédure d'urgence et communiquée par tout où besoin sera.

Fait à Libreville, le 23 décembre 1994

El Hadj Oumar BONGO

Par le Président de la République, Chef de l'Etat,
Le Premier Ministre, Chef du Gouvernement,
Casmir Oye Mba

Le Ministre des Arts, de la Culture et de l'Education
populaire, chargé des droits de l'homme,
Lazare Digombe

GAMBIE

The Monument And Relics Act, 1974.
The Gambia.
NO.8 of 1974.

Assented to by the President this eighteenth day of May 1974.
D.K.Jawara, President.

An Act to provide for the preservation of ancient, historical, and natural monuments, relics and other objects of architectural, archaeological, ethnographical, historical or other scientific interest
(14th March, 1974)

ENACTED by the Parliament of The Gambia.

1. This Act may be cited as the Monument and Relics Act, 1974 and shall come into operation on such date as the Minister may by order appoint.
2. In this Act, unless the context otherwise requires-
'ancient monument' means any building, ruin, remaining portion of building or ruin, stone circle, altar, pillar, statue, tumulus, grave, cave, rock, shelter, kitchen, midden, earthwork, iron-smelting site, underground cistern, shell mound or other site or thing of a similar kind of architectural, archeological, ethnographical, historical or other scientific interest , but does not include any ancient working ;
'ancient working' means any shaft, cutting tunnel or slope which was made for mining purposes and which has been proclaimed as such by the Minister under the provisions of section 9 of this Act;
'ethnographical article' means-
 - a) any remains of early settlement, or colonization, or
 - b) any work of art or craftwork including any statue modeled clay figure, figure cast or wrought in metal, carving, house-post, door, ancestral figure, religious mask, staff, drum, bowl, ornament, if such work of art or craftwork is of indigenous origin and-
 - (i) it was made or fashioned before the year 1937; or
 - (ii) is of historical, artistic , or scientific interest , and is or has been used at any time in the performance , and for purpose of , any traditional African ceremony

Provided that in the case of a dispute as to whether any particular article does or does not fall within the terms of this definition the decision of the Minister shall be final:

'Government' means the Government of the Gambia;

'Minister' means the Minister for the time being responsible for administration of this Act;

'Monument' means –

- a) any ancient monument or antiquity;
- b) any area of land which is of archaeological or historical interest or contains objects of such interest;
- c) any waterfall, cave, grotto, avenue of trees , old tree or old building ; and
- d) any other object (whether natural or constructed by man) of archaeological , ethnographical , historical or other scientific interest;

- e) 'national monument' means a monument which has been proclaimed as such by the Minister under the provision of section 10 of this Act;
- 'Relic' means –
- a) Any fossil of any kind;
 - b) any ancient drawing, engraving or painting on stone or petroglyph;
 - c) any ancient implement, article or other Artefact; and
 - d) any archaeological or ethnographical contents of any ancient monument or ancient working.
3. (1) As from the commencement of this Act, there shall be established a commission, to be known as the Monument and Relics Commission and hereinafter referred to as 'the Commission', which shall consist of a Chairman and not more than nine members who shall be appointed by the Minister for a term of three years, and shall be eligible for reappointment.
- (2) If the commission consists of less than eight members, three shall form a quorum, and if the Commission consists of more than eight members, not less than one third of the total membership shall form a quorum.
 - (3) The chairman shall convene all meetings of the Commission (other than the first meeting which shall be convened by the Minister), and if the chairman is unable at any time to convene a meeting, any three other members may convene a meeting and if at any meeting of the Commission the chairman is absent, the members present shall choose one of their number as chairman at that meeting.
 - (4) The member presiding as chairman at any meeting of the Commission shall have a deliberative as well as a casting vote.
 - (5) Subject to the provision of subsection (4) of this section, a decision of the majority of the members of the Commission present at any meeting shall be deemed to be a decision of the Commission;
- Provided that until such Commission has been appointed in accordance with the provisions of this section the powers and duties of the Commission shall vest in and be exercisable mutatis mutandis by the Minister.
4. no remuneration shall be paid to the members of the Commission, but each member may be paid from the funds of the Commission his reasonable expenses for travelling and subsistence while engaged upon the business of the Commission at a rate which shall be prescribed by regulations made under this Act.
5. The Commission shall be a body corporate having perpetual succession and a common seal and capable in law of suing and being sued in its corporate name and, subject to the provisions of this Act, of acquiring, holding, alienating, mortgaging, letting and hiring property, movable and immovable and of such acts as bodies corporate may by law perform.
6. (1) The funds of the Commission shall consist of grants, donations, fees and subscriptions as may from time to time be made to it or be payable to it
- (2) The accounts of the Commission shall be audited annually by the Auditor General.
7. (1) The commission may –
- a) if it has sufficient funds available for the purpose, employ a secretary and such other servants as may be necessary to enable the Commission to carry out its functions and pay their remuneration from its funds;
 - b) make a list of all monuments whose proclamation as national monuments it considers desirable, take steps to ascertain the owner of the monument ;
 - c) recommend to the Minister the proclamation of any monument as a national monument;
 - d) if it has sufficient funds available for the purpose, purchase or otherwise acquire any monument , relic , ethnographical article or other article of archaeological , ethnographical , historical or other scientific interest;
 - e) assume control over any monument, relic , ethnographical article or other article of archaeological , ethnographical , historical or other scientific interest if requested by the person having the ownership or control thereof so to do , and as trustees for the Government accept any such monument, relic , ethnographical article which the owner desires to give or has bequeathed to the government ;
 - f) acquire and maintain on behalf of the Government a museum;
 - g) preserve, repair , restore or insure any monument , relic , ethnographical article or other article of archaeological , ethnographical , historical or other scientific interest which is owned by it or under its control;
 - h) lend or, subject to the provisions of section 8 of this Act, give any such relic, ethnographical article or other article to any museum or public institution;
 - i) undertake the excavation of any ancient monument or ancient working, and by writing , under the hand of the chairman authorize any act to be done which it may deem necessary for excavating , exploring or safely preserving any ancient monument or ancient working or any relic wherever situated or found and by whomsoever owned or controlled including the placing of appropriate notices;
 - j) take steps for the erection of notices or tablets in suitable places, giving information about historical

which occurred at such places.

- (2) The Commission shall-
 - a) when required by the Minister investigate and report upon any matter relating to any monument, ancient working, relic, ethnographical article or other article of archaeological, ethnographical, historical or other scientific interest or believed to be of such interest, and upon the desirability of proclaiming any monument as a national monument;
 - b) on or before the 31st day of March in every year furnished to the Minister a report upon its work during the year which ended on the 31st day of December last preceding and on any other matters connected with the preservation of monument, relics, ethnographical articles and other articles of archaeological, ethnographical, historical or other scientific interest which it may desire to bring to the attention of the Minister;
 - c) make a register of all national monuments and ancient workings and such relics, ethnographical articles of archaeological, ethnographical, historical or other scientific interest as it may have acquired or have been brought to its notice.
 - (3) The Commission shall through any of its members have reasonable access at all reasonable times to any monument, ancient working, relic, ethnographical article or other article of archaeological, ethnographical, historical or other scientific interest, or believed to be of such interest.
8. Save with the written consent of the Minister, the Commission shall not alienate, hypothecate or let any monument, relic, ethnographical article or article of archaeological, ethnographical, historical or other scientific interest which is owned by it or for which it is trustee for the government.
 9. The Minister may from time to time, on the recommendation of the Commission, by notice published in the Gazette, proclaim any shaft cutting, tunnel or slope which was made for mining purposes to be an ancient working.
 10. The Minister may from time to time, on the recommendation of the Commission, by notice published in the Gazette, proclaim any monument;
Provided that-
 - (i) at least one month before recommending to the Minister the proclaiming of any monument which does not belong to the State, the Commission shall notify the owner thereof in writing that it proposes to make such recommendation, and such owner may thereupon lodge with the commission objections in writing to the proposed recommendation; and
 - (ii) in making any such recommendation the commission shall submit to the Minister proof that the owner concerned has received the said notice and shall also transmit to the Minister any objections which may have been lodged against such recommendation.
 11. (1) The discover of any ancient monument, relic or ethnographical article shall be notified in writing to the Commission without delay by the discoverer thereof and also by the owner or occupier of the land upon which such ancient monument, relic or ethnographical article is discovered upon the discovery coming to his notice.
 - (2) Upon the receipt of any such notice as is mentioned in subsection (1) of this section the Commission shall have a right of option to acquire the ownership of the ancient monument, relic or ethnographical article so discovered upon payment to the owner of a sum of money to be agreed upon as fair and reasonable compensation, or failing agreement, upon payment of such sum as may be terminated or awarded by such qualified person as the Minister may appoint in that behalf.
 - (3) if within six months after the receipt of the first notice of any discovery in terms of subsection (1) of this section the Commission has failed to notify the owner of such ancient monument, relic, or ethnographical article that it intends to exercise its option, such right of option shall be deemed to have lapsed.
 12. (1) No person shall, without the written consent of the commission, excavate any ancient monument or ancient working or, if he receives the written consent of the commission, excavate it contrary to any conditions which may have been imposed in such consent or by regulation made under this Act.
 - (2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on summary conviction to a fine of four hundred dalasis and, in default of payment, to imprisonment for six months.
 13. (1) No person shall, without the written consent of the commission
 - a) Make any alteration to or destroy or damage, or
 - b) remove from its original site or export from The Gambia any national monument, monument or relic or any part thereof.
 - (2) Any person who desires to remove from its original site or to export from the Gambia any national

