

## **PROCLAMATION NO. 177/2015**

### **CULTURAL AND NATURAL HERITAGE PROCLAMATION**

**WHEREAS** Eritrea is a country rich in Cultural and Natural Heritage some of which have been identified for inscription in the World Heritage List;

**WHEREAS** Eritrea's accession to, among other measures, the relevant international instruments including the 1972 Convention Concerning the Protection of the World Cultural and Natural Heritage and the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage marks the Government of Eritrea's serious interest and commitment in the preservation and conservation of Cultural and Natural Heritage;

**WHEREAS** the sustainable protection, safeguarding, preservation, conservation, promotion of, as well as the dissemination of knowledge and practices on, the country's Cultural and Natural Heritage is beneficial for the social, economic, intellectual, artistic and cultural development of the current and succeeding generations;

**WHEREAS** the protection of Cultural and Natural Heritage, especially those endangered, should be addressed as a matter of immediate national concern;

**WHEREAS** the interdependence and correlation between Cultural and Natural heritage deserves due recognition, and that the development of one cannot be sustainably realized without simultaneously developing the other;

**WHEREAS** research on, and documentation of, Cultural and Natural Heritage resources should be encouraged;

**WHEREAS** the dissemination of knowledge and practices on Cultural and Natural Heritage as well as the recognition of cultural diversity and fostering of cultural economies through legal instruments is vital for the sustainable development and safeguarding thereof;

**WHEREAS** the coherent participation of the Government and the public at large in the safeguarding and conservation of Eritrea's Cultural and Natural Heritage needs to be backed by a regulatory authority whose mandates are clearly demarcated;

**NOW, THEREFORE**, it is hereby proclaimed as follows:

## PART I

### GENERAL

#### **Article 1      Short Title**

This Proclamation may be cited as the “Cultural and Natural Heritage Proclamation No. 177/2015.”

#### **Article 2      Definitions**

1) In this Proclamation, unless the context otherwise requires:

- a) **“Activity”** means any human action taking place in areas of Cultural and Natural Heritage significance, including use of cultural properties.
- b) **“Archive”** means an accumulation of records or documents that have been collected over the course of time and selected for permanent or long-term preservation on grounds of their enduring cultural, historical, or evidentiary value.
- c) **“Board”** means the Eritrean Cultural and Natural Heritage Board established under the Ministry.
- d) **“Built Environment”** means human-made resources and infrastructure of cultural, aesthetic, architectural, historical or other significance designed to support human activity, such as compounds or ensembles of buildings, roads, gardens, parks and other amenities.
- e) **“Class 9 Serious Offence”** means an offence punishable with a definite term of imprisonment of not less than one (1) year and not more than three (3) years.
- f) **“Conservation”** means the procedure and the method of preservation of a Cultural or Natural Heritage resource in the authentic condition that it was found without adding new elements.
- g) **“Cultural Heritage”** means any tangible or intangible resource which is the product of human creativity and labor in the discernible historical times describing and witnessing to such creativity and labor because of its scientific, archeological, historical, cultural, artistic, architectural or aesthetic value or content ultimately bearing the identity and/or collective memory of peoples or communities.
- h) **“Cultural property”** means property which is specifically designated by the Ministry as having prehistorical, archaeological, historical, artistic, literary and/or scientific significance which belongs to the following categories:
  - i. rare collections and specimens of ecofacts, minerals and anatomy as well as objects of paleontological interest;
  - ii. property relating to history, including the history of science and technology and military and social history, the life of national heroes, known figures, thinkers, scientists and artists as well as events of national importance;

- iii. products, regular or otherwise, of archaeological discoveries;
  - iv. elements of artistic or historical monuments, or buildings or archaeological sites which have been dismembered;
  - v. antiquities of more than fifty (50) years old, such as inscriptions, epaulettes, medals, medallions, coins and engraved seals;
  - vi. cemeteries, including isolated tombs;
  - vii. objects of ethnological interest;
  - viii. properties of vital artistic interest, such as:
    - 1. pictures, paintings and drawings;
    - 2. original works of statuary art and sculpture in any material;
    - 3. rock art paintings and engravings, inscriptions, original prints and lithographs; and
    - 4. original artistic assemblages and montages in any material;
  - ix. rare manuscripts and incunabula, old books, documents and publications of special interest, singly or in collections;
  - x. postage, revenue and similar stamps, singly or in collections;
  - xi. archives, including sound, photographic, cinematographic collections and digital records;
  - xii. television and radio broadcasts;
  - xiii. implements, articles of furniture, equipment and other materials of human livelihood; or
  - xiv. geodetic and similar scientific reference points appropriately engraved on the surface of the earth.
- i) **“Damage”** includes altering, destruction, defacement and/or otherwise injury caused to Cultural or Natural Heritage.
  - j) **“Environment”** means the physical features of the surroundings of the human being, including land and natural resources such as air, outer space, water, soil, climate, fauna, flora, sound, odors, human built constituents, the interaction between and among these factors, and the quality of life and conditions relative to the welfare and health of human beings.
  - k) **“Excavation”** means the extraction or unearthing of Cultural or Natural Heritage resources situated underground in order to conduct a study on such resources.
  - l) **“Government”** means the Government of the State of Eritrea.

