

*Collection of legislative texts concerning
the protection of movable cultural property*

UNITED REPUBLIC OF TANZANIA

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P R E F A C E

Since its foundation UNESCO has been constantly engaged in an effort to protect cultural property against the dangers of damage and destruction which threaten it and, in particular, against dangers resulting from theft, clandestine excavations and illicit traffic. The work carried out in this field in recent years has shown that national laws and regulations governing the protection of movable cultural property are little known abroad. This has prompted UNESCO to embark on the collection and distribution of legislative texts for the information and use of national services for the protection of the cultural heritage, museum curators, art dealers, antique dealers, private collectors, customs and police services, and anyone else required to have a knowledge of the legal status of cultural property, with a view to fostering international co-operation in the prevention and repression of offences concerning movable cultural property.

UNESCO has already published two volumes of a compendium containing extracts from the legislation in force in forty-five Member States. These appeared in French in 1979 and 1981 under the title "La protection du patrimoine culturel mobilier - Recueil de textes législatifs" and in English in 1984 under the title "The Protection of Movable Cultural Property - Compendium of Legislative Texts".

The publication of legislative texts governing the protection of movable cultural property is being pursued in the form of a series of booklets, each presenting the laws and regulations of one country. The booklets will, as far as possible, contain the full texts of legislation dealing with :

- . the definition of protected movable cultural property
- . the system of ownership and use
- . the extent of protection
 - inventory, registration, scheduling, declaration
 - rights and obligations of the owner, the person in possession or control and the authorities with respect to protected property
 - regulation of trade in antiquities
 - export regulations
 - import regulations
- . fortuitous discoveries and archaeological excavations
- . sanctions
- . authorities responsible for protection

The legislative texts are preceded by a brief introduction which provides information on the international conventions concerning the protection of movable cultural property to which the State concerned is party and gives the list of the texts reproduced in the booklet. The introduction also contains an index of the main provisions of national laws and regulations which concern specifically the protection of movable cultural property arranged under the above headings.

An index of national laws and regulations concerning the protection of movable cultural property in force in the Member States of UNESCO will be issued at a later date.

UNITED REPUBLIC OF TANZANIA

INTERNATIONAL CONVENTIONS CONCERNING THE PROTECTION OF
MOVABLE CULTURAL PROPERTY TO WHICH THE STATE IS PARTY

Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague, 1954).

Instrument of accession to the Convention deposited on 23 September 1971. The Convention entered into force with respect to the United Republic of Tanzania on 23 December 1971.

Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (Paris, 1970).

Instrument of ratification of the Convention deposited on 2 August 1977. The Convention entered into force with respect to the United Republic of Tanzania on 2 November 1977.

NATIONAL LAWS AND REGULATIONS SPECIFICALLY CONCERNING
THE PROTECTION OF MOVABLE CULTURAL PROPERTY

- Antiquities Act, N° 10 of 1964
- Antiquities (Amendment) Act, n° 22 of 1979

INDEX OF MAIN PROVISIONS BY SUBJECT MATTER

<u>Definition of protected property</u>	Section 2 of the Antiquities Amendment Act, 1979
<u>System of ownership</u>	Section 8 of the Antiquities Act, 1964
<u>Extent of protection</u>	
- Declaration, and registration	Sections 9 and 17 of the Antiquities Act, 1964
- Rights and obligations of the owner, the person having possession or control and the competent authorities	Sections 17, 20 and 21 of the Antiquities Act, 1964
- Regulation of trade in antiquities	Section 15 of the Antiquities Act, 1964
- Export regulations	Section 14 of the Antiquities Act, 1964 Section 18A of the Antiquities Amendment Act, 1979
- Import regulations	Section 18A of the Antiquities Amendment Act, 1979
<u>Fortuitous discoveries and archaeological excavations</u>	
- Fortuitous discoveries	Section 10 of the Antiquities Act, 1964
- Archaeological excavations	Sections 11 to 13 of the Antiquities Amendment Act, 1979

Sanctions

*Sections 10(5), 14(2), 15(4), 17(3), 20(2),
23(2) and 24 of the Antiquities Act, 1964
Section 11(2) of the Antiquities Amend-
ment Act, 1979*

Authorities responsible for
protection

*Sections 19 and 19A of the Antiquities
Amendment Act, 1979*

UNITED REPUBLIC OF TANZANIA

N° 10 of 1964⁽¹⁾

I ASSENT

J.K. NYERERE

President

5th March, 1964

AN ACT TO PROVIDE FOR THE PRESERVATION AND PROTECTION OF SITES AND ARTICLES OF PALAEOANTHROPOLOGICAL, ARCHAEOLOGICAL, HISTORICAL, OR NATURAL INTEREST AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

(15th August 1964)

ENACTED by the Parliament of Tanganyika.

1. This Act may be cited as the Antiquities Act, 1964, and shall come into operation on such day as the Minister shall, by notice in the Gazette, appoint.

