



GOVERNMENT OF CEYLON
LEGISLATIVE ENACTMENTS

Antiquities Ordinance

1956 Revision

1960

Reprinted from Vol. VII of the revised Edition of the
Legislative Enactments of Ceylon (1956)

PRINTED BY THE GOVERNMENT PRINTER AT THE GOVERNMENT PRESS, CEYLON
TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO

Price: 65 cents..

Postage: 20 cents.

ANTIQUITIES

[Cap. 188

CHAPTER 188

ANTIQUITIES

AN ORDINANCE TO PROVIDE FOR THE BETTER PRESERVATION
OF THE ANTIQUITIES OF CEYLON.

Ordinance
No. 9 of 1940,
Acts
Nos. 2 of 1955,
22 of 1955.

[15th July, 1940.]

1. This Ordinance may be cited as the Antiquities Ordinance. Short title.

PART I

PROPERTY IN ANTIQUITIES

2. (1) No antiquity shall, by reason only of its being discovered in or upon any land in the ownership of any person, be or be deemed to be the property of such person : Property in antiquities.

Provided that such person shall be deemed to be interested in such antiquity in accordance with the provisions of this Ordinance.

(2) Every ancient monument which on the date on which this Ordinance comes into operation is not owned by any person or the control of which is not vested in any person as trustee, incumbent or manager, shall be deemed to be the absolute property of the Crown.

(3) All undiscovered antiquities (other than ancient monuments), whether lying on or hidden beneath the surface of the ground or in any river or lake, shall be deemed to be the absolute property of the Crown, subject to the provisions of this Ordinance.

3. On the discovery of any antiquity (other than an ancient monument), the Archæological Commissioner, on behalf of the Crown, shall be entitled to the custody and possession of such antiquity, unless in any case the Archæological Commissioner does not consider it Payment by the Crown of market value of certain antiquities.

Cap. 188]

ANTIQUITIES

necessary that such antiquity shall be retained by the Crown; and, where any such antiquity is retained by the Archæological Commissioner on behalf of the Crown, there shall be paid by the Crown—

- (a) one-half of the market value of the antiquity to the finder thereof and one-half of such value to the owner of the land in which the antiquity was found, or
- (b) where the same person is both the finder of the antiquity and the owner of such land, the whole of the market value of the antiquity to such person, or
- (c) where the antiquity is found on Crown land by any person (other than the Archæological Commissioner or any person acting under his authority in the discharge of any duty or function under this Ordinance), one-half of the market value of the antiquity to the finder thereof :

Provided that on the retention by the Crown of any antiquity no such payment as aforesaid shall be made to the finder thereof where the finder has failed to report the discovery of that antiquity in accordance with the provisions of section 10 or section 14, as the case may be.

Agreement as to apportionment of antiquities, without payment by the Crown.

4. (1). Notwithstanding the provisions of section 3, it shall be lawful for the Archæological Commissioner, with the approval of the Minister,¹ to enter into an agreement in writing with any person who would under the provisions of section 3 be entitled to the market value of any antiquity or any part of such value, whereby such person shall receive from the Crown, in lieu of such value or part thereof, a share of such antiquity, to be apportioned in such manner as may be provided in the agreement.

(2) Every agreement under subsection (1) shall be free from stamp duty and shall have force and effect notwithstanding anything in section 3 :

Provided, always that where the finder of any antiquity does not report the discovery thereof in

necessary that such antiquity shall be retained by the Crown; and, where any such antiquity is retained by the Archæological Commissioner on behalf of the Crown, there shall be paid by the Crown—

- (a) one-half of the market value of the antiquity to the finder thereof and one-half of such value to the owner of the land in which the antiquity was found, or
- (b) where the same person is both the finder of the antiquity and the owner of such land, the whole of the market value of the antiquity to such person, or
- (c) where the antiquity is found on Crown land by any person (other than the Archæological Commissioner or any person acting under his authority in the discharge of any duty or function under this Ordinance), one-half of the market value of the antiquity to the finder thereof:

Provided that on the retention by the Crown of any antiquity no such payment as aforesaid shall be made to the finder thereof where the finder has failed to report the discovery of that antiquity in accordance with the provisions of section 10 or section 14, as the case may be.