- m) **“Heritage”** means Cultural and/or Natural Heritage.
- n) **“Intangible Cultural Heritage”** means Cultural Heritage manifested through the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artifacts and cultural spaces associated therewith – transmitted from generation to generation and constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity. It includes the following:
- i. oral traditions and expressions, including language as a vehicle of the Intangible Cultural Heritage;
  - ii. performing arts, shows, art, literature, music;
  - iii. ways of life, social practices and ceremonies, rituals, rites and festive events including instruments used for the expression thereof;
  - iv. folk games and sports;
  - v. knowledge and practices concerning nature and the universe; and
  - vi. traditional crafts, medicine, cuisine, drinks, costume and other forms of traditional skills.
- o) **“Inventory”** means an itemized list of property that contains a description of each specific article.
- p) **“Library”** means a collection of written, printed or otherwise recorded materials including, but not limited to, books, manuscripts, pamphlets, posters, photographs, motion pictures, videotapes, sound recordings and computer databases in various forms as well as the facility in which they are housed and the institution responsible for their maintenance.
- q) **“Managing Director”** means the Managing Director of the Eritrean Cultural and Natural Heritage Board appointed by the Minister in accordance with Article 19 of this Proclamation.
- r) **“Minister”** or **“Ministry”** means the Minister or Ministry of Education of the State of Eritrea respectively.
- s) **“Museum”** means a permanent organization, public or private, which, for purposes of rendering service to the public, collects, organizes, prepares, researches, preserves, exhibits, restores, excavates and interprets objects of Cultural or Natural Heritage for their use in study, education and/or entertainment.
- t) **“Natural Heritage”** means any physical feature, form or structure wholly or predominantly brought about through natural processes which embodies or attracts historical, cultural, scientific, artistic, aesthetic, and/or related interests. It includes the following:

- i. natural features consisting of physical and biological formations or groups of such formations;
  - ii. any area of sea or land containing unique or distinctive species of animals and plants;
  - iii. sites or areas of sea or land with unique or distinctive natural beauty, seascape, landscape or geological formation;
  - iv. geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants that are the subjects of scientific study or conservation;
  - v. any waterfall, cave, grotto, old tree or avenue of trees;
  - vi. national parks;
  - vii. any natural relic; and
  - viii. any other natural object with aesthetic or scientific value or interest.
- u) **“Person”** means a physical or legal person.
- v) **“Permit”** means the permission given by the Ministry to applicants requesting to engage in use of Cultural or Natural Heritage resources, in whatever form, inclusive of export and research, in accordance with this Proclamation.
- w) **“Preservation”** means the systematic supervision of the overall condition of protected Cultural and Natural Heritage and the provision for these items of other type of care against unregistered access or unauthorized use and harmful activities of any type.
- x) **“Protected Site”** means a geographically defined area which is designated, regulated and/or managed for preservation or conservation purposes.
- y) **“Protection”** includes the overall processes of research, identification, evaluation, re-evaluation, categorization, announcement, registration, designation, preservation, maintenance, conservation, restoration, reconstruction, revitalization, as well as prevention, restitution, presentation and promotion of Cultural or Natural Heritage.
- z) **“Proclamation”** means this Proclamation.
- aa) **“Registration”** means the act of making a list, catalogue or schedule of selected items and inserting them in an official register for documentation or other purposes.
- bb) **“Regulations”** includes directives issued in accordance with this Proclamation.
- cc) **“Restoration”** means activities of repairing without altering the originality of the Cultural or Natural Heritage resources including reinforcing or restoring of Cultural or Natural Heritage sites.

dd) **“Safeguarding”** means the taking of measures aimed at ensuring the viability of Cultural or Natural Heritage resources, including the identification, documentation, research, promotion, enhancement, transmission, particularly through formal and non-formal education, as well as the revitalization of the various aspects of such heritage.

ee) **“Tangible Cultural Heritage”** means any physical Cultural Heritage resource that is either:

i. Immovable Cultural Heritage, that is, human-made remains that cannot be removed from their place of discovery without altering or destroying their original form and includes:

1. prehistoric places such as kill sites, habitation sites, religious sites and rock shelters;
2. archaeological places containing sites and monuments;
3. ancient sites, towns, necropolises, tombs, palaces, cave, paintings, inscriptions and memorial places;
4. monasteries, churches, mosques, shrines or any other place of worship;
5. vernacular architecture;
6. immobile colonial heritage resources such as building structures, monuments, engravings, market places and important landmarks such as public squares, boulevards, old cafés, restaurants, theatres, cinema halls, cottage houses, stadia, pharmacies, factories, swimming pools and hotels;  
or

ii. Movable Cultural Heritage, that is, portable Heritage resources that can be easily transported from place to place and includes:

1. paleontological remains of ecofacts such as fossilized bones, wood and remains of artifacts such as stone tools;
2. archaeological materials such as pottery, stone and wood inscriptions and engravings, ceramic works, mummies and other liturgical objects;
3. urns, incense burners, parchments, icons, sculptures, statues, artifacts made of any material, coins, medals, medallions and ecofacts;
4. ethnographic implements such as shields, swords, spears, bows and arrows, coat of mail, helmets, traps, farming equipment or any other object constructed by humans or the result of combined work of nature and humans;
5. mobile heritage such as old railways, antique vehicles, armored cars, tanks, weapons as well as old and unique household goods and musical instruments.

ff) “Use” includes alteration, display, export, trade, study, research or otherwise utilization of cultural properties for economic or other purposes.

2) In this Proclamation references to one gender shall be interpreted to also apply to the other gender.

### **Article 3 Objectives**

The objectives of this Proclamation shall be to:

- a) establish an integrated and interactive system at all levels and lay down the general principles for the identification, assessment, inventorying, registration, documentation, interpretation, monitoring, management, preservation, conservation, safeguarding, restoration, protection and development of Cultural and Natural Heritage of Eritrea for the present and future generations;
- b) control the unlawful export of cultural properties from, and their import into, Eritrea;
- c) protect Cultural and Natural Heritage against all forms of damage;
- d) gather adequate knowledge and data on Eritrea’s Cultural and Natural Heritage resources, develop efficient system for the dissemination of the same as well as encourage and regulate research thereon and enhance capacity building in that area;
- e) ensure the participation of the Government and peoples of Eritrea in national and international mechanisms and structures for the management, preservation, conservation, safeguarding, restoration, protection, interpretation, promotion and development of Cultural and Natural Heritage;
- f) empower and encourage the general population to nurture and conserve heritage resources and their cultural and indigenous values; and
- g) Contribute to the social, intellectual and economic development of Eritrea and its peoples.

## PART II

### OWNERSHIP AND USE OF CULTURAL AND NATURAL HERITAGE RESOURCES

#### Article 4 Ownership and Transfer

- 1) Without prejudice to the provisions under sub-Article (2) of this Article, ownership of all Cultural and/or Natural Heritage resources located on or under the surface of Eritrean territorial sovereignty shall be vested in the State of Eritrea.
- 2) Notwithstanding the provisions of sub-Article (1):
  - a) privately owned Cultural and/or Natural Heritage Resources or such resources located in privately owned property shall continue to be the private properties of their respective owners;
  - b) the Ministry may in writing waive State ownership of a given Cultural or Natural Heritage resource for transferal of such ownership to private ownership or for any other purpose.
- 3) Where the Ministry is convinced that such tangible resource that are privately owned in accordance with the provisions of sub-Article (2) of this Article:
  - a) is not properly maintained in the spirit of this Proclamation;
  - b) should be kept in the custody of a national museum; or
  - c) has been detained while being taken out of Eritrea unlawfully,may, by a written notice to the private owner describing the circumstances which led to its decision, place such resource to State ownership. In the case of paragraph (b), the Ministry shall duly compensate and, by any visible means in the museum, identify and recognize the names of the persons from whom such resources were taken.
- 4) With the Ministry enjoying the right of preemption, a private owner of Cultural and Natural Heritage resources may sell them to, or exchange them with, another person only after notifying, in writing, the Ministry of such sale or exchange.

#### Article 5 Use

- 1) Subject to the provisions of Article 6 of this Proclamation and Regulations that may be issued thereunder in this regard and to the condition that such use is not detrimental to their preservation, it shall be permissible to use Cultural and Natural Heritage resources including utilizing them for promotion and development of science, education, culture and arts.
- 2) Any misuse, abuse, use beyond permitted limits and conditions of use or otherwise handling of Cultural or Natural Heritage resources shall result in an order by the Ministry for the immediate cessation of the use.



- 3) No institution, community, group or individual person may give Cultural Heritage resources to any other institution, community, group or individual person in the form of a gift to be taken out of Eritrea.

