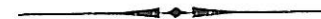


REPUBLIC OF IRAQ  
MINISTRY OF INFORMATION  
DIRECTORATE GENERAL OF  
ANTIQUITIES  
BAGHDAD

*Antiquities Law No. 59 Of 1936*

And the Two Amendments

No. 120 of 1974 and No. 164 of 1975



4th Edition  
1976

UNESCO Cultural Heritage Laws Database  
(Copyright and Disclaimer Apply)

**CHAPTER I.  
DEFINITIONS AND GENERAL  
PROVISIONS**

**Article 1<sup>(1)</sup>**

- (1) For the purpose of this Law, The following expressions shall have the meanings here assigned to them:
- (a) Ministry — Ministry of information.
  - (b) Minister — Minister of Information.
  - (c) Directorate — Directorate General of Antiquities.
  - (d) Director — Director General of Antiquities.
  - (e) Antiquities — Movable and Im-movable possessions which were erected, made, produced, sculp-tured, written, drawn or photo-

---

(1) Article Two of the First Amendment of Law. No. 120 of 1974.

graphed by man, if they are two hundred years old or more.

- (2) The Directorate shall be entitled to consider as Antiquities the movable and immovable possessions, which are less than two hundred years old, if the public interest requires its protection, due to its historical, national, religious or artistic value. This should be done by a decision from the minister, published in the Government Gazette.

#### **Article 2**

Antiquities shall hereby be divided into two categories: movable and immovable.

“Immovable Antiquities” include all antiquities erected on and attached to the soil such as buildings, mounds, caves and any objects usually attached to buildings and thus constituting a part thereof.

“Movable Antiquities” include all antiquities detached from the soil or from

buildings and are easily removed therefrom and transported to any other place.

#### **Article 3**

All antiquities in Iraq whether movable or immovable that are now on or under the surface of the soil shall be considered to be the common property of the State. No individuals or groups are allowed to dispose of such property or claim the ownership thereof except under the provisions of this Law.

#### **Article 4**

The ownership of a land shall not entitle the owner to dispose of the antiquities discovered on or under the surface of that land nor does it entitle him to excavate for antiquities therein.

#### **Article 5**

It is forbidden to break, mutilate, destroy or damage antiquities whether movable or immovable.

## CHAPTER II. IMMOVABLE ANTIQUITIES

### Article 6

The Directorate of Antiquities shall register all ancient buildings and historical sites existing in 'Iraq, collect documents and informations in connection therewith and open a special file for each subject.

### Article 7

Mosques, masjids, synagogues, churches, convents, monasteries and other ancient buildings, owned or constituted in Waqf, in the occupation of persons *de facto* or *de jure* whether registered in the Estate Registration or being of proved ownership or Waqf, either by legal deeds or by royal decrees, shall continue to be in the occupation of the owners or the guardian provided they are used for the purpose for which

6

they have been built, subject to the supervision of the Antiquities Department from time to time. The owner or guardian thereof shall be responsible for carrying out any necessary preservation or repair work. Should the guardian or owner prove to be incapable of doing so, the Department of Antiquities shall carry out the necessary preservation or repairs, provided that the owner or guardian abandon his right of occupation to that Department.

### Article 8

When the existence of antiquities is an established fact with the Department of Antiquities, the Minister may decide whether such site, and according to scientific requirements, the surrounding land may be considered as an historical site, subject to the publication of such decision in the Government Gazette. This shall not prevent the owner from enjoying his right of occupation.

7

### Article 9

The Government may acquire any ancient building or historical site as a matter of public utility under the Expropriation Law, and any necessary right of way or means of access thereto.

In valuing land for such acquisition no account shall be taken of the existence or value of antiquities which are existing or have been found on or in such land.

### Article 10

The Government shall be entitled to render movable and to remove any immovable antiquities from their original place to another paying only to the owner of the land compensation for the reparation of damages sustained by the land through such removal. Where the land is government land no such compensation shall be paid.

8

### Article 11

Any person who discovers an immovable antiquity and any owner or proprietor of land where such antiquity has been discovered who knows of such discovery and any public servant, Sheikh of a tribe, Sirkal, Mukhtar of a village or quarter who knows of such discovery shall report the same within ten days to the local administrative authorities.