Agreement as to apportionment of antiquities, without payment by the Crown.

4. (1) Notwithstanding the provisions of section 3, it shall be lawful for the Archæological Commissioner, with the approval of the Minister,¹ to enter into an agreement in writing with any person who would under the provisions of section 3 be entitled to the market value of any antiquity or any part of such value, whereby such person shall receive from the Crown, in lieu of such value or part thereof, a share of such antiquity, to be apportioned in such manner as may be provided in the agreement.

(2) Every agreement under subsection (1) shall be

accordance with the provisions of section 14, as the case may be, he shall not be entitled to receive any share of such antiquity under an agreement.

5. Where there is any dispute between the Archæological Commissioner and any person as to the market value of any antiquity or as to the apportionment of any antiquity in terms of an agreement under section 4, such dispute shall be determined in the manner provided in section 45, and such determination shall be final and conclusive.

PART II

DISCOVERY OF ANTIQUITIES

EXCAVATIONS

6. Subject as hereinafter provided, no person shall excavate for the purpose of discovering antiquities, whether on land belonging to himself or otherwise, except under the authority of a licence issued by the Archæological Commissioner:

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

7. Every application for a licence to excavate shall—

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

ANTIQUITIES

[Cap. 188

fine not exceeding one thousand rupees or to imprisonment of either description for a term not exceeding one year :

Provided that no person shall be liable to be convicted of an offence under paragraph (c) or paragraph (d) where the antiquity is, in the opinion of the court, insignificant or of trivial value ;

Provided, further, that any person convicted of an offence under paragraph (c) or paragraph (d) in respect of any antiquity (other than an ancient monument), shall by virtue of such conviction, forfeit all claim or interest to or in that antiquity or the value thereof, and in any such case the Magistrate may order that the antiquity be delivered to the Archæological Commissioner within such time as may be specified by the Magistrate ; and where the Magistrate makes such order, it shall be the duty of any person in whose possession that antiquity may be to deliver it within the specified time to the Archæological Commissioner.

(2) If any person who has been ordered to deliver any antiquity to the Archæological Commissioner under subsection (1) does not deliver such antiquity within the specified time the Magistrate may order the Fiscal or a peace officer to take immediate possession of such antiquity and deliver it to the Archæological Commissioner.

PART III

ANCIENT MONUMENTS

16. (1) The Minister may by Order in writing¹ declare that any specified monument which dates or is believed to date from a period prior to the 1st day of January, 1850, shall, notwithstanding that such monument does not or is not believed to date to a period prior to the 2nd day of March, 1815, be deemed to be an ancient monument for the purposes of this Ordinance.

Declaration
of a monu-
ment
dating to
period prior
to 1850 as an
ancient
monument.

Cap. 188]

ANTIQUITIES

(2) Upon the publication in the Gazette of an Order under subsection (1), the monument to which the Order relates shall be deemed to be an ancient monument and all the provisions of this Ordinance relating to ancient monuments shall apply to that monument as if it were an ancient monument.

Declaration of specified trees as ancient monuments.

17. (1) Where it appears to the Minister¹ that any tree, whether growing in Crown land or any other land, is of such historical or archaeological importance, that it is necessary in order to secure the preservation or protection of such tree that the provisions of this Ordinance relating to ancient monuments should apply to such tree, the Minister¹ may, by Order in writing, declare that such tree shall be deemed to be an ancient monument for the purposes of this Ordinance.

(2) Upon the publication in the Gazette of an Order under subsection (1), the tree to which the Order relates shall be deemed to be an ancient monument and all the provisions of this Ordinance relating to ancient monuments shall, *mutatis mutandis*, apply to such tree as if it were an ancient monument.

Notification of protected monuments.

18. Where it appears to the Minister¹ that any ancient monument situated on any land other than Crown land is in danger of destruction or removal, or damage from neglect or injudicious treatment, and that it is in the public interest that such monument should be protected, he may,¹ subject to the provisions of section 19, by Order published in the Gazette, declare such monument to be a protected monument; and from the date of the publication of such Order, the monument to which the Order relates shall be a protected monument for the purposes of this Ordinance.