#### **Article 6      Use Permits and Fees**

- 1) The Ministry may, subject to this Proclamation and Regulations and other documents that may be issued hereunder, issue permits for the use of Cultural or Natural Heritage resources including:
  - a) export of cultural properties;
  - b) activities on built environment;
  - c) discovery, study, research or excavation, as the case may be; and
  - d) such other uses of Cultural or Natural Heritage resources as the Ministry shall determine.
- 2) A permit shall not be issued without prior submission of a cultural and heritage impact assessment study and, in the case of paragraph (c) of sub-Article (1), proof to the satisfaction of the Ministry that the applicant is professionally competent and has adequate financial resources to carry out the discovery, study, research or excavation.
- 3) A permit holder shall not use the Cultural or Natural Heritage resource for any other purposes, and/or to an extent exceeding, than has been allowed by the permit and shall observe any special condition that may attach to the permit.
- 4) A permit issued under this Article shall be valid for such period as may be specified and subject to such conditions as may be stipulated therein.
- 5) Notwithstanding the provisions of sub-Article (2) hereof and without prejudice to any provisions on renewal of permits, a permit may not be issued for a duration exceeding three years.
- 6) The Ministry may by Regulations exempt from permit requirements certain uses of cultural properties.
- 7) Fees for the issuance and renewal of permits shall be determined by the Ministry.

#### **Article 7      Trade**

No person may purchase, sale or otherwise subject Cultural and Natural Heritage resources to commercial purposes except that any person may:

- a) make any literary or artistic productions of the resources and commercially exploit such productions; and
- b) earn financial benefit through the display or exhibition of Cultural or Natural Heritage resources in his private domain in accordance with Article 4 of this Proclamation.

## **Article 8 Cultural and Natural Heritage Institutions**

- 1) Any community, group or individual person may establish Cultural and/or Natural Heritage institutions such as museums, libraries, resource centers, galleries or other forms of private collections.
- 2) By Regulations to be issued hereunder, the Ministry shall, in consultation with the National Museum of Eritrea, other relevant national bodies and, as applies, the respective communities or groups, determine certification, monitoring and evaluation procedures for the communities, groups or individuals who want to engage in the ventures referred to under sub-Article (1).

## PART III

### GENERAL RIGHTS AND OBLIGATIONS OF THE PUBLIC

#### Article 9 Heritage Resources in Usufructuary Land

- 1) Any person or persons who has private ownership of Cultural or Natural Heritage resources shall ensure the preservation and conservation of such Cultural or Natural Heritage resources under his or their individual or joint private ownership.
- 2) Any person who has a right of use of a land shall ensure the preservation and conservation of Cultural or Natural Heritage resources situated on such land. The same obligation shall apply to communities who have been allowed communal exploitation or other use of land.
- 3) Without prejudice to the Government's right to reclaim land given in usufruct under Proclamation 58/1994 or any other applicable law, the duty to preservation and conservation of Cultural or Natural Heritage on or under such land shall not be required to be carried out in a manner that causes unreasonable inconvenience to the normal exercise of usufructuary rights.
- 4) Any such person shall be entitled to:
  - a) free-of-charge consultations, expertise and recommendations by the Ministry on best practices of preserving and conserving the heritage resources situate on such land;
  - b) receive remuneration for any inconvenience caused owing to the Ministry's requiring such land for exhibitions or displays of any kind in promoting the country's heritage resources;
  - c) request assistance of the Ministry or other relevant authorities for the search, recovery and return of heritage resources stolen from such land; and
  - d) apply for financial assistance aimed at the preservation and conservation of the heritage resources.

#### Article 10 Discovery of Cultural or Natural Heritage Resources

- 1) Any person who discovers Cultural or Natural Heritage resource in the course of any development or activity or in the course of any other fortuitous event shall forthwith report such discovery to the Ministry and shall protect and keep same intact until the Ministry takes delivery thereof.
- 2) The Ministry shall, upon receipt of a report submitted pursuant to sub-Article (1) hereof, take all appropriate measures to examine, take delivery of, and register the Cultural or Natural Heritage resource so discovered and may declare that such resource shall continue to be held in State ownership.
- 3) The Ministry shall take the measures enumerated in sub-Article (2) hereof within three months of the receipt of the report after the expiry of which the person shall be absolved of all the consequences of any harm that may be caused on the heritage resources.

- 4) The Ministry shall ensure that appropriate reward is given to the person who has reported fortuitously discovered Cultural or Natural Heritage resources under sub-Article (1) hereof.

#### **Article 11     Duty to Report**

- 1) Any member of the public shall forthwith inform the Ministry or enforcement officers the commission of any one of the acts prohibited under Article 34 of this Proclamation.
- 2) Any person shall promptly report to the Ministry or any other relevant authority of his coming to know of Eritrean Cultural Heritage resources unlawfully removed from Eritrea and found in other countries.