### Article 12

Any occupier of land containing immovable antiquities shall allow the Director of Antiquities and any other official authorized by him to enter that land at all appropriate times, with the aim of examining it, drawing maps and taking photographs thereof.

9

### Article 13

No person shall, without special permission, render any immovable antiquity or dispose of any of its constructional materials or utilize such antiquity in a manner which is likely to injure or destroy it or alter its character.

### Article 14<sup>(2)</sup>

Deleted.

### Article 15

Immovable antiquities belonging to the State shall be neither sold nor subjected to prescriptive measures preventing legal procedure.

---

(2) Deleted by article nine of the first amendment of Law No. 120 of 1974.

## CHAPTER III.

### MOVABLE ANTIQUITIES

#### Article 16<sup>(2)</sup>

- (1) Acquiring movable antiquities which are in the possession of persons whether **de facto** or **de jure** is prohibited. Their possessions of registered and unregistered antiquities should be delivered to the Directorate within thirty days from the date of the execution of this Law.
  - (2) Exempted from item (1) of this article the following:-
    - (a) The antiquities existing in the places mentioned in article seven of this law.
    - (b) The ancient manuscripts in possession of persons whether **de facto** or **de jure**.
- 
- (3) Substituted by a new text according to article three of the first amendment of law No. 120 of 1974.

(3) The possessor of antiquities and manuscripts mentioned in item (2) of this article, is responsible for the following:-

(a) Should register his possessions in the Directorate's registers within a period of one year and six<sup>(1)</sup> months from the date of the execution of this law, and should register the imported manuscripts, or those discovered casually, within thirty days from the date of the discovery or entrance to Iraq, if this happened after the lapse of the above mentioned year and six months.

(b) Should conserve the antiquities, and notify the Directorate in writing immediately, about any risk of loss or mutilation to enable the necessary steps to be taken to pre-

---

(4) Article one of the Second amendment of Law No. 164 of 1975.

serve them and to limit the responsibility of the negligent in case of loss or mutilation.

(c) Should obtain the approval of the Directorate in advance on acquiring or transferring ownership. The person who is granted possession of antiquities should be Iraqi and a resident of Iraq, and submit to the Directorate a guarantee that he will fulfill all the necessary obligations of the previous possessor, and this is applied on cases of selling, donation, lending and depositing, as well as all the other means of transmitting possessions or permanent or temporary acquisitions.

(d) Should deliver the object (s) on request against a receipt from the Directorate for study, photography and display purposes for the public interest, the object (s) to be

- returned to the possessor as early as possible. The cost of transport shall be borne by the Directorate General of Antiquities, the antiquities mentioned in item (2-a) of this article are exempted.
- (4) The Directorate should register the antiquities and ancient manuscripts mentioned in item (2) of this article, in an official registers, prepared for this purpose, and should supply the owner with an official registration certificate. These antiquities and manuscripts must be under the control of the Directorate.
- (5) a. The Directorate may purchase any ancient manuscripts registered in its records according to the provisions of the law.
- b. The Directorate may control and confiscate all ancient manuscripts if the acquirer has lost or mutilated one or part of one by negligence, or with bad intent.

14

- c. Exempted from the two previous provisions of this article are the ancient manuscripts which come under item (2-a) of this article.
- (6) The Directorate has the right to possess or control the movable antiquities and ancient manuscripts delivered to the Directorate, against a just compensation estimated by a neutral committee appointed by the minister. Its decision will be subject to appeal by the Directorate or the possessor, before the court of the first instance within fifteen days from the date of the notification of the decision.

#### Article 17<sup>(5)</sup>

Any person who discovers casually a movable antiquity, should notify the nearest governmental authority within seven days

- (5) Substituted by a new text according to article four of the first amendment of Law No. 120 of 1974.

15



from the date of the discovery. The authority should notify the Directorate immediately. The Directorate may grant the discoverer a relevant reward of not less than the material value of the object, whether it is of silver, gold or precious stones, regardless of antiquity, technique manufacture and its artistic and historical value.

#### Article 18<sup>(6)</sup>

Deleted.

#### Article 19

Any person who knows of the discovery of a movable antiquity shall report the same to the Department of Antiquities who shall grant that person a suitable reward at the said Department's discretion.