- monument, monument or relic or any part thereof shall, when applying to the Commission with a photograph or drawing of the monument or relic or part thereof in question, and the place to which, and the purpose for which, he desires to remove or to export it.
- (3) No person shall, without the written consent of the Commission, alter, destroy, damage or export from the Gambia any ethnographical article or any part thereof.
 - (4) Any person who desires to export from The Gambia any ethnographical article or any part thereof shall, when applying to the Commission for its consent, submit the article or part thereof in question for examination by the Commission with a drawing or photograph of the ethnographical article or part thereof in question and shall state the purposes for which he desires to export it.
 - (5) If any person shall be dissatisfied with a decision of the Commission made in the exercise of its powers under this section, such person may appeal against such decision to the Supreme Court which shall cause the pendency of appeal to be notified in the Gazette and shall hear such appeal not sooner than the expiration of one month from the notification thereof in the Gazette and as such hearing any person may be heard (whether in person or by counsel) in support of or in opposition to such appeal and the decision of the Supreme Court in the matter shall be final.
 - (6) Any person who –
 - (7) Contravenes the provisions of this section, or
 - a) in any application to the Commission for its consent under this section makes any statement which is false in material respect or supplies therewith any drawing or photograph which is false in any material respect,
 - b) shall be guilty of an offence and shall be liable on summary conviction to four hundred dalasis and, in default of payment, to imprisonment for six months.
14. (1) No person shall deface, damage or destroy any notice or tablet erected by the Commission under the powers conferred by paragraph (l) or (j) of subsection (1) of section 7 of this Act.
 - (2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on summary conviction to a fine of four hundred dalasis and, in default of payment, to imprisonment for six months.
15. The minister may make regulations generally for the better carrying into effect of the provisions of this Act, and in particular for prescribing –
 - a) the procedure in connection with meetings of the Commission;
 - b) the qualification of its members;
 - c) the period for which its members shall hold office;
 - d) the rates of travelling and subsistence allowances to be paid to members of the Commission; and
 - e) the conditions to be imposed with respect to any ancient working.
 16. (1) The Commission may make by-laws-
 - a) regulating the access of the public to any monument, relics, ethnographical articles and other articles of archaeological , ethnographical , historical or other scientific interest , which are the property with the owner are under its control or for which it is trustee for the Government.
 - b) fixing fees which shall be payable to the Commission for such access;
 - c) safeguarding national monuments, ancient monuments, tablets, relics, ethnographical articles and other articles of archaeological, ethnographical, historical or other scientific interest from disfigurement, alteration, destruction or export; and
 - d) regulating the excavation of ancient workings and the removal of relics, ethnographical articles from ancient monuments or ancient workings;
 - e) promoting the exploration, investigation and research of relics; the loan and return of archaeological material for exhibition in the museum.
 - (2) Such by-laws may prescribe fines not exceeding forty dalasis for contravention thereof or non-compliance therewith.
 - (3) No such by-laws shall take effect until they have been approved by the Minister and published in the Gazette.
 - 17 (1) Any person who knowingly –
 - a) fails to comply with or contravenes any provision of this Act; or
 - b) in any application to the Commission for its consent in terms of section 13 of this Act makes any statement which is false in any material respect or supplies therewith drawing or photograph which is false in any material respect;

Shall be guilty of an offence and liable on summary conviction to a fine not exceeding four hundred dalasis or in default of payment, to imprisonment for a term not exceeding six months.

 - (2) If any person is convicted of an offence in terms of this Act which has resulted in damage to destruction or removal of any national monument, ancient monument or relic or any part thereof, or any tablet erected by the Commission, or in damage to or destruction of any ethnographical article or any part thereof the Court,

may, in addition to any other penalty which it may impose order him to pay such sum as the Court may determine for the purpose of repairing such damage or for the value of any article or thing removed or destroyed .

PASSED in the House of Representatives this Fourteenth day of March, in the year of Our Lord One thousand nine hundred and Seventy-four.

S.A.R. N`jie,
Clerk of the House of Representatives

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has been passed the House of Representatives, and found by me to a true and correct copy of the said Bill.

S.A.R. N`jie,
Clerk of the House of Representatives.

GHANA

NATIONAL MUSEUM REGULATIONS, 1973

In exercise of the powers conferred upon the Ghana Museum and Monuments Board by paragraph 28 of the National Museum Decree, 1969 (N.L.C.D.387) and with the approval of the Commissioner responsible for Education these Regulations are made this 26 th day of March, 1973.

Part I - Export of Antiquities

1. (1) Upon the presentation of an antiquity for export the export permit in respect of that antiquity shall be surrendered to a customs officer at the customs port or airport.
(2) Where no export permit is surrendered the customs officer shall detain the antiquity and shall immediately submit a report thereon to the Director.
(3) Where a report is submitted to the Director under this regulation he may—
 - 1) issue an export permit in respect of the antiquity; or
 - 2) with the prior consent of the Board, prohibit the export of that antiquity if he considers that such export would not be in the national interest; or
 - 3) take action for the purchase of the antiquity in accordance with paragraph 6 of the National Museum Decree, 1969.
2. A permit to export any antiquity shall be in the form set out in the First Schedule and shall be signed on behalf of the Board by the Director or any keeper of the National Museum:
Provided that if in the judgment of any such person the antiquity is of more than ordinary importance the application shall be referred to the full Board.

Part II - Sale of Antiquities

3. (1) An application for a licence to sell antiquities shall be made in writing to the Director and shall state the full names of the applicant, his business address and principal place of trading.
(2) The application shall be accompanied by a list in duplicate of the classes of antiquities which the applicant wishes to sell, and by a fee of 10.00
(3) It shall be in the discretion of the Board to grant a licence to sell antiquities;
(4) A licence to sell antiquities shall be in the form set out in the Second Schedule, and shall be issued subject to such conditions as the Board thinks fit
4. A licence to sell antiquities shall be valid for twelve months from the date of issue, and shall not be transferable.
5. (1) The Board may revoke a licence to sell antiquities if, in its opinion, the licensee is unfit to hold or continue holding such a licence, or if the licensee contravenes or fails to comply with any provision of the Decree or these Regulations.
(2) Where a licence to sell antiquities is revoked or the renewal of a licence so granted is refused, the licensee shall return it to the Director.
6. (1) A licensee shall at all times display his licence conspicuously on his business premises, or, in the case of licensee who has no fixed or permanent place of business, shall at all times carry his licence with him when engaged in buying or selling antiquities.
(2) A licensee shall produce his licence to sell antiquities at any time on demand being made by any officer of the National Museum or any police officer.
7. A licence shall display in conspicuous place on his business premises and shall draw the attention of his customers to any notice in respect of the export of antiquities supplied to him by the Board for the purpose of publication.
8. (1) A licensee shall keep an inventory, in duplicate in the form set out in the Third Schedule, of all antiquities he offers for sale, and shall record in the inventory every antiquity acquired by him as soon as he acquires it.
(2) the licensee shall, as soon as he acquires any antiquity send to the National Museum a copy of the entry made in his inventory in respect of that antiquity.
(3) A licensee shall not sell any antiquity until the expiration of four days after he has notified the Director by sending him a copy of the entry in the inventory.
(4) Every antiquity offered for sale shall bear the same serial number as it bears in the inventory.
9. (1) A licensee shall permit an officer of the National Museum authorised in writing by the Directory to inspect the licensee's business premises together with antiquities and inventories kept by the licensee under these Regulations, and the officer shall sign and date any inventory so inspected.
(2) The licensee shall give the officer inspecting his business premises, antiquities and inventory any information that such officer may require.
10. A licensee shall inform every purchaser of an antiquity from him that the purchaser must obtain a permit to export it from Ghana.
11. Where replicas of antiquities are offered for sale, they shall be displayed separately from genuine antiquities and shall be clearly marked as replicas and not genuine antiquities
12. Any person who contravenes any provisions of regulations 6 to 11 of these Regulations shall be guilty of an offence and liable on conviction to a fine not exceeding 50.00

Part III - National Monuments

- 13 (1) It shall be the duty of the Board or any person authorised by the Board—
 - a) to protected National Monuments;
 - b) to ensure that every National Monument is at all times preserved in good condition;
 - c) to ensure that all grounds or courtyards in or adjacent to a National Monument are at all times kept clean and tidy, and free from rubbish, weeds and unnecessary undergrowth;
 - d) to remove every unauthorised board, notice, tablet or advertisement from a National Monument.
 - (2) The Board shall be entitled to take all such measures as are reasonably necessary to protect any part of a National Monument from deterioration, dilapidation, collapse or other damage.
 - (3) It shall be the duty of every owner or occupier of a National Monument –
 - a) to inform the Board immediately any damage occurs or is likely to occur to that monument;
 - b) subject to any directions of the Board, to take all such steps as are necessary to protect the National Monument from damage.
14. (1) The Board may at any time carry out such works of maintenance, conservation, repair or restoration of a National Monument as may be necessary, or may authorise any other person in writing to carry out such works.
(2) The Board may give such directions as it thinks fit for the maintenance and upkeep of any National Monument
(3)The Board may at any time place boards, notices and tablets on or adjoining any National Monument. And

may carry out such works of painting or whitewashing of a National Monument as may be necessary.

(4) Any owner or occupier of a National Monument who considers that the monument requires any necessary works of maintenance, conservation, repair, restoration, painting or whitewashing shall apply to the Board to effect such works.

(5) The Board shall be entitled to carry out any works on the National Monument where in the opinion of the Board such works might alter the character of the monument or where in the opinion of the Board such works are otherwise unnecessary or undesirable.

15. Any person (including the owner or occupier of a National Monument) who, without the written consent of the Board—

- a) makes any alteration or addition to a National Monument, or
- b) carries out any work of maintenance, conservation, repair or restoration of a National Monument; or
- c) defaces, destroys, damages, demolishes or removes any part of the fabric of a National Monument; or
- d) digs or excavates within any National Monument; or
- e) lights any fire within a National Monument; or
- f) erects any notice, advertisement, board or tablet in or upon a National Monument; or
- g) occupies any part of a National Monument; or
- h) enters any part of a National Monument, unless authorised to do so by these Regulations; or
- i) sells or offers for sale any article within or in the grounds of any National Monument; or
- j) abandons any litter or unwanted articles within or upon a National Monument; or
- k) keeps any poultry, cattle or other livestock within a National Monument; or
- l) commits any nuisance or behaves in a disorderly manner within a National Monument.

Shall be guilty of an offence and liable on conviction to a fine not exceeding G50.00

16. (1) Every member of the public shall be entitled to enter and have access to a National Monument at such times as may be prescribed by the Board.

(2) Every member of the board, and every person authorised in writing by the Board or by the Director, shall at all times be entitled to enter and inspect any part of a National Monument, and to carry out all necessary works thereon.

17. Where a National Monument is the property of the Government, the Board may require any occupier to pay such annual rent as the Board may determine.

18. The owner or occupier of a National Monument shall give to the Board not less than thirty notice in writing of any change of ownership of that National Monument or any part thereof, and shall in that notice specify the name and address of the new owner or occupier.

19. (1) No person shall, without the written consent of the Board—

- a) take photographs for commercial purposes within any part of a National Monument; or
- b) make any film within a National Monument; or
- c) use any part of a National Monument for commercial or advertising purposes.

(2) Any person who contravenes this regulation shall be guilty of an offence and liable on conviction to a fine not exceeding 50.00

(3) The Board may grant consent for the purposes of sub-regulation (1) of this regulation subject to such conditions as it thinks fit to impose.

Part IV - General

20. In these Regulations—

“Board” means the Ghana Museum and Monuments Board;

“director” means the Director of the National Museum;

“licencee” means a person to whom a licence has been granted under these Regulations.

21. The National Museum Regulations, 1969(E.I. 118) are hereby revoked.

FIRST SCHEDULE

EXPORT PERMIT

Original Duplicate Serial Number.....

PERMIT TO EXPORT AN ANTIQUITY/ANTIQUITIES

Subject to any terms and conditions endorsed on the reverse hereof,.....of.....is authorised

under paragraph 1 of the National Museums Decree, 1969 (N.L.C.D.387) to remove from Ghana by air/sea/land through the airport/customs port ofto.....

during the period of.....from the date hereof the following antiquity/antiquities.

.....(bearing the following identification marks.....)

Dated theday of.....19....

.....
Director/ keeper of the National Museums

SECOND SCHEDULE (Regulation 3)

LICENCE TO SELL ANTIQUITIES

Serial Number.....