## PART IV

### ADMINISTRATION OF CULTURAL AND NATURAL HERITAGE

#### **Section I – The Ministry**

##### **Article 12 Overall Responsibility**

- 1) The Ministry is hereby authorized to exercise, for and on behalf of the State of Eritrea, all rights pertaining to the management, preservation, conservation, safeguarding, restoration, protection, interpretation, promotion and development of Cultural and Natural Heritage of Eritrea as prescribed in this Proclamation.
- 2) The Ministry shall outline mechanisms for the national and regional management of Cultural and Natural Heritage of Eritrea.
- 3) Where it deems necessary, the Ministry may open branch offices in parts of Eritrea for purpose of carrying out its obligations under this Proclamation.
- 4) In implementing its obligations under this Proclamation, the Ministry shall be guided by the objectives enumerated under Article 3 of this Proclamation.

##### **Article 13 Powers and Obligations of the Ministry**

In implementing its obligations under this Proclamation, the Ministry shall, in addition to those that may be contained in the other provisions of this Proclamation and in collaboration with stakeholder institutions, have the general powers and obligations to:

- a) protect Cultural and Natural Heritage;
- b) declare any Cultural or Natural Heritage resource to be of national or, as the case may be, of international significance and accordingly set the standard for the preservation and conservation thereof;
- c) control illicit trafficking, and looting of Cultural and Natural Heritage resources;
- d) take all the necessary measures for the repatriation of Cultural Heritage resources which have been taken out unlawfully and held in foreign countries;
- e) collect and document relevant information on Cultural and Natural Heritage resources;
- f) register Cultural and Natural Heritage resources in cooperation with relevant stakeholders including communities, groups and individual practitioners;
- g) provide for the rules and mechanisms to collect, as may be possible, Cultural and Natural Heritage resources in museums and make same available to visitors and researchers as well as organize and set standards for exhibitions in Eritrea and/or abroad;
- h) issue permits for study, research, restoration and conservation works on Cultural and Natural Heritage, and supervise the same;

- i) give professional qualification certificates to any person who desires to establish a museum or other Cultural or Natural Heritage institution and a certificate of registration of Cultural and Natural Heritage;
- j) give the necessary education and advice on the content, benefit and preservation of Cultural and Natural Heritage;
- k) coordinate the providing of professional and technical support for preservation and protection of Cultural and Natural Heritage and training of experts in these areas including the negotiation and grant and of scholarships for specialized training in the field of Cultural and Natural Heritage conservation and preservation;
- l) ensure, in collaboration with relevant organs, institutions, communities or groups, as applies, that Eritrean languages, as reservoirs of indigenous knowledge and vehicles for transmission and dissemination of culture as well as means for integration of culture and technological development, are taught, developed, researched;
- m) ensure public participation through, among others:
  - i. soliciting public opinion in the process of designing policies and management plans for heritage resources;
  - ii. making heritage-related Regulations, policy instruments, decisions and other documents publicly accessible;
  - iii. promoting educational, awareness-raising and information programs, aimed at the general public, in particular the youth, including working on integrating the conservation of heritage resources as part of school curriculum;
  - iv. keeping the public informed of the dangers threatening Cultural and Natural Heritage and of the activities carried out in pursuance of this Proclamation;
  - v. providing financial or other support to individuals who are engaged in study or research on Eritrean Cultural or Natural Heritage;
  - vi. developing strategies for community heritage management or traditional heritage protection; and
  - vii. developing incentive mechanisms for exemplary individual or community level preservation, conservation or protection of heritage resources;
- n) represent the Government in all regional, continental or international institutions and organizations working on Cultural and Natural Heritage and oversee the implementation of all commitments entered at these levels;
- o) own property, enter into contract, sue and be used in its own name; and
- p) perform such other activities to attain the objectives of this Proclamation.

## **Article 14      Organization**

The Minister is hereby authorized to establish, appoint, recruit or approve the establishment, appointment or recruitment of, as the case may be, the following for the proper implementation of this Proclamation:

- a) the Board;
- b) the Managing Director; and
- c) Necessary staff.

## **Section II – The Board**

### **Article 15      Composition of the Board**

- 1) The Board shall be accountable to the Minister and be composed of representatives of the following Members appointed by the respective organizations:
  - a) Ministry of Education..... Member
  - b) Ministry of Land, Water and Environment..... Member
  - c) Ministry of Local Government..... Member
  - d) Ministry of Public Works..... Member
  - e) Ministry of Agriculture..... Member
  - f) Ministry of Energy and Mines..... Member
  - g) Ministry of Marine Resources..... Member
  - h) Ministry of Tourism..... Member
  - i) Commission of Culture and Sports..... Member
  - j) Department of Religious Affairs..... Member
  - k) National Museum of Eritrea..... Member
  - l) Research and Documentation Centre..... Member
  - m) Cultural Affairs Bureau..... Member
  - n) Three other private Members, either individuals or representatives of institutions or communities, that are active in, whose activities are relevant to, or with expertise knowledge on, conservation and protection of Cultural and Natural Heritage who shall be appointed by the Minister.
- 2) A Board Member shall be appointed for a term of four (4) years and shall not be eligible for more than two consecutive terms of office.