Short title
and com-
mencement

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

Interpretation

"relic" means any movable object made, shaped, painted, carved, inscribed or otherwise produced or modified by human agency before the year 1863, whether or not it shall have been modified, added to or restored at a later date and any human or other vertebrate faunal or botanical fossil remains or impressions ;

"appointed day" means the day appointed by the Minister in accordance with section 1 ;

"Commissioner" means the Commissioner for National Culture ;

"Conservator" means the person for the time being appointed to perform the functions of Conservator of Antiquities ;

"discovery" means the finding on or under land, or in anything growing on the land, or attached to or within the fabric or foundations of any structure, of any object, site or structure the presence of which was previously unknown to the owner thereof, but does not include the recognition or identification as a relic, or as a relic of a particular description, of any movable object previously in the known possession of any person, unless such object was so found ;

"Honorary Antiquities Warden" means a person appointed by the Commissioner under section 22 ;

(1) Retyped version of text provided by authorities of the United Republic of Tanzania.

"Minister" means the Minister for the time being responsible for antiquities ;

"the Museum" means the National Museum of Tanganyika ;

"monument" means -

- (a) (i) any building, fortification, interment, midden, dam or structure erected, formed or built by human agency before the year 1863, or the ruins or remains thereof ; and
- (ii) any rock painting or carving or any natural object painted, incised, modified or erected in Tanganyika by human agency before the year 1863 ; and
- (iii) any earthwork, trench, adit, well, road or other modification of the soil or rock, dug, excavated or otherwise engineered by human agency before the year 1863,

whether or not it shall have been modified, added to or restored at a later date and whether or not it is included in a list published by the Commissioner under this section ; and

(b) any other place, site or structure declared to be a monument under section 3,

and includes such adjoining land as may be required for the purposes of fencing, covering or otherwise preserving the monument from injury ;

"protected object" means -

(a) any wooden door or door frame carved before 1940 in any African or oriental style ; or

(b) any object declared by the Minister under the provisions of section 9 to be a protected object.

(2) The Commissioner may from time to time by notice in the *Gazette* publish lists of monuments, and the inclusion of any place, site or structure in any such list for the time being in force shall be *prima facie* evidence in all proceedings, whether criminal or civil, that the same is a monument within the meaning ascribed to that expression in paragraph(a) of the definition "monument" in subsection (1). Any person aggrieved by the inclusion of any place, site or structure in a list published under this subsection may appeal therefrom to the Minister.

MONUMENTS

Declaration
of places
of historical
interest
as monuments.

3. (1) The Minister may, by order in the *Gazette*, declare any place, site or structure of historical interest to be a monument for the purposes of this Act.

(2) Any person aggrieved by an order under this section may apply to the Minister for a review of the order.

4. (1) The Commissioner, and any person authorized by him, may at all reasonable times -

Control
of monuments

- (a) enter and inspect any monument ;
- (b) fence, repair and otherwise protect or preserve any monument ;
- (c) search and excavate for relics in any monument and remove any relics hitherto undiscovered :

Provided that -

(i) where the monument is a place of ordinary habitation or occupation, the Commissioner and any such person aforesaid shall give the occupier not less than forty-eight hours' notice in writing of his intention to exercise any of the powers specified in this subsection ;

(ii) nothing in this section shall authorize -

- (A) the exclusion of the owner or any person beneficially interested in a monument, or any person authorized by him from any part of the monument ;
- (B) the excavation of any monument, or any search for relics in a monument which is a place of ordinary habitation or occupation without the consent of the owner.

(2) Any person who wilfully obstructs the Commissioner or any other person authorized by him in that behalf in the exercise of his powers under subsection (1) shall be guilty of an offence against this Act.

5. (1) Subject to the provisions of subsection (2), no person whether beneficially interested therein or not, shall do any of the following acts to or in relation to any monument or protected object declared as such by the Minister under section 3, or included in a list published by the Commissioner under section 2 and for the time being in force, or to any other place, site or structure which he knows or has reasonable cause to believe to be a monument, that is to say -

Restriction
on certain
activities
in relation
to
monuments

- (a) destroy, injure or deface the same or make any alteration, addition or repair thereto ;
- (b) write, draw or carve any writing, drawing or figure thereon ;
- (c) permit any animal under his control to damage the same or to enter any part thereof fenced by or on behalf of the Commissioner or the owner ;
- (d) alter the course of cultivation so as to affect to its detriment any part thereof of palaeontological, archaeological, historical or natural interest.

(2) Nothing in this section shall apply to

(a) the Commissioner ;

(b) any act done under and in accordance with the written approval of the Commissioner.

Acquisition
by the
Minister
Cap. 118

6. The Minister may acquire any monument in accordance with the provisions of the Land Acquisition Ordinance as modified by this Act.

Owners may
require
Minister to
acquire

7. (1) Where any person who would be entitled, were the monument to be compulsorily acquired, to compensation therefor in accordance with the Land Acquisition Ordinance and this Act, has applied to the Commissioner for a licence to demolish, alter, make additions to or repair any monument to which this section applies and the Commissioner has refused or neglected to issue his licence, or has issued the licence subject to such conditions as will defeat the purpose of the demolition, alteration, addition or repair, he may, within two months after such refusal or the issue of such licence, as the case may be, or if the Commissioner has not issued a licence or refused to issue the same within two months of the application, within a further period of two months, serve notice on the Minister requiring him to elect whether to direct the issue of such licence or the removal of such conditions, as the case may be, or to acquire the monument, and the Minister shall make an election accordingly.

(2) Where the Minister elects to direct the issue of a licence or the removal of any such conditions, he shall, within one month of his receipt of the notice requiring him to make an election, give such directions to the Commissioner and the Commissioner shall forthwith give effect thereto.