Previous notice of intention to declare an ancient monument to be a protected monument.

19. (1) No Order under section 18 shall be made unless the Minister¹ has given notice in the Gazette in accordance with the provisions of this section, of his¹ intention to make such Order.

(2) Every notice under subsection (1) shall specify a date on or before which objections to the proposed Order will be received by the Archæological Commissioner.

ANTIQUITIES

[Cap. 188

(3) Every objection preferred in consequence of a notice under subsection (2) shall be made in writing and shall contain a statement of the grounds upon which the objection is made.

(4) The Archæological Commissioner shall transmit all objections received by him together with his report thereon to the Minister.¹

(5) The Minister² shall consider all objections transmitted under subsection (4) and may for the purpose of investigating any such objection make or cause to be made such inquiry as to him² may seem necessary.

20. (1) The owner of any land on which a protected monument is situated and the Archæological Commissioner may enter into a written agreement providing for the due conservation of such monument and its protection from danger of destruction or removal and from damage by neglect or injudicious treatment.

Agreements
in regard to
protected
monuments.

(2) Every agreement entered into under subsection (1) shall be free of stamp duty.

21. (1) No person shall, except under the authority and in accordance with the conditions of a permit issued by the Archæological Commissioner, or in accordance with an agreement entered into under section 20, commence or carry out any work of restoration, repair, alteration or addition in connexion with any protected monument.

No restora-
tion, &c., of
protected
monument,
except upon
permit.

(2) Every permit under subsection (1) shall be issued in the prescribed form subject to the prescribed conditions and may contain such additional conditions as the Archæological Commissioner may deem fit to insert therein regarding—

- (a) the supervision of the proposed work by the Archæological Commissioner or by any person approved by him for the purpose; and
- (b) the payment of remuneration to any such person, not being a public servant, or the payment of the prescribed fee in respect of any service rendered by such person, being a public servant.

Refusal or revocation of permit under section 21.

22. (1) The Archæological Commissioner may in his discretion—

- (a) refuse to issue a permit under section 21 in any case in which he is of opinion that the applicant for such permit is unable to carry out and complete satisfactorily the work to authorize which such permit is applied for, or that such work is unnecessary ;
- (b) after notice in writing to the holder of any such permit revoke such permit, if he is of opinion that the work is not being carried out satisfactorily or in accordance with the conditions and restrictions subject to which such permit was issued.

(2) Any person aggrieved by the refusal or revocation of any permit by the Archæological Commissioner may appeal against such refusal or revocation to the Minister whose decision on any such appeal shall be final and conclusive.

Power of Archæological Commissioner to restore, repair, &c., protected monuments.

23. (1) Where a permit under section 21 has not been issued in respect of any protected monument, or where any such permit has been revoked, the Archæological Commissioner may, with the approval of the Minister,¹ carry out or cause to be carried out under and in accordance with his directions such work of restoration, repair, alteration or addition in connexion with that monument as to him may seem expedient.

(2) It shall be the duty of the owner of any monument, in connexion with which any work is authorized to be carried out under subsection (1), to permit the Archæological Commissioner or any person acting under the directions of the Archæological Commissioner to enter the land in which that monument is situated and to do all such acts as may be necessary for the purpose of carrying out such work ; and such owner shall not be entitled to claim compensation for any loss or damage suffered or alleged to have been suffered by him by reason of the execution of such work or any part of such work.

ANTIQUITIES

[Cap. 188

24. (1) Regulations may be made prohibiting, or restricting subject to the prescribed conditions, the erection of buildings or the carrying on of mining, quarrying, or blasting operations on any land within the prescribed distance of any ancient monument situated on Crown land or any protected monument.

Prohibition or restriction of building, mining, &c., in vicinity of certain monuments.

(2) Every regulation made under subsection (1) shall have effect notwithstanding anything in any other written law; but nothing in any such regulation shall permit or be deemed to permit the erection of any building or the carrying on of any operations mentioned in subsection (1) in contravention of any provision of such other law.