Licence is hereby granted under paragraph 7 of the National Museum Decree, 1969 (N.L.C.D. 387), to.....(full names)..... of.....(residential address)

whose principal place of business/ trade is situated at.....

to sell the classes of antiquities specified below for a period of twelve months from.....19... subject to the provisions of the National Museums Decree, 1969.

Classes of antiquities which licencee is permitted to sell, subject to continued compliance with the National Museum Regulations.

1973 (delete inapplicable classes):

(1) Ghanaian metal work, including goldweights, scoops, Scales, bracelets, etc.

(2) Ghanaian wood-carvings, including stools, combs, figures, drums, oware boards, etc.

(3) Miscellaneous Ghanaian traditional/ religious objects, Including state swords, dancing and priests' costumes (used). Beads (pre-20th century), etc.

(4) Ghanaian terracotta figures and traditional pottery.

Dated theday of.....19.....

.....
Director of the National Museum

THIRD SCHEDULE (Regulation 8)

FORM OF INVENTORY OF ANTIQUITIES

Serial number(s).....

Description of objects

(To be continued on reverse if necessary)

Date of acquisition

How acquired (purchase, discovery by licensee, etc.)

In case of purchases:

Name of seller.....

Address of seller.....

How acquired by seller (including full history of object if possible)

In case of discovery by licensee: place of discovery

Date of discovery

How discovered (e.g. lying on ground, while farming, mining, etc)

.....

.....
signature of the licensee

Date.....

OKU ANPOFO
Chairman of the Board

R.B. NUNOO
Member

MERRICK POSNANSKY
Member

GUINEE

Décret N°93 / 021 / PRG / SGG
portant attributions et organisation
de la Direction Générale du Musée National de Guinée

LE PRESIDENT DE LA REPUBLIQUE

Vu La Loi Fondamentale promulguée par décret n°250/90 du 31 décembre 1990 ;

Vu L'ordonnance n°030/PRG/SGG/88 du 15 juin 1988, portant principes fondamentaux de création, d'organisation et de contrôle des structures des services publics ;

Vu Le décret n°92/034/PRG/SGG du 6 février 1992, portant structure du Gouvernement de la République ;

Vu Le décret n°92/36/PRG/SGG du 6 février 1992, portant nomination des membres du Gouvernement de la République de Guinée ;

Vu Le décret n°92/PRG/SGG du 3 septembre 1992, portant attributions et organisation du Ministère de la Jeunesse, de la Culture, des Arts et des Sports.

DECRETE

CHAPITRE I - DISPOSITIONS GENERALES

Article 1 : Sous l'autorité du Ministère chargé de la Culture, le Musée National de Guinée en abrégé " M. N. G." au niveau hiérarchique équivalent à celui d'une Direction de l'Administration Centrale a pour mission la mise en œuvre de la politique du Gouvernement en matière de conservation et de valorisation d'objets ayant un intérêt culturel, historique et artistique national

A ce titre, il est notamment chargé :

- de collecter, de protéger, de réhabiliter, de valoriser et de diffuser le patrimoine culturel guinéen, africain et international,
- de susciter et de promouvoir la recherche en matière de muséographie et de muséologie,
- d'assurer une représentation de qualité du patrimoine culturel guinéen aussi bien à l'intérieur qu'à l'extérieur du pays,
- de promouvoir les rapports de coopération bilatérale et multilatérale avec les institutions similaires,
- de veiller à la réglementation et au contrôle de l'importation des œuvres artistiques et culturelles.

Article 2 : Le Musée National de Guinée a son siège à Conakry. Il participe à la création et à l'animation des musées régionaux, préfectoraux et/ou communaux.

Article 3 : Le Musée National de Guinée est dirigé par un Directeur Général nommé par décret du Président de la République sur proposition du Ministre chargé de la Culture.

Article 4 : Le Directeur Général du Musée National de Guinée dirige, coordonne, supervise les activités et gère les moyens du Musée National.

Article 5 : Le personnel utilisé par le Musée est un personnel de l'Etat. Il est soumis aux lois et règlements concernant le recrutement, les carrières et les rémunérations des personnels fonctionnaires et contractuels de la Fonction Publique.

Le Musée National peut également utiliser les services de main d'œuvre journalière employée pendant de courtes périodes et en conformité avec les règles de fonctionnement du budget annexe.

Article 6 : Le Musée National est doté d'un budget annexe qui fait l'objet d'une réglementation particulière.

Article 7 : Les crédits nécessaires au fonctionnement du Musée National sont ouverts au budget de l'Etat. L'utilisation de ces crédits se fait conformément aux règles en exécution dudit budget.

Article 8 : Lorsque le Musée National pour ses activités bénéficie de fonds en provenance de la coopération internationale, ces fonds sont obligatoirement versés au budget annexe et utilisés conformément aux règles de fonctionnement de ce budget. Toutefois, lorsque la convention internationale de financement prévoit des règles particulières de gestion, la réglementation du budget annexe sera adaptée pour ce cas particulier pour tenir compte des dispositions de la convention.

CHAPITRE II - ORGANISATION

Article 9 : Pour accomplir sa mission, le Musée National de Guinée comprend :

- des Services d'Appui,
- des Divisions.

Article 10 : Les services d'Appui sont :

- un service administratif et financier,
- un service juridique et contentieux.

Article 11 : Le service Administratif et Financier (SAF) au niveau hiérarchique équivalent à celui d'une Section de l'Administration Centrale est chargé :

- de gérer le personnel et d'assurer sa formation,
- de tenir la comptabilité financière et matérielle,
- de préparer et d'exécuter le budget,
- d'assurer l'approvisionnement en équipement et matériel,
- d'assurer l'entretien des locaux et des équipements.

Article 12 : Le Service Juridique et Contentieux (S.J.C.) au niveau hiérarchique équivalent à celui d'une section de l'administration centrale est chargé :

- d'assister le Directeur Général dans l'élaboration, l'exécution de la législation et de veiller au respect des conventions en vigueur en matière de copie, de vente, d'importation et d'exportation d'œuvres d'art,
- de régler les conflits pouvant découler des transactions d'œuvres d'art ou d'autres vestiges culturels.

Article 13 : Les Divisions sont :

- une Division Inventaire et Collecte,
- une Division Animation et Audiovisuel,
- une Division de Conservation et Restauration.

Article 14 : La Division Inventaire et Collecte est chargée :

- de toutes les questions relatives à l'identification, à l'exhumation et à la collecte systématique des vestiges culturels,
- de gérer tous les objets d'art d'intérêt culturel, historique et artistique appartenant au Musée National,
- d'organiser et d'acquérir à titre onéreux ou gratuit des objets du patrimoine culturel national,
- de faire la recherche et d'innover en matière de muséologie et de muséographie.

Article 15 : La Division Inventaire et Collecte comprend :

- une Section Inventaire,
- une Section Collecte,
- une Section Coordination des Musées.

Article 16 : La Section Inventaire est chargée d'inventorier toutes les collections gérées par le Musée National. Elle conçoit les fiches d'inventaire, les registres d'acquisition, d'inventaire et veille à leur mise à jour

Article 17 : La Section Collecte est chargée :

- de concevoir et de planifier la politique d'acquisition du Musée National de Guinée
- de concevoir et de procéder à la mise à jour sur le terrain des fiches de collecte
- de déterminer les moyens matériels et financiers des missions de collecte

Article 18 : La Section Coordination des Musées est chargée :

- de participer à la préparation des programmes d'inventaire, de collecte et de restauration des Musées Régionaux, Préfectoraux et Communaux,
- de contrôler le niveau d'exécution de ces programmes,
- de tenir à l'intention de ces Musées des Conseils Techniques en matière de Muséologie et de Muséographie.

Article 19 : La Division Animation et Audiovisuel est chargée :

- de publier des bulletins scientifiques du Musée National,
- d'organiser des expositions à l'intérieur de la Guinée et à l'Étranger,
- d'organiser des visites guidées et toutes autres activités du Musée National liées à la connaissance de nos coutumes et traditions,
- de confectionner du matériel pédagogique et de communication,
- de concevoir et de réaliser sur des supports audiovisuels du matériel nécessaire à l'animation culturelle du Musée.

Article 20 : La Division Animation et Audiovisuel comprend :

- une Section Animation,
- une Section Audiovisuel,
- une Section Promotion et Publication.

Article 21 : La Section Animation est chargée :

- d'organiser des activités d'animation culturelle, des conférences et séminaires-ateliers, des projections en vue de faire connaître le Musée par le grand public,

- de concevoir et de mobiliser les expositions,
- d'élaborer un programme de visite des catalogues et guides d'exposition,
- de veiller à l'encadrement des visiteurs et à la tenue des registres de statistiques.

Article 22 : La Section Audiovisuel et Documentation est chargée :

- de documenter toutes les collections gérées par le Musée National,
- de concevoir et de réaliser des supports audiovisuels sur les collections du musée et sur les éléments liés à la connaissance de nos traditions et coutumes,
- de classer, concevoir et diffuser tous les supports audiovisuels dont la Section a la charge.

Article 23 : La Section Promotion et Publication est chargée :

- de publier les résultats des recherches effectuées par le Musée National,
- de distribuer les publications,
- de créer des contacts entre les Institutions similaires ou associées,
- de faire la promotion du Musée National auprès de celles-ci.

Article 24 : La Division Conservation et Restauration est chargée :

- d'expertiser des objets destinés à l'achat, à l'importation et à l'exportation,
- d'organiser le fonctionnement des ateliers de conservation et de restauration,
- d'organiser des campagnes de traitement sur des pièces détériorées ou menacées de destruction du Musée National et des autres Musées du pays,
- d'expérimenter les nouvelles méthodes de conservation- restauration et vulgariser les résultats.

Article 25 : La Division Conservation- Restauration comprend :

- une Section Conservation,
- une Section Restauration,
- une Section Expertise.

Article 26 : La Section Conservation est chargée :

- d'établir, de faire respecter les normes en ce qui concerne les conditions de conservation préventive, la manutention, le transport et l'entreposage des collections du Musée,
- d'établir une documentation détaillée sur l'état de conservation des collections,
- de faire des recommandations aux restaurateurs.

Article 27 : La Section Restauration est chargée :

- de traiter les objets détériorés en tenant compte des recommandations issues des examens,
- de s'occuper de la documentation, de l'intervention et la publication des résultats ou les consignes sur une fiche de conservation – restauration,
- de conserver les fiches de conservation - restauration et les gérer à des fins de consultation.

Article 28 : La Section Expertise est chargée :

- de faire l'expertise des biens culturels destinés à l'achat, à l'importation et à l'exportation,
- d'établir les autorisations de sortie pour les objets dont la sortie est jugée non préjudiciable au patrimoine culturel national.

CHAPITRE III - DISPOSITIONS FINALES

Article 29 : Les Chefs de Division et les Chefs de Section sont respectivement nommés par Arrêté et par Décision du Ministère chargé de la Culture sur proposition du Directeur Général.