(3) Where the Minister elects to acquire the monument, he shall, within one month of his receipt of the notice requiring him to make election, serve a notice or notices under section 5 of the Land Acquisition Ordinance, and, subject to the provisions of section 26 of this Act, the provisions of that Ordinance shall apply to the acquisition.

(4) This section shall apply to a monument -

(a) which is included in an order made by the Minister under section 3 ; and

(b) is situated in a municipality, or within the area of a town council or a township ; and

(c) is a place which was habitually used prior to the making of the order for habitation, commerce, trade or industry and has been continually so used thereafter.

RELICS AND PROTECTED OBJECTS

8. (1) Every relic discovered in Tanganyika, whether before or after the appointed day, other than a relic properly included in a list delivered to, and signed by, the Commissioner in accordance with the provisions of section 17, shall be the property of the Republic :

Relics
discovered in
Tanganyika
to be
property of
Republic

Provided that the Commissioner may, on behalf of the Republic, disclaim the ownership of any such relic, and upon such disclaimer the property of the Republic, and any property of the President, therein shall be extinguished.

(2) Nothing in subsection (1) shall apply to any relic discovered in Tanganyika before the appointed day which is, on that day, in the possession of or held on trust for the Trustees of the Museum or the trustees or other governing body of any other museum, university or similar institution to which the Minister may extend the provisions of this subsection.

9. (1) The Minister may, by order in the *Gazette*, declare any object or class of objects discovered or made in Tanganyika and being of palaeontological, archaeological, historical or natural interest to be a protected object.

Protected
objects

(2) Any person aggrieved by any order made under this section may apply to the Minister for a review of the order.

DISCOVERY AND EXCAVATION

10. (1) Any person who discovers a relic or monument, or any object or site which may reasonably be supposed to be a relic or monument, in Tanganyika, otherwise than in the course of a search or excavation made in accordance with a licence granted under section 13, and the occupier of any land who knows of any such discovery on or under such land, shall forthwith report the same to an administrative officer, the Commissioner, the Conservator or the Curator of the Museum. The discoverer of such a relic, monument, object or site shall take such steps as may be reasonable for the protection thereof and shall, where he makes a report concerning a portable relic or object, if so required (and on payment of the cost of delivery if any) deliver such antiquity or object to an administrative officer, the Commissioner, the Conservator or the Curator of the Museum, as the case may be.

Discovery
of
relics
and
monuments

(2) Every administrative officer to whom a relic is delivered or a report is made under this section shall forthwith report the same in writing to the Commissioner.

(3) The Trustees of the Museum shall maintain a register of all matters reported to the Curator under this section and shall permit the Commissioner or any person authorized by him in writing to examine the same and any antiquity or object delivered to the Curator and, if the Commissioner does not disclaim any such antiquity in accordance with the provisions of section 8, shall deliver the same to him at his request.

(4) The Commissioner and any person authorized by him in writing, may enter upon any lands and inspect the site of any monument or supposed monument or the site of the discovery of any relic or supposed relic required to be reported under this section.

(5) Any person who fails to comply with any of the provisions of subsection (1) or (3), or who obstructs the Commissioner or any person authorized by him in writing in that behalf in the exercise of his powers under subsection (3) or (4), shall be guilty of an offence against this Act.

No excavations, etc. without licence

11. (1) No person, except the Commissioner or a person acting on his behalf, shall, whether on his own land or elsewhere -

(a) excavate, dig or probe for monuments or relics ;
or

(b) remove any relic hitherto undiscovered from any monument, or collect or remove any object which he supposes to be a relic from the site of its discovery, otherwise than for the purposes of preserving the same and reporting the discovery under the provisions of section 10 or in accordance with a requisition under that section,

except under and in accordance with an excavation licence issued by the Commissioner.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence against this Act.

Persons to whom licences may be granted

12. An excavation licence shall be granted only to a person who satisfies the Commissioner -

(a) that he has had sufficient scientific training or experience to enable him to carry out the proposed excavation or search satisfactorily; and

(b) that he has at his disposal sufficient staff and financial and other resources to enable him to carry out the proposed excavation or search satisfactorily; and

(c) that he is able to conduct, or arrange for, the proper scientific study and publication of any materials discovered.

13. (1) An excavation licence may be granted for such period not exceeding a year as the Commissioner may allow and may be renewed for a further period or periods, not exceeding a year at any one time.

Licences

(2) An excavation licence shall not constitute an authority to the licensee to enter upon or excavate any land without the consent of the owner thereof.

(3) The Commissioner may include in any excavation licence any terms which he considers necessary or expedient for the proper conduct of the excavation or search, the reporting, mapping and documenting thereof, the preservation of materials discovered, their removal, examination and return, and the making and delivery of casts, squeezes and other reproductions.

(4) In addition to any obligations conferred upon the licensee by the excavation licence, the licensee shall take all reasonable measures in accordance with current scientific practices for the preservation of any relics or monuments discovered by him.

(5) The Commissioner may cancel any excavation licence if the licensee fails to conform with the obligations imposed on him by this Act and the terms of his licence.

(6) Any person aggrieved by the refusal of the Commissioner to grant a licence to himself, or by the cancellation of his licence, may appeal against such refusal or cancellation to the Minister.