25. (1) The owner of any land affected by any prohibition or restriction in any regulation made under section 24 who suffers any loss or damage by reason of any such prohibition or restriction, may forward to the Archaeological Commissioner within the prescribed period a claim for compensation in respect of such loss or damage:

Claim for compensation by owner of land affected by regulations under section 24.

Provided, however, that where the owner of any land on which any ancient monument is situated commences the erection of any building or the carrying on of any mining, quarrying or blasting operations on such land after a notice of the intention to declare such monument to be a protected monument is published in the Gazette under section 19, he shall not be entitled to any compensation for any loss or damage suffered by reason of the prohibition or restriction of such erection or operations by any regulation made under section 24.

[§ 2, 2 of 1955.]

(2) Every claim made under subsection (1) shall specify—

- (a) the amount of compensation claimed;
- (b) the grounds on which the claim is based;
- (c) the person chosen by the claimant as a member of the compensation board to be established under section 26 in respect of that claim; and
- (d) such other particulars as may be prescribed.

(3) The Archæological Commissioner shall transmit every claim received by him under subsection (1) to the Minister and shall specify the person chosen by him as a member of the compensation board to be established under section 26 in respect of that claim.

(4) No person who fails to make a claim under subsection (1) within the period prescribed for the purposes of that subsection shall be entitled to any compensation for any loss or damage for which a claim under that subsection might have been made, and no action in respect of any such loss or damage shall be entertained by any court or tribunal.

(5) Any compensation determined by a compensation board under section 27 or, where an appeal is preferred to a District Court, by a District Court under section 30, shall be paid to the claimant out of funds provided by Parliament¹ for the payment of compensation to claimants under this section.

Establishment of compensation board.

26. (1) The Minister shall, on the receipt of any claim under section 25, establish a compensation board (hereinafter referred to as "the board") and shall refer the claim to such board.

(2) The board shall consist of a chairman, who shall be nominated by the Minister, and the two persons chosen by the claimant and the Archæological Commissioner under section 25.

Decision of the board after inquiry.

27. (1) The board shall inquire into the claim referred to it under section 26 and give its decision as to the amount of compensation, if any, which shall be paid to the claimant.

(2) Where the board is not unanimous in its decision, the decision of the majority of the members shall be the decision of the board.

(3) Where a majority of the members of the board are unable to agree on the decision, the decision of the chairman shall be the decision of the board.

28. under the sa

(a)

(b)

(c)

and th
for th
proce
were
institu

(2)

sioner
in pe
eviden
board
to be a

(3)

the bo
of the
of the
parties
be in w

(4)

been p
any p
Ministe
matter
of the
section
to obta
certifie
with th

Provi
to issue
appeal

ANTIQUITIES

[Cap. 188

Powers of
the board.

28. (1) For the purpose of holding any inquiry under section 27 the board shall have and may exercise the same powers as a civil court in relation to—

- (a) the enforcing of the attendance of any person and his examination on oath ;
- (b) the enforcing of the production of documents ; and
- (c) the issuing of commissions for the examination on interrogatories or otherwise of any person,

and the provisions of the Civil Procedure Code shall, for the purpose of the exercise of such powers, apply to proceedings by or before the board as if such board were a court and such proceedings were an action instituted in a court under that Code.

(2) The claimant and the Archæological Commissioner shall be entitled to appear before the board either in person or by pleader and place before it such evidence whether oral or documentary as may help the board to determine the amount of compensation, if any, to be awarded.

(3) At an inquiry under this section the chairman of the board shall keep or cause to be kept a full record of the proceedings, and shall either at the conclusion of the inquiry or on a date to be later notified to the parties pronounce the decision of the board which must be in writing signed by the chairman.

(4) At any time after the decision of the board has been pronounced, either of the parties to the inquiry or any person establishing to the satisfaction of the Minister that he is a person interested in the subject-matter of the inquiry shall be entitled, upon prepayment of the copying and other charges payable under section 3 of the Proof of Public Documents Ordinance, to obtain a copy of the proceedings before the board certified under the hand of the public officer entrusted with the duty of keeping the records of the board :

Provided that such public officer shall not be required to issue a certified copy during the pendency of an appeal to the District Court.