Article 30 : Le présent décret qui abroge toutes dispositions antérieures contraires sera enregistré et publié au Journal Officiel de la République

Conakry, le 18 février 1993

Le général Lansana Coné

MINISTERE DE LA JEUNESSE, DE LA
CULTURE, DES ARTS ET DES SPORTS

LE MINISTRE,

Vu La loi fondamentale

Vu L'ordonnance n° 030 / PRG du 15 juin 1988, portant principes fondamentaux de création, d'organisation et de contrôle des structures des services publics

Vu Le décret n° 033 / PRG / SGG / 92 du 6 février 1992, portant création de nouveaux Départements ministériels et Secrétariat d'Etat

Vu Le décret n° 020 / PRG / SGG / 88 du 17 janvier 1988, portant structure du Gouvernement de la République, modifié par le décret n° 032 / PRG / SGG du 6 février 1992

Vu Le décret n° 036 / PRG / SGG / 92 du 6 février 1992, portant nomination des Membres du Gouvernement

Vu Le décret n° 215 / PRG / SGG /92 du 3 septembre 1992, portant attributions et Organisation du Ministère de la Jeunesse, de la Culture, des Arts et des Sports

ARRETE

Article 1 : L'exportation de tout objet d'art dont la sortie est préjudiciable au patrimoine culturel de la République de Guinée est interdite.

Article 2 : Les objets d'art ci-dessous catégorisés ne peuvent en aucun cas faire l'objet d'exportation, ce sont :

Catégorie 1 : Les objets de tout genre et de toute nature ayant appartenu ou appartenant encore à nos sociétés secrètes (masques, statuettes, accoutrements, etc...)

Catégorie 2 : Tous les objets de culte appartenant aux Eglises ou Mosquées

Catégorie 3 : Tous les objets archéologiques provenant de fouilles ou de trouvailles.

Catégorie 4 : Tous les spécimens témoins de la lutte de libération politique et économique de nos sociétés traditionnelles (Armes, Costumes, Trône, etc....

Catégorie 5 : Tous les objets protégés par une Loi Internationale dont la République de Guinée est partie prenante (Ivoire et dérivées, peaux de panthère, etc...)

Article 3 : Toutefois, les Musées qui détiennent des collections qui rentrent dans ces différentes catégories, peuvent pour des fins d'études, d'exposition ou de restauration bénéficier d'une autorisation pour leur exposition temporaire.

Article 4 : Tous les objets d'art ne rentrant pas dans ces catégories ci-dessus mentionnées destinés à l'exposition, doivent passer nécessairement par l'expertise du Musée National, seul habilité à délivrer une autorisation de sortie. Ce sont entre autres :

1 - Os, cornes :
statuettes
masques
porte-couteaux
pendentifs
menus objets

2 - Bois (Rouge, Blanc, Ebène):
statues
statuettes
masques
bustes
autres objets miniatures

3 - Cuirs, fibres végétales, métaux :
étuis de sabres tressés
statuettes et masques métalliques
divers

4 - Peaux travaillées
chats sauvages
civettes
singes
pythons
biches
autres peaux
tapis

5 - Pierres
statuettes en pierre
statuettes en terre battue
céramique

6 - Tableaux décoratifs

Article 5 : Toute exposition d'objets d'art est frappée d'une taxe dont le montant est fonction de la qualité artistique ou de la valeur marchande déclarée. Cette taxe est de :

- 10 % pour des objets dont la valeur marchande est inférieure ou égale à 50.000 F.G.
- 15 % pour les objets dont la valeur marchande est comprise entre 50.000 F.G. et 200.000 f. G.
- 25 % pour les objets dont la valeur marchande est supérieure à 200.000 F G.

Article 6 : Toute importation d'objets d'art en République de Guinée doit être déclarée à la Direction Générale du Musée National par son détenteur dans un délai ne dépassant pas 30 jours.

Article 7 : Toute saisie d'objets d'art par les autorités douanières dans le cadre d'importation ou d'exportation doit être déclarée par celle-ci à la Direction Générale du Musée National dans les 72 heures qui suivent ladite saisie.

Article 8 : Tous les objets soumis à la réexportation sans aucune autorisation légale du pays d'origine, seront frappés d'une taxe forfaitaire de 5 % de la valeur marchande.

Article 9 : Le présent arrêté qui prend effet pour compter de la date de sa signature, sera enregistré et publié au journal officiel de la République.

Conakry, le 1er octobre 1993

Le Ministre

Dorank Assifat Diasseny

KENYA

An Act of Parliament to provide for the preservation of antiquities and monuments

Part 1-Preliminary

1. This Act may be cited as the Antiquities and Monuments Act.

2. In this Act, except where the context otherwise requires—

“antiquity” means any movable object other than a book or document made in or imported into Kenya before the year 1895, or any human, faunal or floral remains of similar minimum age which may exist in Kenya;

“authority” means the National Museums Board and any other person or body of persons which may be authorized by the Minister to perform the duties of an authority under this act;

“exploration license” means an exploration license issued by the Minister under section 5;

“export permit” means a permit to export a monument or part thereof, an antiquity, or a protected object, issued by the Minister under section 30;

“honorary antiquity warden” means a person appointed as such under section 35;

“maintenance” includes the fencing, covering in, repairing, restoring and cleansing of a monument or the fencing or covering of a protected area, and the doing of any act which may be necessary for the purpose of maintaining or protecting a monument or a protected area or of securing convenient access thereto;

“monument” means—

- (a) an immovable structure built before the year 1895 other than an immovable structure which the Minister may by notice in the Gazette either specifically or by reference to all immovable structures in a specified area declare not to be a monument for the purposes of this act;
- (b) a rock-painting, carving or inscription made on an immovable surface before that year;
- (c) an earthwork or other immovable object attributable to human activity constructed before the year;
- (d) a place or immovable structure of any age which being of historical interest has been and remains declared by the Minister under section 4 (1) (a) to be a monument;

and includes the site thereof and such adjoining land as may be required for maintenance thereof;

“National Museums Board” means the National Museums Board of Governors established under the National Museums Act;

“object of archaeological or palaeontological interest” means antiquity which was in existence before the year 1800;

“object of historical interest” means an antiquity which came into existence in or after the year 1800;

“owner” includes a joint owner invested with powers of management on behalf of himself and other joint owners and an agent or trustee exercising powers of management over a monument, and the successor in title of any such owner and the successor in office of any such agent or trustee; but nothing in this Act shall be deemed to extend the powers which may be lawfully exercised by the joint owner, agent or trustee;

“permit” means a valid and subsisting permit issued by the Minister under the provisions of this Act;

“private land” means lands privately owned and land the subject of a grant, lease or license from the Government, and includes Trust land;

“protected area” means a site on which a buried monument or object of archaeological or palaeontological interest exists or is believed to exist, and such adjoining land as may be required for maintenance thereof, which has been and remains declared by the Minister under section 4 (1) (b) to be protected area;

“protected object” means –

- (a) a door or door frame carved in an African or Oriental style before the year 1946;
- (b) any other object or type of object, whether or not part of an immovable structure, which being of historical or cultural interest has been and remains declared by the Minister under section 4 (1) (c) to be

a protected object.

3. The application of this Act shall extend to monuments and antiquities on the seabed within the territorial waters of Kenya.

Part II—Protective Declarations

4. The Minister may, by notice in the Gazette, declare

- (a) a specified place or immovable structure which he considers to be of historical interest, and a specified area of land under or adjoining it which is in his opinion required for maintenance thereof, to be a monument within the meaning of this Act; or
- (b) a specified site on which a buried monument or object of archaeological or palaeontological interest exists or is believed to exist, and a specified area of land adjoining it which is in his opinion required for maintenance thereof, to be a protected area within the meaning of this Act; or
- (c) a specified object or type of object, whether or not part of an immovable structure, which he considers to be of historical or cultural interest, to be a protected object within the meaning of this Act;

and the notice shall state that objections to a declaration thereby made shall be lodged with the Minister within one month from the date of publication of the notice.

(2) A copy of every notice published under subsection (1) shall, if referring to an immovable object or site, be posted by an authority forthwith in a conspicuous place on or near that object or site or on the area to which it relates, and if referring to a specified movable object, be delivered or sent by an authority forthwith to the person in whose possession that object is or is believed to be.

(3) On the expiration of the period of one month, the Minister, after considering the objections, if any, shall confirm or withdraw the notice.

(4) A notice published under this section shall be effectual for all purposes of this Act unless and until it is withdrawn.

(5) An object or area of land declared by or under the Preservation of Objects of Archaeological and Palaeontological Interest Act (now repealed) to be an antiquity or a protected area, as the case may be, within the meaning of this Act.

Part III—Searches and Discoveries

5. (1) Unless authorized by an exploration license issued by the Minister, no person shall by means of excavation or surface operations search for a buried monument or buried part of a monument, or for a buried antiquity, whether or not in a protected area.

(2) The Minister shall, before issuing an exploration license, satisfy himself that the applicant is competent by both training and experience to carry out an exploration or excavation in accordance with the most recent scientific methods and that the application is recommended by an authority, and may require the applicant to satisfy him that he has the support, financial and otherwise, of an archaeological or scientific society or institution of repute.

(3) There shall be implied on the part of every person to whom an exploration license is issued under this section an undertaking that he, or the institution which he represents, will, at such intervals or within such period as may be specified by that license, produce an adequate report or publication on the results of the exploration and excavation, and will deposit with the minister two copies of the report or publication.

(4) An exploration license may specify, in regard to the acts which it authorizes, such limitations and conditions as the Minister may consider necessary in order to protect a monument or antiquity from injury, removal or dispersion, or may authorize removal of finds to a place within Kenya, or temporarily to a place outside Kenya for the purpose only of special examination or preservative treatment, subject to such limitations and conditions as the Minister thinks fit.

6. An exploration license—

- (a) shall be valid for a period not exceeding one year, but may be renewed for a further period or further periods not exceeding one year at a time;
- (b) may be revoked at any time if the Minister is of the opinion that the holder thereof has failed to conform with any of his express or implied obligations thereunder;
- (c) shall be in the prescribed form;
- (d) shall not entitle the holder thereof to enter upon any land without the consent of the owner thereof, otherwise than as provided by section 8.

7. (1) For the purposes of an exploration license, the holder thereof may, under written warrant from the Minister, enter upon any area of land specified in the warrant, whether or not private land, and whether or not a protected area,

and exercise there all rights conferred by the exploration license, for such period and subject to such limitations and conditions as may be stated in the warrant.

(2) Where the holder of an exploration license intends, pursuant to any warrant under subsection (1) , to enter upon private land , he shall give not less than forty-eight hours' notice to the occupier, and if practicable to the owner of the land, and shall, if required by the owner or occupier, give security in such sum and by such means as the Minister may direct for meeting any compensation payable under subsection (3):

Provided that in case of Trust land—

- (i) service on the county council in which the land is vested of a written notice, specifying the exploration license and the nature and duration of, and the land affected by, the warrant, shall be sufficient notice of all subsequent activities in accordance with the warrant and the exploration license, both to the county council and to the residents for whose benefit the council holds the land; and
- (ii) the rights of those residents to require security shall be exercisable by the county council.