EXPORTS AND SALES

14. (1) No person shall export from Tanganyika any -

Exports

- (a) relic discovered in Tanganyika ;
- (b) monument or part thereof ; or
- (c) protected object,

except under and in accordance with a licence issued by the Commissioner :

Provided that -

- (i) the Commissioner shall not withhold his licence in the case of any relic disclaimed by him in accordance with the provisions of section 8, and
- (ii) the Commissioner and any person acting on his instructions may export any such relic, monument, or part thereof, or protected object for the purposes of exhibition, or of repair, examination, study or other scientific purpose.

(2) Any person who exports or attempts to export any relic, any monument or part thereof, or any protected object in contravention of subsection (1) shall be guilty of an offence against this Act.

Sales

15. (1) No person shall sell or exchange any relic discovered in Tanganyika, or any protected object, except under and in accordance with a licence issued by the Commissioner.

(2) Before issuing a licence under this section, the Commissioner may require the applicant to produce to him the relic or object; and he may issue a licence subject to such conditions relating to the reporting or recording of any sale or exchange as he may think fit.

(3) The Commissioner may refuse to grant -

(a) a general licence under this section, or

(b) a particular licence under this section -

(i) to any person who has been convicted of an offence against this Act, or who has been convicted, whether in Tanganyika or elsewhere, of any other offence involving fraud, dishonesty or stolen property, at any time during the three years next preceding the date of application therefor ;

(ii) unless the relic or object is first produced to him,

but save as aforesaid, he shall issue a licence on the applicant paying any prescribed fee and furnishing any prescribed particulars.

(4) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence against this Act.

POWERS OF LOCAL GOVERNMENT AUTHORITIES

*Power of
local
authorities
relating to
monuments*

16. (1) The Powers conferred by or under the Municipalities Ordinance and the Local Government Ordinance upon local government authorities to make by-laws or to perform functions shall be deemed to include power, subject to the approval of the Minister, to make by-laws and to perform functions in relation to the preservation of, and access to monuments (including, with the consent of the owner or other person beneficially interested therein, power to fence, repair and otherwise preserve and protect, and to erect notices or tablets giving information relating to, monuments).

(2) The approval of the Minister required by subsection (1) for the making of by-laws shall be in addition to any approval, concurrence or consent required by any other law for the making thereof.

MISCELLANEOUS

17. (1) Every person in possession on the appointed day of any relics discovered in Tanganyika before the appointed day shall within six months after the appointed day deliver to the Commissioner two copies of a list describing such relics to the best of his ability. Upon being satisfied that the relics described in any such list are properly included therein, the Commissioner shall sign one copy of the list and return it to the person by whom it was delivered.

Relics
found in
Tanganyika
before the
appointed
day.

(2) At any time within a period of two years after the appointed day -

- (a) the Commissioner may, on payment by him of the costs, if any, of delivery, require any person for the time being in possession of any relic included in a list delivered under this section, to deliver such relic to the Commissioner ;
- (b) the Commissioner may require any person who has been in possession of any such relic at any time during such period but has since disposed of the same, to inform the Commissioner of the name and address of the person to whom he disposed of it.

(3) Any person who fails to comply with any requirement of the Commissioner under subsection (2), or who in purported compliance with such a requirement gives the Commissioner any information which he knows to be false or does not believe to be true shall be guilty of an offence against this Act.

(4) The Commissioner and any person acting on his instructions -

- (a) may carry out tests and examinations on, and may photograph and make casts, squeezes and other reproductions of, any relic delivered to him under this section ; and
- (b) shall return the relic to the person by whom it was delivered to the Commissioner within one year of its being so delivered.

(5) Neither the Commissioner nor any person acting in accordance with his instructions shall be liable for any damage to, or loss of, any relic delivered to the Commissioner in accordance with the provisions of this section unless occasioned by his gross negligence or wilful default.

(6) Nothing in subsections (1), (2) or (3) of this section shall apply to the Trustees of the Museum or to the trustees or other governing body of any other institution to which subsection (2) of section 8 extends.

Burden of
proof

18. In any proceedings, whether civil or criminal -

(a) in connection with a relic or an alleged relic, proof of the object being in Tanganyika at any particular time and of its having been made, shaped, painted, carved, inscribed or otherwise produced by human agency before the year 1863 shall be evidence of its having been discovered in Tanganyika, and the burden of proving -

(i) that the object was not discovered in Tanganyika; or

(ii) that it was discovered in Tanganyika before the appointed day and included in a list delivered to and signed by the Commissioner in accordance with the provisions of section 17,

shall lie upon the person asserting the same :

Provided that where any such person satisfies the court that the object has been in his possession or in the possession of himself and any identifiable person or persons from whom he derived title, for a period of not less than six years, or that he, or an identifiable person from whom he derived title, imported the object into Tanganyika, the burden of proving the discovery thereof in Tanganyika shall revert to the person asserting such discovery ;

(b) in connection with a monument or relic, or an alleged monument or relic, a certificate purporting to be under the hand of the Conservator that the relevant place, site, structure or object was made, shaped, painted, carved, inscribed or otherwise produced or modified by human agency, or erected, formed, built, incised, dug, excavated or otherwise engineered by human agency, before the year 1863, shall be evidence of the matter stated therein.