---

(6) Deleted by article nine of the first amendment of Law No. 120 of 1974.

#### Article 20<sup>(7)</sup>

Deleted.

#### Article 21<sup>(8)</sup>

Deleted.

#### Article 22

It is hereby prohibited to counterfeit or forge antiquities. Any scientist or artist wishing to make moulds and models of certain antiquities shall obtain the permission of the Department of Antiquities for each case separately; and, in making such models, he shall satisfy the conditions and follow the methods prescribed by the said Directorate in order to avoid any probability of cheating or forgery.

---

(7) Deleted by article nine of the first amendment of Law No. 120 of 1974.

(8) Deleted by article nine of the first amendment of Law No. 120 of 1974.

### Article 23

All the movable antiquities which are in the possession of the Government shall be exhibited to the public and scientists in the museums which are instituted in the Capital, as well as in various towns, and at places close to certain archaeological sites. The Department may collect admission fees from persons visiting the museums from time to time according to a regulation.

### Article 24

Movable antiquities which may be dispensed with owing to the abundance of similar examples thereof in the 'Iraqi Museums and whose loss by the Department of Antiquities will not impair in any way the value of the 'Iraqi Museums, may be sold, provided that the quantities and qualities of such antiquities shall be specified by a special regulation.

18

### Article 25

The Department of Antiquities may, upon the approval of the Ministry exchange certain antiquities in its possession for antiquities possessed by other museums and scientific institutions, provided that such an exchange tend to increase the value of the collections in the 'Iraqi Museums.

### Article 26<sup>(9)</sup>

Taking any antiquity outside Iraq is prohibited notwithstanding. It is possible for the Directorate to do this for scientific studies, exchange and exhibitions.

---

(9) Substituted by a new text according to Article five of the first amendment Law No. 120 of 1974.

19

## CHAPTER IV TRAFFIC IN ANTIQUITIES

Articles from 27 to 39 are deleted<sup>(10)</sup>.

## CHAPTER V EXCAVATIONS FOR ANTIQUITIES

### Article 40

Only the Government and groups or individuals authorized by the Government under this Law shall be entitled to excavate for antiquities.

No one is, therefore, entitled to excavate for antiquities, even in his own land, unless he obtains an official permit.

### Article 41

Permits to excavate shall be available only to scientific societies and institutions and to qualified scholars of established

---

(10) Deleted by article nine of the first amendment of Law No. 120 of 1974.

archeological capacity from the scientific and financial points of view.

### Article 42

Applications for permits to excavate shall be made to the Directorate of Antiquities, setting forth, firstly, particulars about the applicant and his qualifications as an excavator; and, secondly, the boundaries of the area it is intended to excavate with a general programme of the work to be followed in the excavation.

The Director of Antiquities shall fully examine the request and submit the same, together with his observations, to the Minister of Education. If the Minister approves of the recommendation of the Director, the permit shall be granted signed by both the Minister and the Director.

### Article 43

Excavations shall be carried out scientifically under the supervision of an Expedition composed of at least four specialists:-

- (a) A director, who shall be a well known archaeologist with previous experience in archaeological excavations.
  - (b) An architect specializing in archaeological architecture.
  - (c) A general assistant competent in drawing and photography.
  - (d) An epigraphist possessing the necessary knowledge of ancient languages and scripts.
  - (e) The Directorate of Antiquities may agree to do without the last specialist if the site desired for excavation belongs to prehistoric or ancient periods which do not require an epigraphist.
- Article 44**
- The holder of the permit shall comply with the following conditions:-
- (a) To form the excavating expedition as laid down in the previous article.
  - (b) To provide the Expedition with all the equipment necessary for the excavation, photography, and preservation of antiquities by means of recognized methods.
  - (c) That the operations of the excavations shall continue for a period of at least three months each year, unless the excavation be completed within a shorter period.
  - (d) To send, every fortnight at least, to the Directorate of Antiquities a report on the operations of excavations and their results, accompanied by full details of all antiquities discovered.
  - (e) To prepare all necessary maps, sectional drawings and photographs of all buildings discovered. The maps and sectional drawings shall be made on a scale of at least 1/100 and shall contain details showing the state of the buildings at the time of discovery sufficient to permit of reconstruction when necessary.