(3) Whenever, in the course of operations carried on by the holder of an exploration license, disturbance of the rights of the owner or occupier of private land or damaged to the land, or to crops, trees, buildings, stock or works therein or thereon, is caused, he shall be liable on demand to pay or, make to the owner or occupier such compensation as is fair and reasonable having regard to the disturbance or damage and to the interest of the owner or occupier in the land.

(4) If the holder of an exploration license fails to pay or make compensation when demanded under subsection (3), or if the owner or occupier is dissatisfied with the amount or nature of any compensation offered to him thereunder, the owner or occupier may, within six months of the date on which the demand or offer is made, but not in any case later than two years after the occurrence of the disturbance or damage, take proceedings before a court of competent jurisdiction for the determination and recovery of the compensation (if any) properly to be paid or made under subsection (3).

(5) In the case of disturbance of the rights of occupiers of Trust land, or damaged to any such land—

- (a) an occupier who claims to be entitled to compensation under subsection (3) shall, within six months after the occurrence of the disturbance or damage, apply to the District Commissioner of the district in which the land is situated;
- (b) the District Commissioner shall notify the holder of the exploration license of the application and afford him a reasonable opportunity of being heard in relation thereto;
- (c) if the District Commissioner is satisfied that the applicant is entitled to compensation. He shall make an award in his favor in accordance with subsection (3);
- (d) the District Commissioner shall give notice in writing to the applicant and the holder of the exploration license of the award or of the rejection of the award;
- (e) any such award shall be subject to review by a magistrate 's court of the first class upon an application by either party filed within thirty days from notification of the award;
- (f) a party to an appeal to the magistrate's court who is dissatisfied with the decision may, within thirty days of that decision shall be final;
- (g) a sum payable under an award shall be deposited by the holder of the exploration license with the District Commissioner upon the expiry of thirty days from notification of the award or from a final appeal decision, as the case may be;
- (h) the District Commissioner shall be responsible for paying the compensation awarded to the person entitled thereto, and every such payment shall be made in a single payment;
- (i) an award made under this subsection shall be enforceable as if it were a decree of a competent court.

8. (1) Where a person discovers a monument or object of archaeological or palaeontological interest other wise than in the course of operations permitted by an exploration license, he shall, without undue delay, give notice thereof, indicating the precise site and circumstances of the discovery, to an authority, and shall, if so instructed by that authority, deliver the object to the authority.

(2) Every authority shall from time to time, but at least once in every calendar year, notify the National Museums Board of any discovery of which it has received notice under this section, and the National Museums Board shall maintain a register of all such discoveries.

9. No person shall move a monument or object of archeological or palaeontological interest from the place where it has been discovered otherwise than in such manner and to such place as may be allowed by an exploration license, or by written permit from the Minister.

10. A person who—

- (a) engages in a search contrary to section 5;
- (b) being the holder of an exploration license, fails to conform with any of his express or implied obligations under the license;
- (c) being the holder of a warrant issued under section 7, enters upon private land pursuant to the warrant without having given previous notice and such security, if any, as may have been directed in accordance with subsection (2) of that section; or
- (d) fails to comply with the provisions of section 8 (1); or
- (e) moves a monument or object of archaeological or palaeontological interest contrary to section 9,

shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both.

Part IV – Protected Areas

11. A protected area or part thereof which is an area of Trust land may be set aside as such in accordance with the provisions of section 118 of the Constitution.

12. The Minister may, in respect of a protected area, from time to time—

- (a) by notice in the Gazette, prohibit or restrict access thereto, or any development thereof, or the use thereof for agriculture or livestock, or any other activity thereon which in his opinion is liable to damage a monument or object of archaeological or palaeontological interest therein;
- (b) place the protected area under the control of the National Museums Board, on such terms and with and subject to such powers and duties as he may direct;
- (c) take, or authorize the National Museums Board to take, such steps as are in his opinion necessary or desirable for the maintenance thereof;
- (d) make, or authorize the National Museums Board to make, by-laws for controlling access thereto, with or without payment, and the conduct therein of visitors thereto.

13. (1) Where private land is included in a protected area, and the development or other use of that land by the owner or occupier thereof is prohibited or restricted by the Minister, or, by reason of any steps taken by the Minister, or by the National Museums Board with the authority of the Minister, on or occupier are disturbed in any way, or damaged to the land, or to crops, trees, buildings, stock or works therein or thereon is caused, the Government shall on demand pay or make to the owner or occupier such compensation as is fair and reasonable having regard to the extent of the interest of the owner or occupier in the land.

(2) The provisions of subsection (4) and (5) of section 7 shall apply mutatis mutandis to a claim for compensation under this section.

14. A person who—

- (a) enters upon a protected area or does therein any act or thing contrary to a prohibition or restriction of which notice has been given by the Minister under paragraph (a) of section 12; or
- (b) commits a breach of any by-law made by the Minister under paragraph (d) of section 12,

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding three months or to both.

Part V Monuments

15. An honorary antiquity warden, or any other person authorized in writing by an authority, may at any reasonable time—

- (a) enter and inspect a monument; or
- (b) make photographs, measurements, drawings or other records of particulars of a monument; or
- (c) carry out at the expense of an authority requiring them, repairs to a monument; but where a monument is a inhabited, not less than one month's previous notice in writing shall be given to the occupier of the intention to carry out repairs thereto.

16. The Government or, with the sanction of the Minister, the National Museums Board, may purchase or take a lease or accept a gift or bequest of a monument.

17. (1) The owner of a monument may, by written instrument, constitute an authority the guardian of the monument, if

the authority and the guardian of any monument which is the property of the Government or has no apparent owner.

(2) An instrument which constitutes an authority the guardian of a monument shall provide for the matters mentioned in section 18 (2) as if it were an agreement under that section.

(3) The owner of a monument of which an authority has been constituted guardian shall, except as expressly provided by this act, continue to have the same estate, right, title and interest in and to the monument as theretofore.

18. (1) An authority may, with the sanction of the Minister, enter into a written agreement with the owner of a monument and may other person or persons for the protection or preservation of the monument.

(2) An agreement under this section may provide for all or any of the following matters—

- (a) the maintenance of the monument;
- (b) the custody of the monument and the duties of any person who may be employed in connection therewith;
- (c) the occupation or use of the monument by the owner or other wise;
- (d) the restriction of the right of the owner or occupier to built or to do other acts or things on or near the site of the monument;
- (e) the facilities of access to be permitted to the public or to any portion of the public and to persons deputed by the owner or the authority to inspect or to maintain the monument;
- (f) the notice to be given to the authority in case the owner intends to offer the land on which the monument is situated for sale, leases or other disposal thereof, and the right to be reserved to the authority to have first refusal of any such sale, lease or other disposal;
- (g) the payment of any expenses incurred by the owner or by the authority in connection with maintenance of the monument;
- (h) the removal of the monument or any part thereof, subject to the provisions of this Act, to a place of safe custody;
- (i) any other matter connected with the protection or preservation of the monument which is a proper subject of agreement between the owner and the authority;
- (j) the duration of the agreement, with provision for earlier termination thereof by any party thereto; and
- (k) the procedure relating to the settlement of any dispute arising out of the agreement,

(3) The terms of an agreement under this section may be altered from time to time with the sanction of the Minister and the consent of all parties thereto.

(4) An agreement under this section shall be binding on any person claiming to be owner of the monument to which it relates through or under a party by whom or on whose behalf the agreement was executed.

(5) Any rights acquired by the authority or by the owner in respect of expenses incurred in maintenance shall not be affected by the termination of any agreement under this section.

19. (1) If the owner or other person who is bound by the terms of an instrument which constitutes an authority guardian of a monument under section 17 or of an agreement for the protection and preservation of a monument under section 18 refuses to do an Act which is in the opinion on the authority concerned both necessary for the protection, preservation or maintenance of the monument and the responsibility of the owner or other person in accordance with the terms of the instrument or agreement, or neglects to do the Act within such reasonable time as may be fixed by the authority, the authority may authorize any person to do that Act, and the expense thereof, if and so far as it is established to have been the responsibility of the owner or other person, shall be recoverable from him.

(2) If an authority establishes that the owner or occupier of a monument which is the subject of any such instrument or agreement intends to build or to do any other act or thing in contravention of the terms of the instrument or agreement, the High Court may grant an injunction to restrain that building or other act or thing.

20. If the Minister apprehends that the monument is in danger of being destroyed, injured or allowed to fall into decay, he may acquire the monument by way of compulsory purchase under the provisions of the Land Acquisition Act; but that power shall not exercised—

- (a) in the case of a monument which , or any part of which, is periodically used for religious observances;
- (b) so long as the monument is under the guardianship of an authority as provided by section 17 or the subject of an agreement for its protection and preservation as provided by section 18;
- (c) if the owner of the monument is willing to constitute an authority guardian thereof as provided by section 17 or to enter into an agreement for its protection as provided by section 18, or to give, sell or lease it to the Government or the National Museums Board on acceptable terms, and has executed the necessary instrument or agreement

for that purpose within two months after being invited so to do.

21. (1) A monument which is for the time being owned by the National Museums Board or by another authority, or under the guardianship of an authority as provided by section 17, or the subject of an agreement for protection or preservation as provided by section 18, shall be properly maintained by that authority, except so far as its maintenance is the responsibility of the owner of the monument or of any other person.

(2) The authority shall enforce all obligations of the owner of the monument or of any other person to maintain it.

(3) When any such monument or any part thereof is used periodically for religious observances, the authority shall make due provision for the protection of the monument from pollution or desecration—

- (a) by prohibiting entry therein, except in accordance with by-laws made with the concurrence of the persons in religious charge of the monument or part thereof, of any person not entitled so to enter by the religious usage of the sect or community by which the monument or part thereof is used; or
- (b) by taking such other action as the authority may think necessary in that behalf.

(4) Subject only to any by-laws made under subsection (3) in respect of a monument or part thereof used for religious observances, and to the terms of any agreement for protection or preservation of a monument, the public shall have right of access to a monument referred to in subsection (1) on such conditions as regards payment, if any, and otherwise as the Minister may from time to time approve.

22. Subject to the sanction of the Minister, and to the conditions of any instrument or other transaction, an authority may –

- (a) where rights have been acquired by it in respect of a monument by virtue of a sale, lease, gift or bequest, relinquish those rights in favor of the person who would for the time being be the owner of the monument if those rights had not been acquired; or
- (b) relinquish any guardianship which the authority has accepted under the provisions of this Act.

23. A person who –

- (a) destroys, removes, injures, alters or defaces or does any act that imperils the preservation of any monument;
- (b) obstructs the exercise by an honorary antiquity warden or other duly authorized person of any of the powers conferred by section 15; or
- (c) commits a breach of any by-law regulating the entry of persons into a monument which is used for religious observances, or of any other condition of access to a monument,

shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both, and on conviction of an offence against paragraph (a) may be ordered by the convicting court to pay to an authority for the purpose of making good any damage caused by that offence such sum of money as may be found by that court to be necessary to defray the cost thereof.