Advisory
Council

19. (1) The Minister shall, as occasion requires, appoint an Advisory Council for the purposes of this Act and such Council shall consist of three persons appointed by the Minister, one of whom shall be nominated by the Principal of the University College of Dar es Salaam.

(2) The Minister shall refer to the Council for its advice any application for a review and any appeal under this Act, and any representations made to the Minister against the acquisition of any monument under the provisions of section 6, but shall not be bound to accept the advice of the Council.

Power to
erect
notice or
tablet

20. (1) It shall be lawful for the Commissioner and any person acting under his instructions to erect any notice or tablet in suitable places for the purpose of preserving or giving information about, any monument, relic, or protected object, excavated or discovered, in the vicinity thereof or about any historical events which occurred at such places save that no such notice or tablet shall be erected -

(a) on public land under the jurisdiction of a local authority under the provisions of the Municipalities Ordinance or the Local Government Ordinance without the consent of such local authority ;

Cap. 333

(b) on any public highway as defined by section 2 of the Highways Ordinance without the consent of the road authority under whose jurisdiction the public highway lies.

Cap 167

(2) Whoever, without the authority of the Commissioner, destroys, pulls up, defaces, breaks, damages or removes any such notice or tablet shall be guilty of an offence.

21. The Commissioner may -

(a) give ; or

(b) lend for purposes of display or exhibition ; or

(c) hand over for safe-keeping,

Power to hand over relics to museums, etc.

any relic or protected object to any museum, exhibition or scientific institution, except that in the case of (b) and (c) supra he may impose such conditions as he may deem fit as regards provision for the preservation, insurance and return of such relic or protected object :

Provided that no relic or protected object shall be given, lent or handed over to any museum, exhibition or scientific institution outside Tanganyika without the consent of the Minister.

22. The Commissioner may appoint fit and proper persons to be Honorary Antiquities Wardens for the purpose of assisting in the carrying out of the provisions of this Act and, in particular, but without prejudice to the generality of the foregoing, in the prevention and detection of offences under this Act.

Power to appoint Honorary Antiquities Wardens

23. (1) Where the Commissioner, Conservator or any Honorary Antiquities Warden has reason to believe that any person has committed an offence against this Act, he may require such second-mentioned person to furnish him with his name and address and reasonable evidence of his identity; and where any such second-mentioned person refuses to give his name and address and reasonable evidence of his identity, the Commissioner, Conservator or any Honorary Antiquities Warden shall have power to arrest such person without warrant.

Arrest

(2) Any person who refuses or neglects to furnish the Commissioner, Conservator or any Honorary Antiquities Warden with his name or address or reasonable evidence of his identity when so required under this section or furnishes a false name or address or false evidence of identity shall be guilty of an offence against this Act.

Penalty

24. Any person guilty of an offence against this Act shall be liable on conviction to a fine not exceeding Shs.10.000/- and, in addition, in the case of a continuing offence, to a fine not exceeding Shs. 1,000/- for each day during which the contravention of the relevant provision persists.

Rules

25. The Minister may make rules for the better carrying into effect of the provisions of this Act and, without prejudice to the generality of the foregoing, may make rules -

- (a) regulating the procedure and practice of the Advisory Council ;
- (b) regulating the sale and exchange of monuments ;
- (c) regulating the conduct of excavations ;
- (d) prescribing the powers and duties of Honorary Antiquities Wardens which may include powers and duties conferred or imposed by the Act on the Conservator other than those under sections 2, 8, 13, 14, 15, 17, 20 and 21 :
- (e) prohibiting and regulating access to monuments ;
- (f) restricting and regulating the charging of entrance fees to monuments ;
- (g) prescribing anything which may be prescribed :

Provided that no rules under the provisions of paragraph (e) or (f) shall restrict, otherwise than by limiting the charging of entrance fees therefor, the entry of the owner or any person beneficially interested therein, or any person authorized by such owner or person, from entry into or upon any monument.

*Application
of Land
Acquisition
Ordinance*

26. Where the Minister determines to acquire any monument in accordance with the provisions of section 6, or elects to acquire a monument in pursuance of section 7, the acquisition shall be deemed to be an acquisition for a public purpose within the meaning of the Land Acquisition Ordinance, and the provisions of that Ordinance shall have effect as if the references therein to the President (other than those references relating to the vesting in the President of any title to the land acquired), and to the Minister for the time being responsible for lands, were references to the Minister for the time being responsible for antiquities :

Provided that -

- (a) the provisions of section 17 of the Land Acquisition Ordinance shall not apply where the Minister elects to acquire a monument under section 7 of this Act ;
and

(b) in assessing the amount of any compensation payable, no account shall be taken of any palaeontological, archaeological or historical value unless the person entitled to compensation paid any sum referable thereto when he acquired his interest in the land.

27. (1) The Monuments Preservation Ordinance and the Monuments (Preservation) Ordinance are hereby repealed.

(2) Section 2 of the Land Acquisition Ordinance is hereby amended by deleting paragraphs (g) and (h) of the definition "public purposes" therein.