- (f) He shall not demolish or remove any part of the buildings except after the fulfilment of the conditions laid down in the previous paragraph and with the approval of the Directorate of Antiquities.
- (g) He shall keep a detailed scientific register in which a record shall be made of all the movable antiquities discovered with all necessary scientific descriptions in a form agreed upon between him and the Directorate of Antiquities.
- (h) He shall pay to the Directorate of Antiquities the necessary allowances for meeting the expenses of the representative of that Directorate.
- (i) A number of guards to be agreed upon between him and the Directorate of Antiquities shall be posted at his own expense at the site of excavation during the whole excavation season and after the cessation of operations.

24

- (j) He shall take all the necessary measures for the preservation of the site excavated and the antiquities therein from damage and loss whether through climatic conditions or human interference.
- (k) He shall supply the Directorate of Antiquities at the conclusion of the season's digging with a copy of the field register of antiquities together with a complete collection of copies of the maps and plans which have been drawn and of the photographs taken.

#### Article 45

The Ministry may, upon the proposal of the Directorate of Antiquities, in certain instances restrict the permit to excavate with certain conditions in addition to the general provisions, laid down in the previous article, provided that such conditions are imposed prior to granting the permit and introduced in the text of the permit or included in a supplement attached to it.

25

#### Article 46

The site excavated and the antiquities discovered shall, at all times, be open for inspection by the Directorate of Antiquities, its representative, or any other Antiquity officials specially delegated by the Directorate.

#### Article 47

The holder of the permit shall be considered responsible for the following undertakings:-

- (a) He shall, within six months of the conclusion of the season's digging, supply in a form suitable for publication by the Department of Antiquities or in a form of a pamphlet or article to be published in one of the recognized archaeological periodicals, a summary report of the main results of the excavations.

26

- (b) He shall produce, within a period of two years after the completion of the excavations, a detailed scientific publication recording the general results of the excavations with a mention of the provenance of the antiquities found and a record of their respective locations. In case the results of the excavations are of various categories and are so minute as to need a longer period for study the Directorate of Antiquities may again extend that period.
- (c) That he shall deliver to the Department of Antiquities one copy of every book, publication or article he publishes on his excavations and their results.

#### Article 48

If the holder of the permit contravenes any of the general rules laid down in Article 44 or any of the special conditions laid down in the permit according to the provi-

27

sions of Article 45, the Director of Antiquities, upon the approval of the Minister, may suspend the excavations or withdraw the permit.

#### **Article 49<sup>(11)</sup>**

- (1) The antiquities discovered by excavators will be the property of the state, the excavator will be given a reward, and has the the right to obtain:
  - (a) The casts, photographs, plans and maps of the antiquities discovered.
  - (b) Collections of potsherds and organic matters for the purpose of study and analysis, on condition that the results therefore should be given to the Directorate within a period not exceeding one year from the date of receipt of such collections.

---

(11) Substituted by a new text according to article six of the first amendment of Law No. 120 of 1974.

- (c) Export license (s) for such casts, photographs, plans, maps, potsherds, organic matters and soil which are given to the excavator to export from Iraq, any such license(s) being exempted from customs duties.

- (2) Item one of this article should be executed under the direct supervision of the Directorate.

#### **Article 50**

The holder of the permit shall, at the request of the Director of Antiquities, pack up and despatch to the 'Iraq Museum all movable antiquities. He shall also obtain an export permit for the moulds and the objects allotted to him without having to pay any export fee or Customs duty.

#### **Article 51**

If the holder of the permit ceases to dig for more than one season, the Govern-

ment shall have the right to consider the permit as cancelled and to grant the excavation permit for the same site to any other applicant having the qualifications set forth in Article 41. But if the Directorate of Antiquities believes that unavoidable reasons prevent the holder of the permit from the continuation of the excavation it may postpone the matter to another season provided that it shall ultimately cancel the permit at the lapse of two seasons without excavations.

#### **Article 52**

The Directorate of Antiquities, may under such conditions as it thinks fit grant a permit to conduct soundings within certain areas and for a short period not exceeding one month. The owner of the permit shall report forthwith the results of his soundings to the Directorate who may at any time suspend the work or withdraw the permit if it considers the results unsatisfactory, or the work may be suspended

pending an application for a permit to excavate is submitted, if the results are satisfactory.