Part VI - Antiquities and Protected Objects

24. All antiquities which are lying in or under the ground, or on the surface of any land already protected under any law as a monument or National Park at the commencement of this Act, or being objects of archaeological or palaeontological interest are first discovered in a part of Kenya after the commencement of this Act, shall be the property of the Government.

(2) The Minister may, on behalf of the Government disclaim in writing the ownership of any such antiquity.

25. (1) A person shall, if so required in writing by an authority, within such period not being less than one month as may be specified by the notice, furnish the authority with full particulars of all objects in his possession which he knows or has reason to believe to be antiquities or protected objects.

(2) Every authority shall from time, but at least once in every year, notify the National Museums Board of all antiquities and protected of which the authority has been furnished with particulars, and the National Museums Board shall maintain a register of all such antiquities and protected objects.

26. The Minister may, by notice in the Gazette, prohibit removal, without permit from the Minister, of a specified antiquity or protected object, or of a specified class or type thereof respectively, from the place where the antiquity or protected object or class or type thereof is then situated.

27. (1) No person shall, without a permit from the Minister, sell or otherwise part with ownership or possession of a

protected object.

(2) No person shall buy or take by way of exchange an antiquity unless he has been licensed by the Minister to deal in antiquities.

(3) No person shall sell or give by way of exchange an antiquity to a person who has not been licensed by the Minister to deal in antiquities.

(4) The provisions of this section shall not apply to acquisition by the Government or by the National Museums Board of a protected object or antiquity by way of sale, exchange, gift, bequest or loan.

28. (1) If the Minister considers that an antiquity or protected object is in danger of being destroyed, injured or allowed to fall into decay, or of being unlawfully removed, he may acquire the antiquity or protected object by way of compulsory purchase, on the grounds that acquisition is necessary in the interests of the utilization of the antiquity or protected object by preservation and display for the public benefit, subject to the prompt payment of full compensation as provided by section 75 of the Constitution:

(2) The power of compulsory acquisition under subsection (1) shall not be exercised if the owner of the antiquity or protected object is willing to deposit it with the National Museums Board by way of loan either permanently or for such period as the Minister deems necessary, and has executed the necessary agreement for that purpose within one month after being invited so to do.

29. A person who –

- (a) without just cause fails to furnish an authority with full particulars of all objects in his possession which he knows or believes to be antiquities or protected-objects, after being required in writing by the authority so to do within the period lawfully specified by the notice, as provided by section 25 (1)-; or
- (b) willfully destroys or damages an antiquity or protected object; or
- (c) removes an antiquity or protected object contrary to section 26; or
- (d) sells or otherwise parts with ownership or possession of a protected object, or sells or buys or gives or takes by way of exchange an antiquity, contrary to section 27,

shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both.

Part VII - Export

30. (1) No monument or part thereof or antiquity or protected object may be removed from Kenya unless its removal has been authorized by an exploration license, or by an export permit issued by the Minister under this section on the recommendation of an authority.

(2) An application for an export permit shall be made in writing to the Minister, and shall contain a full description of the monument or part thereof, or antiquity or protected object in respect of which it is made, the reason for the proposed removal, the place to which and the persons into whose care it is to be removed, and such further information as may be prescribed.

(3) Before issuing an export permit the Minister may cause an inspection to be made, and the monument, antiquity or protected object to be sealed or placed in the custody of an authority.

(4) The Minister may issue an export permit subject to such terms and conditions as he may deem fit, or may, without assigning any reason, refuse to issue any export permit in respect of a specified monument or part thereof, an antiquity, or a protected object.

(5) An export permit –

- (a) may in particular be made subject to all or any of the conditions that –
 - (b) the subject matter thereof shall be deposited in a specified place and in the care of specified persons;
 - (ii) the subject matter thereof shall be returned to Kenya within a specified period;
 - (iii) a specified portion of the subject matter thereof shall be surrendered to the Government or to the National Museums Board, or be deposited with the National Museums Board by way of loan permanently or for a specified period;
- (b) shall be in the prescribed form.

31. (1) In the event of the Minister refusing to issue an export permit for an object of historical interest, or imposing conditions which the owner does not accept, the owner may by written notice at any time thereafter require him, as an alternative to issuing an export license, to acquire the object by way of compulsory purchase as provided by section 20.

(2) The Minister shall, within one month after the receipt by him of a notice under this section, either grant an unconditional export license in respect of the object or proceed without undue delay to acquire it by way of compulsory purchase.

32. No monument or part thereof or antiquity or protected object shall be removed from Kenya otherwise than through a Customs port of entry; and the relevant export license, or a copy of the relevant exploration license certified by or on behalf of the Minister, shall be surrendered to a Customs officer before removal from Kenya is effected or allowed.

33. A person who—

- (a) removes a monument or part thereof, an antiquity, or protected object, from Kenya contrary to section 30 or section 32; or
- (b) fails to comply with any of the terms or conditions of an export permit; or
- (c) obtains an export permit by an application containing information which he knows to be false or incomplete in any material particular,

shall be guilty of one offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both.

Part VIII—Powers of Enforcement

34. (1) The authorized representative of an authority may at any time inspect work being done in connection with a monument or object of archaeological or palaeontological interest, and may for that purpose without warrant enter any premises, and may order the cessation of any such work pending further order from the Minister.

(2) The authority shall forthwith report to the Minister any such order for cessation of work and the reasons for the order.

35. The Minister may appoint persons recommended by an authority to be an honorary antiquity wardens for the purpose of enforcing this Act.

36. An honorary antiquity warden may at any reasonable time inspect an antiquity or protected object which is the subject of a notice under section 26, and may for that purpose without warrant enter premises where the antiquity or protected object is or should be, and require the production of the antiquity or protected object or information as to its whereabouts.

37. A police officer or honorary antiquity warden may—

- (a) require any person who he has reason to believe has committed an offence against his Act to supply his name and address and reasonable evidence of his identity, and may without warrant arrest a person who refuses to comply with those requirements;
- (b) at any time without warrant search any person or the premises occupied by any person whom he reasonably suspects of having acquired ownership or possession of a protected object, or of having bought or taken by way of exchange an antiquity, contrary to section 27, and seize anything which has been so acquired, bought or taken by way of exchange, together with any container thereof.

38. A Customs officer may at time without warrant search anything intended to be removed from Kenya, or any person intending to leave Kenya, if he reasonably suspects that thing or person of containing or carrying a monument or part thereof, or an antiquity or protected object, and seize anything which he believes to be a monument or part thereof or antiquity or protected object that is in process of being removed from Kenya contrary to section 30 or section 32, together with any container thereof.

39. (1) Anything seized under section 37 or section 38 shall as soon as possible be taken before a magistrate who—

- (a) in respect of seizure under section 37, shall order forfeiture to the Government of the thing seized together with any container thereof if it is established that the thing seized is a protected object the owner ship or possession of which has been acquired, or an antiquity that has been bought or taken by way of exchange, contrary to section 27;
- (b) in respect of seizure under section 38, shall order forfeiture to the Government of the thing seized together with any container thereof if it is established that the thing seized is a monument or part thereof or antiquity or

protected object that was in process of being removed from Kenya contrary to section 30 or section 32,

whether or not he also convicts any person of an offence against this Act in relation to the same thing and imposes on that person any other penalty.

(2) Anything forfeited to the government under subsection (1) shall, unless the Minister sees fit to restore it to its owner, be deposited with the National Museums Board.

40. An authority may attach to or erect on a monument or protected area such notice or notices as it deems necessary for the better protection of the monument or protected area.

41. A person who—

- (a) obstructs an authorized representative of an authority, police officer, honorary antiquity warden, or Customs officer, in the exercise of his powers or duties under this Act; or
- (b) fails without reasonable cause to comply with a lawful order or requirement of an authorized representative of an authority, police officer, honorary antiquity warden, or Customs officer, under this Act; or
- (c) destroys, removes or damages a notice attached or erected by an authority in exercise of the power conferred by section 40,

shall be guilty of an offence liable to a fine not exceeding ten thousands shillings or to imprisonment for a term not exceeding six months or to both.

Part IX –General

42. In any proceedings under this Act, where the Minister has certified in writing that in his opinion, on the advice of an authority, a thing is a monument or object of archaeological or palaeontological interest or object of historical interest or protected object, as the case may be, the burden of proof shall lie upon any person who asserts the contrary.

43. The Minister shall appoint an Advisory Council, of which all the members shall be appointed by name and not by office, to advise him on matters relating to this Act.

44. An instrument or agreement executed under section 17 or section 18 shall be exempt from stamp duty.

45. No suit for compensation, except as expressly provided by this Act, shall lie against the Minister or a public servant, authority, authorized representative of an authority or honorary antiquity warden in respect of an act done in good faith in the exercise of a power or duty under this Act.

46. The Minister may make rules for carrying out any of the purposes of this Act, and without prejudice the generality of the foregoing for all or any of the following purposes—

- (a) prescribing the forms of and conditions to be implied in, exploration licenses and export permits;
- (b) controlling access to monuments or to protected areas;
- (c) prescribing the fees to be charged for access to monuments or to protected areas;
- (d) regulating the management of a protected area;
- (e) controlling the reproduction of objects of archeological or palaeontological interest;
- (f) licensing dealers in antiquities;
- (g) prescribing the composition, terms of reference and procedure of the Advisory Council;
- (h) prescribing penalties for breach of any such rules.

THE NATIONAL MUSEUMS ACT
Commencement: 21 St January, 1983

An Act of Parliament to provide for the establishment, control, management and development of National Museums and for connected purposes

1. This Act may be cited as the National Museums Act.

2. In this Act—

“Board” means the National Museums Board of Governors established by section 4;

“National Museum” means a museum in Kenya which is for the time being vested in the Board.

3. Every National Museum shall—

- (a) serve as a national repository for things of scientific, cultural, technological and human interest; and
- (b) serve as a place where research and dissemination of knowledge in all fields of scientific, cultural, technological and human interest may be undertaken.

4. There is hereby established a body corporate to be known as the National Museums Board of Governors with perpetual succession and a common seal and which shall be capable in its corporate name of—

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging and disposing of movable property;
- (c) entering into contracts;
- (d) doing or performing all other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

5. (1) The Board shall consist of the following members, all of whom shall be appointed by name and not by office—

- (a) a chairman appointed by the Minister after consultation with the President;
- (b) four persons representing scientific interests appointed by the Minister of whom two shall have been recommended by the East Africa Natural History Society, one by the University of Nairobi and one by the National Council of Science and Technology;
- (c) one public officer from the Ministry for the time being responsible for National Museums;
- (d) not more than four persons to be appointed by the Minister by virtue of their outstanding interest in and contribution to the work of National Museums;

(2) Subject to subsection (6), a member of the Board shall hold office for three years from the date of his appointment; but a member of the Board may at any time resign his office by notice in writing to the Minister.