Repeal of
Caps. 233 and 327
and amendment
to Cap. 118

Passed in the National Assembly on the nineteenth day of February, 1964

P. MUSEKWA,
Clerk of the National Assembly

THE UNITED REPUBLIC OF TANZANIA



No. 22 OF 1979

I ASSENT,

.....
President

An act to amend the Antiquities Act, 1964⁽¹⁾

[21ST DECEMBER, 1979]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Antiquities (Amendment) Act, 1979, Short title and shall be read as one with the Antiquities Act, 1964 (hereinafter construction referred to as the "principal Act").
Cap. 550

2.—(1) Section 2 of the principal Act is repealed and replaced by the Section 2 of following:—
Cap. 550

"Interpretation 2 (1) In this Act, unless the context otherwise requires—
repealed and replaced

"antiquity" includes a monument, a relic and any protected object;

"appointed day" means the first day of August, 1964;

"Conservator" means the person for the time being appointed to perform the functions of Conservator of Antiquities;

"conservation area" means any area declared to be a conservation area under Section 3 (4);

"the Council" means the Advisory Council for Antiquities established by section 19;

"Director" means the Director of Antiquities;

"discovery" means the finding of any object on or under land or in anything growing on the land or attached to or within the fabric or foundations of any structure, the presence of which was previously unknown to the owner thereof, but does not include the recognition or identification as a relic or a relic of a particular description of any object previously in the known possession of any person;

(1) Reproduction of text received from the authorities of the United Republic of Tanzania.

“ethnographical object” means any movable object made, shaped, painted, carved, inscribed or otherwise produced or modified by human agency in Tanganyika after the year 1863; for use in any social or cultural activity whether or not it is still being used by any Community in Tanganyika, but does not include any object made, shaped, painted, carved, inscribed or otherwise produced or modified by human agency in Tanganyika for sale as a curio;

“Honorary Antiquities Warden” means any person appointed by the Director under Section 22;

“Minister” means the Minister for the time being responsible for antiquities;

“Museum” means the National Museum of Tanzania established under any written law relating to museums;

“monument” means and includes—

- (a) any building, fortification, interment, midden, dam or any structure erected, built or formed by human agency in Tanganyika before the year 1863; and
- (b) any rock painting or any immovable object painted, sculptured, carved, incised or modified by human agency in Tanganyika before the year 1863; and
- (c) any earthwork, trench, adit, well, cave, tunnel or other modification of the soil or rock dug, excavated or otherwise engineered by human agency in Tanganyika before the year 1863,

whether or not the monument shall have been modified, added to or restored at a later date and whether or not it is included in a list published by the Director; and

- (d) any site or immovable structure declared to be a monument under section 3; and
- (e) such adjoining land as may be required for the purposes of fencing, covering or otherwise preserving the monument;

“protected object” means any ethnographic object or any wooden door or door frame carved in Tanganyika in any African or oriental style before the year 1940, and includes any object declared to be a protected object under section 9(1) (a);

“relic” means any movable object made, shaped, painted, carved, sculptured, inscribed or otherwise produced or modified by human agency in Tanganyika before the year 1863, whether or not it shall have been modified, added to or restored at a later date and includes any human or other vertebrate faunal fossil or botanical fossil or impression, found in Tanganyika.

(2) The Director may, by notice in the *Gazette*, publish lists of monuments and conservation areas, and the inclusion of any place, site or structure in any list so published shall be *prima facie* evidence in all proceedings, whether criminal or civil, that the site or structure is a monument or a conservation area within the meaning ascribed to those expressions in subsection (1) of section 2.

(3) Any person aggrieved by the inclusion of any place, site or structure in a list published under subsection (2) may appeal, against the inclusion, to the Minister. Section 3 of Cap. 550 repealed and replaced

3. Section 3 of the principal Act is repealed and replaced by the following:—

**‘Declara-
tion of
monuments
and conser-
vation areas** 3.—(1) The Minister may by order in the *Gazette*, declare any place or structure of historical interest to be a monument for the purposes of this Act.

(2) The Minister may, after consultation with the Minister for the time being responsible for lands, by notice in the *Gazette*, declare to be a conservation area any area or sitewhich—

- (a) in his opinion is a valuable national heritage for its aesthetic value; or
- (b) contains a homogenous group of monuments; or
- (c) contains buildings, structures or other forms of human settlement which in his opinion are a valuable national heritage for their historical, architectural, social or cultural value.

(3) Any person aggrieved by an order made under this section may appeal to the Minister for a review of the order and the decision of the Minister shall be final.”

4. Section 6 of the principal Act is repealed and replaced by the following:— Section 6 of Cap. 550 repealed and replaced

**‘Acquisition of monu-
ments and
conservation
areas** 6. The Minister may acquire any monument or conservation area in accordance with the Land Acquisition Act, 1967, as modified by this Act”.

5. Section 7 of the principal Act is amended—

- (a) by deleting the expression “Land Acquisition Ordinance” wherever it occurs in that section and substituting for it the expression “Land Acquisition Act, 1967”; and Amendment of section 7 of Cap. 550
- (b) in subsection 3, by deleting the figure “5” which occurs in the third line and substituting for it the figure “6” and by deleting the word “Ordinance” which occurs in the fifth line and substituting for it the word “Act”.