All antiquities discovered, by the excavator during the sounding period belong to the 'Iraq Government. The excavator, however, shall be entitled to make casts of such antiquities if he so desires.

#### **Article 53**

If the site to be excavated is a private property, the applicant shall arrange with the owner as to the terms upon which he shall be allowed to excavate. The Director of Antiquities shall, if the permit-holder and the owner of the land so desire, lend his good offices to effect a settlement between them. If however no agreement is reached, the land may be acquired as stipulated in Article 9 of this Law.



## Article 54

The excavating expeditions shall have the right of priority in the publication of antiquities discovered through excavations. But this right shall depend firstly, on the necessity of making known to the 'Iraqi public the important results of the excavations as soon as possible; and, secondly it depends on the necessity of informing the scientific circles of such results without any delay.

The following rules shall, therefore, apply:-

(a) Until the Department of Antiquities issues its publications during the prescribed period assigned for this purpose, no maps or plans supplied by the excavator under Article 44 of this Law shall be published by the said Department without the consent of the excavator.

(b) The Department of Antiquities shall not allow any person to take a photograph of any of the antiquities discovered nor shall he offer the photograph of any of those antiquities for sale before its publication by the excavator.

(c) If the excavator wishes to publish, during the season of excavation, certain results of the excavations outside of 'Iraq, he shall notify the Director of Antiquities accordingly in order to insure the publication of the same simultaneously in 'Iraq.

(d) At the close of the season of excavation all necessary measures shall be taken to acquaint the 'Iraqi Public with the most important results. The Directorate of Antiquities and the excavating expedition shall negotiate and agree upon the method suitable for such information.

- (e) If the period stipulated in Article 47 of this Law for the publication of reports on excavations expires, the right of priority in publication shall be automatically lost.
- (f) The excavator's right of priority in publication shall not prejudice the right of the Department of Antiquities to mention the antiquities discovered and insert photographs of them in the General Guide Book of the 'Iraqi Museum.

**CHAPTER VI**  
**P E N A L T I E S**  
**Article 55**

Whoever contravenes the provisions of Article 5 of this Law shall be punishable with imprisonment for a period not exceeding one year or with fine not exceeding two hundred Dinars or with both.

34

**Article 60<sup>(13)</sup>**

- (1) Whoever smuggled or intended or helped in smuggling antiquities, against the provision of article twenty six of this Law, should be sentenced to imprisonment for a period not exceeding five years and the confiscation of the antiquities, in respect of which the crime has been committed, as well as all antiquities in his possession even if they are registered.
  - (2) Whoever stole antiquities which are in possession of the Directorate shall be sentenced to imprisonment for a period not less than six years and a fine of a sum which is six times the value of the stolen antiquity. Intending to commit such crime will be considered as the complete action. The
- 
- (13) Substituted by a new text according to article eight of the first amendment of law No. 120 of 1974.

37

sharer, accomplice or instigator are considered as the original doer. The punishment will be doubled in the case that the crime is done by the responsible person entrusted with the administration or keeping, preserving or guarding antiquities.

#### Article 61<sup>(14)</sup>

Whoever traffics in antiquities contrary to the provisions of the articles 27 and 28 of this law, shall be punishable with imprisonment for a period not exceeding three months or with fine not exceeding one hundred Dinars, and the antiquities in his possession shall be liable to be confiscated.

---

(14) The text of article twenty seven was:-

"No person shall be allowed to trade in antiquities unless he obtains a written license from the Department of Antiquities signed

#### Article 56

Whoever is required to report to the authorities concerned any discovery of a movable or immovable antiquity under the provisions of Articles 11 and 19 of this Law and fails to do so shall be punishable with imprisonment for a period not exceeding six months or fine not exceeding one hundred Dinars or with both.

#### Article 57

Whoever contravenes the provisions of Article 13 of this Law shall be punishable with imprisonment for a period not exceeding three years or with fine not exceeding five hundred Dinars or with both.

#### Article 58<sup>(12)</sup>

- (1) Whoever contravenes the provisions of items (1) and (3) of article six-
- 
- (12) Substituted by a new text according to article seven of the first amendment of Law No. 120 of 1974.

teen of this Law, shall be sentenced to imprisonment for a period not exceeding two years, and with the confiscation of the antiquities.