- 3) The Managing Director shall be a non-voting member of the Board.

## **Article 16 Powers and Functions of the Board**

The Board shall be responsible to:

- a) review plans prepared by the Managing Director prior to their submission to the Minister;
- b) prepare periodically reviewable inventory of Eritrea's Cultural and Natural Heritage resources;
- c) initiate the declaration of the conservation status for Cultural or Natural Heritage sites of historic, scientific, educational, strategic and/or economic importance and monitor the process thereafter;
- d) initiate the process of proposing the inscription of Cultural or Natural Heritage resources in the World Heritage List, the Representative List of the Intangible Cultural Heritage of Humanity, the List of Intangible Cultural Heritage in Need of Urgent Safeguarding, the Best Practices List and similar lists and follow up developments in the same respect;
- e) propose a system for the national recognition of, including through awards or other incentives for, individuals or institutions with exemplary commitment in the preservation and conservation of Cultural or Natural Heritage;
- f) propose guidelines for access of the public to heritage items and their right to obtain information thereon;
- g) establish, as required and upon approval of the Minister, provisional and standing committees, from relevant agencies, communities or individuals;
- h) propose, in collaboration with concerned authorities and especially for the benefit of local communities, the design of access and benefit sharing schemes for activities on Cultural and Natural Heritage resources and other means of sustainable protection and exploitation of said resources; and
- i) perform such other responsibilities as are related to its main objectives.

## **Article 17 Rules of Procedure**

- 1) The Board shall establish its rules of procedure.
- 2) The Board shall select a Chairperson and a Secretary from its Members.

## **Article 18 Meetings**

- 1) The Board shall conduct regular quarterly meetings and such other meetings as it deems necessary or other meetings at the request of at least half of its Members.
- 2) The Chairperson of the Board shall fix the time and venue of the meetings of the Board.
- 3) The quorum for the meeting of the Board shall be the simple majority of all its members.



- 4) At the meeting of the Board, the Chairperson or a Member delegated in writing by the Chairperson shall chair the meeting in the absence of both of whom, or if the Chairperson's office is vacant, the Members shall choose one Member to chair the meeting.
- 5) At a meeting any question on which a vote is required to establish the Board's view on the matter shall be determined by a majority vote of those present and voting on the issue. In case of an equal division of votes, the Chairperson or the Member chairing the meeting shall have a second, casting vote.
- 6) All decisions of the Board shall be public record and open to examination and investigation.

### **Section III – The Managing Director**

#### **Article 19 Appointment and Responsibilities of the Managing Director**

- 1) The Managing Director shall, on recommendation of the Board, be appointed by Minister.
- 2) Upon endorsement of the Board and the subsequent approval of the Minister, the Managing Director shall constitute an office within the Ministry's system, run its day-to-day activities, equip it with the necessary staff and equipment and administer the office.
- 3) The Minister may delegate some of his powers and responsibilities under this Proclamation to the Managing Director.
- 4) Without prejudice to sub-Article (2) of this Article, the Managing Director shall:
  - a) implement, under the supervision and with the approval of the Minister, the powers and responsibilities of the Ministry as provided for under Article 13 of this Proclamation;
  - b) function, for the Government, as the focal person for all technical decisions and standards on heritage matters;
  - c) prepare the work plan and program as well as the annual budget proposal of the Board and implement same upon approval;
  - d) recommend the number, type, constitution and composition of such committees as are essential for the attainment of the objectives contained in Articles 3 and 13 of this Proclamation;
  - e) foster links with other similar organizations, regional or international, and with the donor community for the purposes of funding projects for the protection, promotion and development of Cultural and Natural Heritage;
  - f) submit to the Board a report of the overall activities of his office;
  - g) open bank accounts and effect expenditure on the basis of the approved budget and work program of the Ministry under and for the purpose of this Proclamation;

- h) prepare a National Cultural and Natural Heritage Management Plan for endorsement by the Board and approval by the Minister and follow up its review and implementation; and
  - i) represent the Ministry in all its dealings with third parties under and for the purpose of this Proclamation.
- 5) The Managing Director may delegate part of his powers and duties whenever he deems it necessary for the efficient management.

#### **Section IV – The Eritrean Cultural and Natural Heritage Fund and Fiscal Provisions**

##### **Article 20 The Eritrean Cultural and Natural Heritage Fund**

- 1) The Eritrean Cultural and Natural Heritage Fund is hereby established for purposes of supporting activities that the Ministry or any one of the organs referred to in this Proclamation may perform in implementing the objectives of this Proclamation.
- 2) The Ministry shall be responsible to manage the Fund.
- 3) The following shall be the sources for the Fund:
  - a) Government budget support or subsidy;
  - b) fees, charges and penalties collected by the Ministry in accordance with this Proclamation; and
  - c) contributions or donations from domestic or international sources.