6. Section 11 of the principal Act is repealed and replaced by the following:— Section 11 repealed and replaced

**‘No excava-
tion, collec-
tion,
without a
licence** 11.—(1) No person except the Director or a person acting on his behalf, shall whether on his own land or elsewhere—

- (a) excavate, dig or probe for monuments or relics; or

- (b) remove or collect any relic or any object he supposes to be a relic from the site of its discovery, except for the purposes of protecting it and reporting the discovery under the provisions of section 10 or for the purposes of delivering it to the authorities if required to do so under that section.
- (c) search for or collect any ethnographical object, except under and in accordance with an excavation licence or in the case of an ethnographical object, a collector's licence issued by the Director.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence".

7. Section 12 of the principal Act is repealed and replaced by the following:—

Section 12
of Cap. 550
repealed and
replaced

"Persons
to whom
licence
may be
granted

12. An excavation licence or a collector's licence shall be granted only to a person who satisfies the Director that—

- (a) he has had sufficient scientific training or experience to carry out the proposed excavation, search or collection satisfactorily;
- (b) he has at his disposal sufficient staff and financial and other resources to enable him to carry out the proposed excavation, search or collection satisfactorily;
- (c) in relation to an excavation licence, he is able to conduct or arrange for, the proper scientific study and publication of any material discovered; or
- (d) in relation to a collector's licence the ethnographic objects collected will be used for study or for a purpose approved by the Director."

Section 13
repealed and
replaced

8. Section 13 of the principal Act is repealed and replaced by the following:—

"Conditions
of licence

13.—(1) Every licence under section 11 shall be granted for such period not exceeding a year as the Director may allow and may be renewed for a further period or periods not exceeding a year at any one time.

(2) A licence shall not constitute an authority to the licensee to enter upon or excavate any land or to enter upon any land and search for or collect any ethnographical object without the consent of the owner of that land.

(3) The Director may include in any licence any terms which he considers necessary or expedient for the proper conduct of excavation, search or for the collection of ethnographical objects, including conditions for reporting, mapping, documentation or preservation of materials discovered or collected, their removal, examination and custody and the making and exchange of casts, squeezes and other reproductions.

(4) In addition to any terms included in the licence, the licensee shall take all reasonable measures in accordance with current scientific practices, for the preservation of any relics or monuments or ethnographical objects discovered or collected by him.

(5) The Director may cancel any licence if the licensee fails to conform to the conditions imposed on him by this Act or the terms of the licence.

(6) Any person aggrieved by the refusal of the Director to grant a licence or by the cancellation of a licence, may appeal against the refusal or cancellation to the Minister."

9. The principal Act is amended by adding immediately below section 18, the following new section:— Addition of new section 18A

18A. Where by the operation of any treaty or agreement there is a reciprocal arrangement between Tanzania and any other country providing for the seizure and exchange of antiquities unlawfully exported from and imported into the territory of either country, the Director or any person authorized by him in that behalf may, upon a written request of that other country, seize and return to that country any antiquities imported into Tanzania which are named in that written request or, as the case may be, make a written request to that other country requesting the return of antiquities exported from Tanzania, and imported into that country."

10. Section 19 of the principal Act is repealed and replaced by the following:— Section 19 of Cap. 550 repealed and replaced

19.—(1) There is hereby established a council to be known as the Advisory Council for Antiquities.

(2) The provisions of the Schedule to this Act shall have effect in respect of the constitution of the Council, its meetings and matters relating to it.

(3) The Minister may by Order published in the *Gazette* amend, add to, vary or replace any of the provisions of the Schedule to this Act."

11. The principal Act is amended by adding immediately below section 19, the following new sections:— Addition of new sections 19A and 19B

19A.—(1) The functions of the Council shall be—

- (a) to assist the Government in the formulation and implementation of a national policy on antiquities;
- (b) to advise the Government on the method of co-ordinating and monitoring research relating to museology or antiquities carried on in Tanzania or elsewhere on behalf of or for the benefit of the Government of Tanzania;

- (c) to advise the Government on the techniques of preserving and restoring monuments, relics, protected objects and buildings situated in a conservation area;
- (d) to assist the Government in the establishment of a suitable laboratory for carrying out research in techniques of preservation and restoration of monuments, relics, protected objects and buildings comprised in a conservation area;
- (e) to advise the Government in the selection and training of local personnel in scientific and technical fields related to antiquities;
- (f) to advise the Government on a system of recording, documentation and reference for material collected in the field of archeology, ethnography, oral tradition, biological or natural sciences including manuscripts, inscriptions, photographs and reconstructions of archeological and palaeontological finds, sites and tupes for the purposes of facilitating research teaching or display;
- (g) to promote the documentation and dissemination of information on any research or publication on matters relating to antiquities and for that purpose, to publish any paper, journal or periodical and to participate in or make arrangements for conferences, seminars and discussions;
- (h) to advise the Government on any matter referred to it by the Minister and generally, to advise the Government on any matter for the better carrying out of the objects of this Act.

(2) The Council shall once every year publish or cause to be published a report of its activities for that year.

Establishment of National Fund for Antiquities

19B.—(1) There is hereby established a fund to be known as the National Fund for Antiquities which shall be managed and controlled by the Director.

- (2) The National Fund for antiquities shall consist of—
- (a) such sums as may be provided by Parliament for that purposes;
 - (b) donations and grants from any source;
 - (c) fees chargeable on any matter upon which fees may be charged under this Act;
 - (d) proceeds from sales of relics, casts, ethnographical objects and publications on matters relating to this Act;
 - (e) such sums as may be payable to the Fund from any sources.