(3) A member of the Board shall be eligible for reappointment.

(4) The Board shall elect a vice-chairman from among its members.

(5) If a member of the Board is, without the consent of the Minister, absent from more than four consecutive meetings of the Board, or absent from Kenya for more than twelve months, he shall be deemed to have resigned from the Board.

(6) The Minister may upon the application of an organization referred to in paragraph (b) of subsection (1),. And without assigning any reason thereof, remove a member of the Board recommended by that organization in the place of the member so removed; but nothing in this subsection shall derogate from the powers of the Minister under subsection 51 of the Interpretation and General Provisions Act.

(7) The Board shall not be incapable of acting by reason only of there being a vacancy in the membership of the Board.

(8) If a member of the Board is or intends to be absent from Kenya for a period in excess of six weeks, the Minister may, at the request of the chairman, appoint a temporary member in his place; and a temporary member so appointed shall hold office until the member in whose place he has been appointed returns to Kenya.

(9) No person who is a member of the Board shall be appointed as a paid official or servant of the Board or receive any remuneration or other benefit as such member except an attendance fee.

6. (1) The Board shall be convened by the chairman at least four times in every year.

(2) The chairman, or in his absence the vice-chairman may at any time, but shall at intervals not exceeding three months, convene a meeting of the Board, and shall also do so within fourteen days after receipt by him of a written requisition signed by at least three members.

(3) Not less than seven days' previous notice of a meeting of the Board shall be given in writing to every member thereof; but accidental failure to give or to receive such notice shall not invalidate the proceedings of a meeting.

(4) The quorum necessary for the transaction of the business of the Board shall be five members inclusive of the person presiding; and all acts, matters or things authorized or required to be done by the Board shall be effected by a resolution passed by a majority of the members present and voting at a meeting at which there is a quorum.

(5) The chairman, or in his absence the vice chairman, shall preside at meetings of the Board; but in case of the absence of both the chairman and the vice-chairman at any meeting of the Board the members present at the meeting shall elect one of their number to preside at that particular meeting.

(6) At every meeting of the Board the member presiding shall have a casting as well as a deliberative vote.

7. (1) The common seal of the Board shall be authenticated by the signature of the chairman and such other person as may be generally or specifically authorized by the Board.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the chairman, or, in the case of a decision taken at a meeting at which the chairman was not present, under the hand of the person presiding at that meeting.

8. (1) The Board shall have the general management, development and control of all National Museums and for that purpose may—

- (a) with the consent of the Minister—
 - (i) purchase or exchange, take on lease, or acquire by gift or otherwise, immovable property, including an existing museum, for any purpose of or connected with a National Museum;
 - (ii) sell, lease or exchange immovable property from time to time vested in the Board which is no longer, or not for the time being, required for any such purpose;
 - (iii) erect, maintain and improve buildings, including staff quarters, to be used for any such purpose;
 - (iv) mortgage or charge immovable property from time to time vested in the Board as security for repayment, with or without interest, of any money borrowed for the purposes of the Board;
- (b) appoint from among its members such committees as it may deem expedient and delegate to those committees such of its powers as the Board may deem fit; but any committees so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the Board;
- (c) appoint managing bodies for particular museums;
- (d) employ staff on such terms and conditions of service as it thinks fit and take such steps as it may consider necessary to implement those conditions of service;
- (e) acquire by way of gift or purchase, or accept by way of loan or deposit, any object of scientific, cultural, technological, historical or human interest;
- (f) exchange, sell or otherwise dispose of objects not required for the purpose of any National Museum and lend objects vested in the Board to any person or institution whether within or outside Kenya; but no object which is accessioned and registered as part of the collection of a National Museum shall be—
 - (i) sold, given away, mortgaged, pledged or in anyway permanently disposed of save under authority of a resolution of the National Assembly;
 - (ii) lent to any person or organization, within or outside Kenya, unless under authority of a resolution of the Board and the consent thereto in writing of the Minister;
- (g) apply money received on the sale or disposal of movable property or by way of payment for admission to a museum or by way of gift or grant or otherwise, in the purchase of any object which in the opinion of the Board it is desirable to acquire for a National Museum or furthering interest in and increasing the utility in a National Museum;
- (h) solicit and accept and receive subscriptions, donations, devises and bequests (whether of movable or immovable property and whether absolute or conditional) for the general or special purposes of a National Museum or subject to any trust;
- (i) charge for admission to a National Museum, or to any lecture, exhibit, conducted tour, course of instruction or other facility, or for publications, such fees or prices as the Board may, subject to any regulations made under this Act, think fit;
- (j) borrow, with or without security, such moneys as may from time to time be needed for any purposes of

the Board;

- (k) operate as an authority within the meaning and for the purposes of the Antiquities and Monuments Act, and otherwise assist the Government in the administration of that Act;
- (l) establish, in consultation with the National Council of Science and Technology, institutes of research;
- (m) affiliate with other institutions of a generally similar nature and character;
- (n) do all such other lawfully things as may seem to the Board to be incidental or conducive to the attainment of any of the objects of the Board.

(2) If at any time any other institution of a generally similar character is affiliated to the Board in terms of paragraph (m) of subsection (1), the powers of general management and control of the governing body of that institution, unless otherwise agreed between the Board and the governing body, shall not be affected by the affiliation.

(3) The Board may receive moneys from any source and may apply those moneys to defray its expenses in carrying out the functions and exercising the powers conferred on it by this Act including the reimbursement of expenses incurred by members of the Board in attending meetings of the Board.

9. (1) The Board shall in the prescribed manner appoint a separate managing body for every National Museum.

(2) A managing body shall include at least one person nominated by the local authority in whose jurisdiction the National Museum is situated.

(3) Except as otherwise provided by any regulations made under this Act, the Board may delegate to a managing body all or any of its powers and obligations under this Act in respect of the National museum for which the managing body has been appointed.

10. (1) The Board shall undertake, so far as its financial and other resources permit, to carry out, in consultation with the National Council of Science and Technology, research in natural history and conduct other scientific or cultural activities and disseminate knowledge on matters of scientific, cultural, technological or human interest by means of lectures, special exhibits, conducted tours or publications.

11. (1) The Board shall cause to be kept proper accounts for each National Museum, which shall be audited annually by the Controller and Auditor General.

(2) A copy of the audited accounts together with any report thereon by the auditors shall be submitted to the Minister and shall be laid by him before the National Assembly as soon as possible after it has been furnished to him.

12. No Act or thing done by a member of the Board or by officer or servant of the Board shall, if the Act or thing was done bona fide for the purpose of carrying this Act into effect, subject him personally to any liability, action, claim or demand whatsoever.

13. No duty shall be chargeable under the Stamp Duty Act in respect of any instrument executed by or on behalf of or in favor of the Board in cases where, but for this section, the Board would be liable to pay such duty.

14. The Minister may, on the advice of the Board, make regulations—

- (a) regulating the calling of meetings of the Board, the voting of members of the Board and the procedure for the transaction of the business of the Board;
- (b) providing for the administration of any National Museum;
- (c) providing for the preservation of objects required for the purpose of any National Museum;
- (d) regulating the conditions for the admission of members of the public to any National Museum and the payments to be made for admission thereto;
- (e) generally for the carrying out of the objects and purposes of this Act.

15. Upon the commencement of this Act, all the property, assets, rights and liabilities, obligations and agreements (including any contracts of employment) vested in, acquired, incurred or entered into by or on behalf of the Museums Trustees of Kenya, shall be deemed to be vested in or to have been acquired, incurred or entered into by or on behalf of the Board, and accordingly every such right, liability, obligation or agreement may be enforced by or against the Board to the same extent as it could have been enforced by or against the Museums Trustees of Kenya.

LESOTHO

The Historical Monuments, Relics, Fauna and Flora Act, Act n° 41 of 1967

(Date of Assent: 13th December, 1967)
(Date of Commencement: 22nd December, 1967)

To provide for the preservation and protection of natural and historical monuments, relics, antiques, fauna and flora and for connected matters. Enacted by the Parliament of Lesotho

1. This Act may be cited as the Historical Monuments, Relics, Fauna and Flora Act, 1967.
2. In this Act unless the context otherwise requires—
 - “antique” means an object proclaimed as such by the Minister under the provisions of section 8 ;
 - “commission” means the commission established by section 3 ;
 - “fauna” means any wild animal, any reptile (other than a poisonous snake), bird, fish or bee proclaimed as such by the Minister under the provisions of section 8 ;
 - “flora” means any plant or tree growing without cultivation in, or which is indigenous to, Lesotho, but does not include the flower or seed of any such plant or tree unless it is expressly provided in a notice issued by the Minister under section 8 that the flower and seed of the flora described in such notice is also protected ;
 - “Minister” means the Minister of the Government for the time being responsible for education and includes an Assistant Minister to the extent that he is authorised by the Minister to perform the duties and exercise the powers of the Minister under this Act ;
 - “monument” means an area or object proclaimed as such by the Minister under the provisions of section 8 ;
 - “relic” means an object proclaimed as such by the Minister under the provisions of section 8 ;
3. (1) There is hereby established a commission to be known as the “commission for preservation of Natural and Historical Monuments, Relics and Antiques and the protection of Fauna and Flora”, which shall be a body corporate with perpetual succession and capable of suing and being sued in its own name, of acquiring and alienating property, entering into contracts and, subject to the provisions of this Act, generally of performing all such acts as are necessary for or incidental to the carrying out of its functions and duties under this Act.
 - (2) The commission shall consist of not less than five and not more than seven members who shall be appointed by the Minister.
 - (3) A member of the commission shall hold office for five years unless he sooner resigns or his appointment is terminated under the provisions of subsection (8) and a retiring member shall be eligible for re-appointment.
 - (4) When a vacancy occurs on the commission by death or resignation, absence from Lesotho, illness or otherwise, the Minister may appoint a person to fill that vacancy for the unexpired portion of the period for which the member which the member whose office has become vacant had been appointed.
 - (5) Members of the commission shall choose one of their number to be chairman ; if at any meeting of the commission the chairman is absent, the members present shall choose one of their number to be chairman of that meeting.

(6) The member presiding as chairman at a meeting of the commission shall have a deliberative vote as well as a casting vote.

(7) Three members present at a meeting of the commission shall constitute a quorum and a decision of a majority of members of the commission present at a meeting shall be deemed to be a decision of the commission.

(8) A member of the commission shall vacate his office –

- (a) if he has been absent from three consecutive meetings of the commission without the permission of the chairman ; or
- (b) if he is in the opinion of the Minister unable or unfit to discharge the functions and duties of a member of the commission.