##### **Article 21 Books of Account**

- 1) The Ministry shall maintain accurate books of accounts with supporting documents.
- 2) The books of account and all financial documents of the institution shall be audited annually.

## **PART V**

### **MANAGEMENT OF CULTURAL AND NATURAL HERITAGE**

#### **Article 22 Cultural and Natural Heritage Policy**

The Ministry shall, with the advice of the Board and in consultation with relevant bodies, adopt, oversee the implementation of, revise and update, as necessary, a National Cultural and Natural Heritage Policy for Eritrea.

#### **Article 23 Registration**

- 1) Subject to the provisions of Article 4 and for the preparation of a national inventory of heritage resources or any other purpose, any person who holds possession of Cultural or Natural Heritage resources shall register the same in accordance with Regulations that shall be issued hereunder.
- 2) A certificate of registration shall be issued to the person.

#### **Article 24 National Database and Management Plan**

- 1) The Ministry shall establish, maintain and manage a National Cultural and Natural Heritage Resources Database.
- 2) The Database shall be accessible to the public in accordance with such formalities and modalities as shall be determined by the Ministry.
- 3) The Ministry shall, in consultation with any person whose opinions it deems are beneficial, approve a National Cultural and Natural Heritage Management Plan for the detailed execution of this Proclamation and the National Cultural and Natural Heritage Policy.

#### **Article 25 Declaring Protected Sites**

- 1) In furtherance of the objectives of this Proclamation, and Regulations that may be issued hereunder or the National Cultural and Natural Heritage Policy, the Ministry may by Regulations and with the advice of the Board and in consultation with relevant bodies, communities and/or groups, as applies, declare an area to be a Protected Site should that area be of significance to the preservation, conservation or protection of Cultural or Natural Heritage.
- 2) The Ministry shall, in consultation with relevant bodies, communities and/or groups, as applies, develop management and implementation plans for such sites and oversee compliance therewith provided that the Ministry may, where it finds it appropriate, revoke or amend the declaration of Protected Sites made under sub-Article (1) hereof.
- 3) The Government shall duly compensate loss which may be caused to any person or community by the creation or management of a Protected Site.

## PART VI

### DAMAGE, PREVENTION AND CONSERVATION OF CULTURAL AND NATURAL HERITAGE RESOURCES

#### Article 26 General Conservation Rule

The conservation of Cultural and Natural Heritage in any area shall be maintained at all times and shall be a condition for the grant of permits or licenses to develop or modify land use or any other development activity.

#### Article 27 Activities in Areas of Significance

- 1) Any activity on built environment declared as a Protected Site or an area designated for preservation or conservation purposes shall be carried out only with the written permission of the Ministry.
- 2) The Ministry shall allow such activity only after the submission of cultural and heritage impact assessment in accordance with modalities or procedures that the Ministry shall develop or require and in consultations with related communities, groups or individuals, as applies.
- 3) The procedures and conditions of permit under sub-Article (1) hereof shall be determined by Regulations.
- 4) The Ministry may put as a condition for permitting any work on built environment the depositing of any form of security or guarantee against any harm that may be caused to Cultural or Natural Heritage in the built environment.

#### Article 28 Conservation and Restoration of Built Environment and Natural Heritage

The Ministry shall issue Regulations concerning, *inter alia*:

- a) the process of identification, conservation and restoration of built environment and Natural Heritage;
- b) the preservation of historic buildings or unique built environment and Natural Heritage in specific Eritrean regions, towns, villages or neighborhoods; and
- c) the means of covering expenses, including assistance by the Ministry, for the restoration of built environment and Natural Heritage in private or community ownership, as applies.

## **PART VII**

### **REPATRIATION AND EXPATRIATION OF CULTURAL HERITAGE RESOURCES**

#### **Article 29     Repatriation of Cultural Heritage Resources**

The Ministry shall by all means in line with international norms endeavor to identify and repatriate, or facilitate the identification and repatriation of, Eritrean Cultural Heritage resources unlawfully removed from Eritrea and have been found in other countries.

#### **Article 30     Legitimate Export of Cultural Heritage Resources**

Upon the grant of an export permit by the Ministry, a Cultural Heritage resource may be temporarily taken out of Eritrea for scientific study, cultural exchange or exhibition.

#### **Article 31     Foreign Cultural Heritage Resources**

- 1) Foreign Cultural Heritage resources brought into Eritrea for the purpose of cultural exchange, exhibition or other purposes shall be accorded government protection as necessary.
- 2) Foreign Cultural Heritage resources brought into Eritrea through unlawful means shall be accorded government protection and expatriated in line with applicable international norms.