(3) The Fund shall be applied for the purposes of research, in and the preservation of, antiquities and for any purpose relating to the functions of the Council.

(4) The Minister may issue directives in writing, regulating the use of the Fund, and shall after consultation with the Minister for the time being responsible for Finance, issue directives regulating the operation of the Fund and providing for the audit of the accounts of the Fund".

12. Section 25 of the principal Act is amended—

Amendment of section 25 of Cap. 550

- (a) in paragraphs (b) (c), (e) and (f) by deleting the semicolon which occurs at the end of each paragraph and in each case, inserting the expression "and conservation area"; and
- (b) in paragraph (g), by deleting the full stop which occurs at the end of that paragraph, and inserting the expression "and conservation area"; and
- (c) by deleting paragraph (a) and relettering paragraphs (b), (c), (d), (e) (f) and (g) as paragraphs (a), (b), (c), (d) (e) and (f).

13. Section 26 of the principal Act is repealed and replaced by the following:—

Section 26 of Cap. 550 repealed and replaced

"Applica-
tion of the
land Acquisi-
tion Act,
1967

26. Where the Minister acquires any monument or conservation area under section 6 or elects to acquire a monument under section 7 of this Act, the acquisition shall be deemed to be an acquisition for a public purpose within the meaning of the Land Acquisition Act, 1967, and the provisions of that Act shall have effect as if the references to the President (other than those references relating to the vesting in the President any title to the land acquired), and the Minister for the time being responsible for lands, were references to the Minister for the time being responsible for antiquities:

Provided that—

- (a) the provisions of section 19 of the land Acquisition Act, 1967, shall not apply where the Minister elects to acquire a monument under section 7 of this Act; and
- (b) in assessing the amount of compensation payable, no account shall be taken of any palaeontological, archaeological, architectural or historical value unless the person entitled to the compensation paid any sum for that value when he acquired his interest in the land".

14. The principal Act is amended generally by deleting the term "Commissioner" wherever it occurs in that Act and substituting for it the terms "Director".

Miscellaneous amendment

SCHEDULE

(Section 19A (2))

1. The Council shall consist of—

- (a) a Chairman, who shall be appointed by the President;
- (b) The Director, who shall be the Secretary of the Council;
- (c) the Dean of the Faculty of Arts and Social Sciences, University of Dar es Salaam or his alternate;

Composition of Council

- (d) the Dean of the Faculty of Science, University of Dar es Salaam or his alternate;
 - (e) the Dean of the Faculty of Medicine, University of Dar es Salaam or his alternate;
 - (f) the Commissioner for National Education or his alternate;
 - (g) a representative of the Historical Association;
 - (h) a member appointed by the Board of National Museum of Tanzania, from amongst the employees of National Museum;
 - (i) not less than four and not more than six other members, who shall be appointed by the Minister.
- Vice-Chairman 2. The members shall elect one of their number to be the Vice-Chairman of the Council.
- Tenure of office 3.—(1) The Chairman shall, unless, he resigns or his appointment is sooner revoked by the Minister, hold office for such period as may be specified in his terms of appointment or, if no such period is specified, for a period of three years and shall be eligible for reappointment.
- (2) The Vice-Chairman shall, subject to his continuing to be a member, hold office for a period of one year, and shall be eligible for re-election.
- (3) A person who is a member of the Council by virtue of some other office, shall hold office for the period he holds that other office.
- (4) A member of the Council appointed under paragraph 1 (i) shall, unless he resigns or his appointment is sooner revoked by the Minister, hold office for such period as may be specified in his terms of appointment or, if no period is specified, for a period of three years and shall be eligible for re-appointment.
- (5) The Chairman or any member appointed under paragraph 1 (i) may at any time resign his office by giving notice in writing to the Minister, and from the date specified in that letter, he shall cease to be a member of the Council.
- Vacancies 4. Where any person appointed to be a member of the Council ceases to be a member for any reason, the Minister may appoint another person in his place.
- Chairman to preside at meeting 5.—(1) The Chairman or in his absence, the Vice-Chairman, shall preside at all meetings of the Council.
- (2) Where at any meeting of the Council both the Chairman and the Vice-Chairman are absent, the members shall elect one of their number to act as Chairman at that meeting.
- Meetings and procedure of Council 6.—(1) The Council shall meet not less than twice every year and at such additional times as may be fixed by the Chairman or in his absence, the Vice-Chairman.
- (2) The Secretary of the Council shall give each member adequate notice of the time and place of every meeting and shall keep a record of the proceedings of every meeting of the Council.
- (3) All questions at a meeting of the Council shall be decided by a majority of votes of the members present and voting and in the event of an equality of votes, the Chairman of the meeting shall have a casting vote in addition to his deliberative vote.
- (4) The Chairman or with his consent, the Director, may invite any person to take part in the deliberations of the Council but the person so invited shall not be entitled to vote.
- Quorum 7. At any meeting of the Council not less than one-half of the members for the time being in office shall constitute a quorum.

No. 22

Antiquities (Amendment)

1979

8. Subject to the provisions of this Schedule the Council may regulate its own proceedings. Council may regulate its proceedings

Passed in the National Assembly on the twenty-fourth day of October, 1979.

E. E. KAZIMOTO,
Clerk of the National Assembly