4. (1) The commission may –

- (a) make a list of all objects whose proclamation under section 8 it considers desirable ;
- (b) take steps to ascertain the owners of any object ;
- (c) purchase or otherwise acquire any such object or by agreement with the Government or any public body or with any private person having the ownership or control of any such object, take such steps as may be practicable to preserve it ;
- (d) take steps for the erection of tablets in suitable places giving information in both official languages of Lesotho about historical events which occurred at such places ;
- (e) assume control over any such object if requested by the person having the ownership or control thereof so to do, and as trustee for the Government accept any such object which the owner desires to donate or has bequeathed to the Government ;
- (f) preserve, repair, restore or insure any monument, relic, or antique under its control ;
- (g) lend any such relic or antique to any museum or other public institution ;
- (h) recommend to the Minister the proclamation of any such objects in terms of section 8 ; and
- (i) through any of its members have access at all reasonable times to any monument or relic proclaimed under section 8.

(2) The commission shall –

- (a) when required by the Minister investigate and report upon any matter relating to any object proclaimed under section 8 or upon the desirability of so proclaiming any object ;
- (b) on or before the thirty-first day of December in every year furnish to the Minister a report upon its work during the year ended on thirty-first day of March last preceding and on any other matters connected with the preservation of monuments, relics and antiques which it may desire to bring to the attention of the Minister ; and
- (c) make a register of all the monuments, relics, antiques, fauna, and flora proclaimed as such under section 8.

5. No remuneration shall be paid to the members of the commission, but each member may draw from the funds of the commission his reasonable expenses for travelling and subsistence while engaged upon the business of the commission at such rates as the Minister may prescribe.

6. The funds of the commission shall consist of such grants, donations, fees, and annual subscriptions as may from time to time be made to it or be payable to it.

7. Save with written consent of the Minister, the commission shall not alienate, hypothecate, or let any object which is its property or for which it is trustee as aforesaid.

8. The Minister may from time to time on the recommendation of the commission by notice in the Gazette, proclaim to be –

- (a) a monument, any area of land having a distinctive or beautiful scenery or geological formation, any area of land containing a rare or distinctive or beautiful flora or fauna, any area of land containing objects of archeological, historical or scientific interest, any waterfall, cave, grotto, avenue of trees, old tree or old building and any other object (whether natural or constructed by man) of aesthetic, historical, archeological or scientific value or interest ;
- (b) a relic, any fossil of any kind, any drawing of painting on stone or petroglyph known or commonly believed to have been executed by Bushmen or other aborigines of southern Africa or by any people who inhabited or visited southern Africa in ancient days, and any implement or ornament known or commonly believed to have been used by them and any anthropological or archeological contents of the graves, caves, rock, shelters, middens, shell mounds or other sites used by them ;

- (c) an antique, any movable object (not being a monument or a relic) of aesthetic, historical, archeological, or scientific value or interest, the whole or more valuable portion of whereof has for more than one hundred years been in any part of southern Africa, or which was made therein more than one hundred years before the publication of such notice ;
- (d) protected fauna or flora, any fauna or flora, the species or kind whereof is described in such notice.

9. (1) Whenever the owner of any object, proclaimed under the provisions of section 8 alienates, pledges, or lets it he shall forthwith inform the commission of the name and address of the alienee, pledgee or lessee.

(2) No person shall, without the written consent of the commission destroy or damage any monument or relic or make any alteration thereto or remove it from its original site or export it from Lesotho.

(3) A person desiring to remove a monument or relic from its original site or export it from Lesotho shall when applying to the commission for its consent, supply the commission with a drawing or photograph of the monument or relic in question and shall state the exact locality in which it is situated and the place to which and purposes for which it is desired to remove or export it.

(4) No person having control of any antique shall without the written consent of the commission destroy or damage it or export it from Lesotho.

(5) A person desiring to export an antique from Lesotho shall when applying to the commission for its consent supply the commission with a photograph and description thereof and shall state the place to which and the purposes for which it is desired to export the antique.

10. (1) No person shall without the written consent of the commission destroy or damage or remove from its original habitat or export from Lesotho any fauna claimed under section 8 to be protected fauna.

(2) No person shall without the written consent of the commission destroy or damage or remove from its original site or export from Lesotho any flora proclaimed under section 8 to be protected flora.

11. (1) The Minister may, on the recommendation of the commission, by notice in the Gazette prohibit the removal or the export, without the consent in writing of the commission, of any object or group or collection of objects which is, in the opinion of the Minister, capable of being proclaimed under section 8.

(2) The owner of any such objects or group or collection of objects or of any object which forms part of such group or collection who is affected by any such prohibition, may submit to the commission an objection in writing to that prohibition. The commission shall transmit that objection to the Minister who may thereupon cancel, modify or confirm the prohibition.

12. A person who knowingly —

- (a) fails to comply with or contravenes any provision of section 9 or section 10 ; or
- (b) contravenes any prohibition issued under section 11 ; or
- (c) in an application to the commission for its consent makes a statement which is false in any material respect or supplies therewith any drawing or photograph which is false in any material respect ; or
- (d) damages or destroys any tablet erected in terms of paragraph (d) or subsection (1) of section 4 ; or
- (e) destroys, damages or mars any drawing, painting or petroglyph described in paragraph (b) of section 8 or any substance near such drawing, painting or petroglyph, or without the consent of the commission destroys or damages any part of a cave or rock or on which there is any such drawing, painting or petroglyph ; or
- (f) without the consent of the commission destroys, damages or disturbs any grave, cave, rock shelter, midden or shell mound described in paragraph (b) of section 8,

shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rands or in default of payment to imprisonment for a period not exceeding six months.

13. The Minister may, after consultation with the commission, make regulations, not inconsistent with this Act, generally carrying into effect the principles, purposes and provisions of this Act, and in particular but without prejudice to the generality of the foregoing, he may make regulations prescribing —

- (a) the procedure in connection with meetings of the commission ;
- (b) the qualifications of its members ; and
- (c) the rates of travelling and subsistence allowances to be paid to members of the commission.

14. The protection of Relics, Fauna and Flora Proclamation is hereby repeated.

Proclamation of Monuments, Relics, Fauna and Flora
(Legal Notice No. 36 of 1969)

In exercise of the powers conferred on me by the provisions of section 8 of the Historical Monuments, Relics, Fauna and Flora Act, 1967, I,

Anthony C. Manyeli,
Minister of Education, hereby proclaim the following to be :

Monuments

The rock painting site Ha Khotso, Maseru District.
The deposits of petrified wood on the top and slopes of Thaba-Tsoeu, Mahole's Hoek District.
The fossil bed and fossil footprint site of Maphutseng, Mohale's Hoek District.
The fossil footprint site of Moyeni, Quthing District.
The nature reserve, archeological site and cave house of Masitise-Seqhobo, Quthing District.
The top of Thaba-Bosiu Fortress, Maseru District, taking into due cognizance the full rights and traditions of the Basotho chiefs and people.
Major Bell's Tower at Hlotse, Lebribe District.
The remains of the Fort at Fort Hartley, Quthing District.
The top of the Mount Moorosi Fortress, Quthing District.

Relics

All engravings and painting on stone, commonly known as Bushman paintings / itsoantso tsa Baroa.
All fossil footprints and other markings, commonly known as dinosaur footprints / mehato ea liphoofole tsa khale e setseng matlapeng.
All fossil remains, whether of plant or animal origin / masapo kapa htlama le lifate tse fetohileng lejoe.
All archeological deposits / lintho tse siiloeng ke batho ba mehla ea khale (Baroa le ba bileng Lesoto pele ho Baroa, le Basotho ba khale)

Protected Fauna

All antelopes and bucks / mefuta eohle ea linyamatsana, liphofu, litsephe le matsa
All baboons and monkeys / litsoene le likhabo
All bushpigs and warthogs / mefuta eohle ea likolobe, le likolobemoru.
All antbeats, scaly anteaters and ratels / mefuta eohle ea lithakali, likhaha le lisele
All porcupines and hedgehogs / linoko le lihlong.
All springhares / litsipho le litsipjoane.
All otters and mongooses / mefuta ea liqibi, matobi ka bosamane le lehlahare.
All leguaans and varanas / mefuta ea lipolometsi le kang qamo le phathakalle.
All tortoises and terrapins / mefuta ea likhulu le khulu-ea- metsi.

The following birds, including their eggs and nests
All bearded vultures / seoli / lammergeyer.
All cranes, storks and herons / mefuta ea mehololi le mekotatsie le kokolofitoe.
All hammerheads / masianoke.
All birds of prey / linonyana tsohle tse phelang ka nama tse kang ntsu, khajoane.
All egerts / maholosiane.
All secretary birds / mamolangoane.
All hoopoes and sunbirds / phupupu le taletale.

Protected Flora

All aloes, with particular reference to the aloe polyphylla, including its seeds and flowers / makhala 'ohle haholo-holo kharatsa, esita le peo le palesa tsa 'ona.
All bamboos / leqala.
All protea / sekila.
All wild olive tree / mohloare.
All cussonia / motsetse.
All rhus burchelli / mokhloamphiri.
All celastrus / sefeamaeba.
All leucosylon / phukhu.
All heteromorpha / monkhoane.
All euclea / mohlakola.

All grewia / lesika.
All chilianthus / lelora.
All gladiolus species.

LIBERIA

An Act to amend the executive law
to create the department of information and cultural affairs,
1965

(extract)

It is enacted by the Senate and House of Representatives of the Republic of Liberia, in Legislature Assembled

Section 1. The Executive Law is hereby amended by adding thereto a new chapter to be chapter 22 entitled THE DEPARTMENT OF INFORMATION AND CULTURAL AFFAIRS to read as follow

CHAPTER 22. THE DEPARTMENT OF FORMATION AND CULTURAL AFFAIR

§657. Department Created –
There shall be established in the Executive Branch of the Government a department of Information and Cultural Affairs to be administrated by a Secretary of Information and Cultural Affairs, who shall be appointed by the President by and with the advice and consent of the Senate and who shall serve at the pleasure of the President. The Secretary of Information and Cultural Affairs shall be charged with the responsibility, direction and supervision of all patters relating to Information and cultura1 programs of the Government of Liberia. For this purpose he shall:

(...)

Organize, supervise and encourage the mass production, improvement and popularization of Liberia's Indigenous arts and handicrafts; establish, operate and maintain a National Cultural Center and an Ethnographical Museum, and plan and execute programs for the further enhancenent of the folklore, mores and indigenous culture of the nation ;

Organize, foster and promote a tourist industry for which purpose he shall enquire into, collect and publicize all information pertaining to historical sites,,landmarks and places of natural scenic beauties, wherever found through-tourist attractions ;

(...)

§661. Bureau of Cultural and Touristic Affairs –
The chief of the Bureau of Cultural and Touristic Affairs shall be appointed by the President upon the advice and consent of the Senate. It shall be his duty to plan and initiate programs for the production, improvement and popularization of Liberia's indigenous arts and handicraft ; to execute programs for the enhancement of the folklore, mores and indigenous culture of the nation ; to operate the National Cultural Center and Ethnographical Museum on a Commercially sound basis and to supervise the Division of Arts and Handicrafts of the Bureau.

(...)

§665. Office of Administrator –
There shall be an office of administration to provide central administrative services for the Department, including fiscal, personnel management and distribution services.

Section 2. This Act shall take effect immediately upon publication in hand-bills. Any law to the contrary notwithstanding.