- (2) Whoever contravenes the provisions of article seventeen of this Law, shall be sentenced to imprisonment for a period not exceeding one year or with a fine not exceeding one hundred Dinars, or both with the confiscation of antiquities.

#### Article 59

Whoever contravenes the provisions of Article 22 hereof shall be considered guilty of an offence and be punishable with imprisonment not exceeding six months or with fine not exceeding one hundred Dinars or with both, and the counterfeit or imitated article shall be liable to confiscation.

36

#### Article 62<sup>(154)</sup>

Whoever contravenes the provisions of Article 39 hereof shall be punished with a fine not exceeding ten Dinars.

by the Minister and the Director of Antiquities.

The text of article twenty eight was:-

"Antiquities which may be sold and bought shall be those registered in the possession of individuals according to the provisions of this law. The licence to traffic in antiquities does not entitle the holder to deal with unregistered antiquities regardless of how such antiquities became available for purchase.

Article twenty seven and twenty eight were deleted by article nine of the first amendment of the Law. No. 120 of 1974.

(15) The text of article thirty nine was:-

(a) Whoever wants to make a present of or sell any antiquity in his possession to any person, he shall inform the Department of Antiquities of the case.

(b) The sale or making a present of an antiquity does not imply the right to export without a license under the provision of this Law.

Article thirty nine was deleted by article nine of the first amendment of the Law No. 120 of 1974.

39

If the said contravention lead to the non-declaration of the new possessor or to the loss of the traces of the antiquity, the person guilty of the offence shall be punishable with imprisonment for a period not exceeding one year or with fine not exceeding one hundred Dinars or with both.

#### **Article 63**

Whoever excavates for, or attempts to discover antiquities contrary to the provisions of Article 40 of this Law, shall be punishable with imprisonment for a period not exceeding one year or with fine not exceeding one hundred Dinars or with both, with the confiscation of the digging instruments and the antiquities found; and if the offence be committed on a site already announced to be a historical site he shall be punished with imprisonment for a period not exceeding three years or with fine not exceeding five hundred Dinars and with the confiscation of the digging instruments and the antiquities discovered.

40

#### **Article 64**

Whoever fails to give the information and assistance required of him under this Law shall be considered as guilty of the offence of preventing Government Officials from fulfilling their duties and shall be punishable under the provisions of the Penal Code.

### **CHAPTER VII. MISCELLANEOUS**

#### **Article 65**

The inspectors of antiquities shall enjoy the powers granted to investigators as far as contravention of the provisions of this Law is concerned.

#### **Article 66**

Guards and attendants of antiquities shall have the same powers as those granted to policemen in respect of their duties of preventing illicit digging and traffic.

41

### Article 73

The Ministers of Information and Justice are charged with the execution of this Law.<sup>(16)</sup>

Made at Baghdad, this 28th day of Muharram, 1355, and the 20th day of April, 1936.

### PREAMBLE

"Since the antiquities Law No. 59 of 1936 has permitted persons whether *de facto* or *de jure* to possess antiquities registered in the Directorate General of Antiquities, and trading with them, as result, some of the acquirors posses a great number of antiquities, most of them are collected by illegal procedures. This encouraged dealing in antiquities and smuggling of unregistered antiquities and harmed the cultural heritage of the country.

---

(16) Antiquities Law No. 59 of 1936 Published in the Government Gazette No. 1507 dated 23.4.1936.

For the public interest, it is hereby prohibited to posses antiquities and trade in them and compensation is to be paid to the possessors equivalent to the value of the antiquities in their possession, in order to prevent dealing in and smuggling on antiquities and to avoid the other defects which have appeared as a result of the enforcement of the Law during the long period since its issuance.

Therefore, this Law is issued".

This law will be published in the Government Gazette and the Ministers are charged with the execution of this law<sup>(17)</sup>.

---

(17) The first amendment to the law of antiquities No. 120 of 1974 was published in the Government Gazette No. 2396 of 14.9.1974. The second amendment to the law of antiquities No. 164 of 1975 was published in the Government Gazette No. 2496 of 3.11.1975.