## **PART VIII**

### **ENFORCEMENT**

#### **Article 32 Appointment of Enforcement Officers**

- 1) Members of the Eritrean Police, customs officers and forest and wildlife inspectors are, with regards to issues covered by this Proclamation as related to their respective mandates, are hereby recognized as enforcement officers for purposes of this Proclamation.
- 2) The Ministry may in addition appoint, under its pay, other persons to be enforcement officers for the purpose of this Proclamation. Such persons shall be issued with an identity card containing their names and other relevant information stating that the person is an authorized enforcement officer for the purpose of this Proclamation.

#### **Article 33 Power of Enforcement Officers**

- 1) Subject to the provisions of this Proclamation and other applicable laws, an enforcement officer may, in addition to other enforcement measures that such officer may take under other laws:
  - a) require any owner of a development activity in an area of Cultural or Natural Heritage to produce needed information and documents required in connection with this Proclamation;
  - b) enter and inspect any property, including land, premises, establishments, vehicles, vessels and aircraft for any reasonable ground connected with violations of the provisions of this Proclamation;
  - c) seize and retain, or issue a seizure order in respect of, anything that the enforcement officer reasonably suspects has been used in, or may constitute evidence of, violations of the provisions of this Proclamation; and
  - d) on reasonable grounds that a serious or material damage to Cultural or Natural Heritage has been, or is likely to be caused, and urgent action is necessary, direct any person to take specified reasonable action to prevent or minimize the damage.
- 2) The enforcement officer shall furnish notice of request under sub-Article 1(a) hereof which shall be in writing and indicate the reasons for the request.
- 3) Every enforcement officer seizing any item under the provisions of sub-Article 1 (c) hereof shall issue a receipt to the person from whom the item has been seized stating the date of the seizure and the description and quantity of the items and as soon as possible make a report to the Ministry of such seizure and submit the item/s seized into the custody of the Ministry or other competent government body.
- 4) In exercising the powers under sub-Article (1) hereof the enforcement officer shall:
  - a) present evidence of status;
  - b) produce court warrant, as applies, under the Criminal Procedure Code of Eritrea;
  - c) explain the situation to the owner of property or any person responsible thereof;
  - d) conduct the inspection during reasonable time and day, except in exigent circumstances, and stay on the development site only for as long as is reasonably necessary for the inspection; and
  - e) leave the property, to an extent reasonably possible, in the condition in which it was prior to entry.

## **PART IX**

### **OFFENCES, PENALTIES AND ADMINISTRATIVE ACTIONS**

#### **Article 34 Offences and Penalties**

- 1) Whosoever commits or causes others to commit, or engages or causes others to be engaged, as the case may be, in:
  - a) all types of destruction and/or defacement;
  - b) unauthorized use, misuse, alteration, disturbance or removal;
  - c) illicit trade, exchange or transport, theft or looting; or
  - d) unauthorized archaeological excavations or constructions,of Cultural and Natural Heritage resources commits an offence.
- 2) Unless a more severe penalty is provided under the Penal Code of the State of Eritrea or any other applicable legislation, a person who commits any one of the offences enumerated under sub-Article (1) shall be punishable as a Class 9 Serious Offence punishable with a definite term of imprisonment of not less than one (1) year and not more than three (3) years.

#### **Article 35 Administrative Actions**

The Ministry shall, in all cases of infringement of the provisions of this Proclamation, have the authority, as the case may be and in addition to measures that enforcement officers may take under Article 33 of this Proclamation, have the power to order the halting of any work it believes endangers the safety and conservation of Cultural or Natural Heritage or take any other measure the Ministry believes will secure the safety and conservation of heritage resources.

#### **Article 36 Appeal**

Any person aggrieved by an adverse decision of the enforcement officers or the Ministry may, within 60 days after the decision having been rendered, appeal to the High Court of Eritrea whose decision on the matter shall be final.

## **PART X**

### **FINAL PROVISIONS**

#### **Article 37 Power to Issue Regulations**

The Minister may issue Regulations for the attainment of this Proclamation.

#### **Article 38 Cooperation**

The Ministry shall, in implementing this Proclamation, seek bilateral, regional, multilateral, international cooperation and endeavor to ensure that the core principles of this Proclamation are reflected in said cooperation.

#### **Article 39 Repeals**

Any provision of any proclamation, legal notice, decree, order, or directive concerning matters provided for in this Proclamation are hereby repealed and replaced by this Proclamation.

#### **Article 40 Entry into Force**

This Proclamation shall enter into force as of the date of its publication in the *Gazette of Eritrean Laws*.

Done at Asmara, this 30<sup>th</sup> day of September, 2015

The Government of Eritrea