

N.L.C.D. 387

NATIONAL MUSEUM ACT, 1969

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N.L.C.D. 387**NATIONAL MUSEUM ACT, 1969¹****AN ACT to provide for the establishment of a Museum and Monuments Board and for the control of antiquities and for other related matters.***Control of Antiquities***1. Permit to export**

(1) A person shall not export an antiquity except in accordance with an export permit issued by the Board.

(2) An application for an export permit shall be made in writing to the director of the National Museum at least three months before the proposed date of export, unless the Board in its discretion accepts a lesser period.

(3) An application shall contain the name of the antiquity, its function, a full description with dimensions, its local cost or an estimate of its value, and the date when, the place where, and the person from whom it was obtained.

(4) Unless the director otherwise requires, the application shall be accompanied by an adequate photograph of the antiquity.

2. Inspection

(1) Unless the antiquity is delivered to the director and left in the charge of the director, the applicant shall state its location and, if it is to be moved, its expected location during the period before the date of the proposed export.

(2) The applicant shall allow and facilitate access to, and inspection of, the antiquity required by the director and shall allow to be affixed or applied to the antiquity a seal or an identification mark of the Board.

3. Prohibition of export and exemption

(1) The director may, with the prior consent of the Board, prohibit the export of an antiquity if the director considers that the export would not be in the public interest.

(2) The director may give a certificate that an object does not require an export permit if in the judgment of the director the object is not an antiquity within the meaning of this Act.

1. This Act was issued as the National Museum Decree, 1969 (N.L.C.D. 387) made on the 29th day of August, 1969 and notified in the *Gazette* on 8th September, 1969. (The date of *Gazette* notification on the Decree is stated as 8th August, 1969. This is obviously a mistake).

4. Terms of permit to export

(1) An export permit shall be in the prescribed form and subject to the prescribed conditions.

(2) A permit shall not authorise the removal from the Republic of an antiquity except through a recognised customs port or airport.

5. Permit to be surrendered

A customs officer shall not allow the export of an antiquity until the export permit in respect of that antiquity has been surrendered to the customs officer.

6. Compulsory purchase of antiquity

(1) Where the director is of the opinion that an antiquity is likely or is intended to be exported, whether lawfully or otherwise, or where an application for an export permit has been made and refused, the director may

- (a) require the owner of the antiquity or the person in whose possession or custody it may be to surrender it to the National Museum, and
- (b) pay for the antiquity a price which is assessed by the Board and which is, in the opinion of the Board, the fair market price of the antiquity in the Republic.

(2) Payment for an antiquity under this section shall be made to the person who is, in the opinion of the Board, the owner or person otherwise lawfully entitled to receive the payment.

(3) A person required to surrender an antiquity under this section who fails to do so commits an offence and is liable on conviction to a fine not exceeding one hundred and fifty penalty units, and the antiquity shall be forfeited to the National Museum by order of the Court.

7. Licence to sell

(1) A person shall not sell or offer an antiquity for sale by way of trade or business except in accordance with a licence issued by the Board.

(2) An application for a licence to sell antiquities shall be made in writing to the director and shall be in the prescribed form and subject to the prescribed conditions.

8. Permit to excavate

(1) A person shall not by means of excavation or similar operations search for an antiquity unless authorised by a permit issued by the Board.

(2) Before issuing a permit to excavate, the Board

- (a) shall satisfy itself that the applicant is competent by training and experience to carry out the operations for which the permit is required, and
- (b) may require to be satisfied that the applicant has the financial or other support of an archaeological or scientific society or institution of good repute.

(3) A permit to excavate may be granted subject to the conditions that the Board thinks fit, and may be revoked by the Board without reason assigned, and shall not confer a right to enter on a land without the consent of the person entitled to grant that consent.

(4) The person to whom a permit to excavate is granted and the persons engaged in an excavation or any other operations to which it relates shall, if so required by a person authorised in writing by the Board, suspend the excavation or any other operation until notified by the Board that it may be resumed.

9. Permission to remove antiquity

(1) A person shall not remove an antiquity from its original site without the consent of the Board.

(2) A person shall, when applying to the Board for consent under subsection (1), state the exact locality in which the antiquity is situated and the place to which, and the purpose for which, the antiquity is to be removed, and the Board may require that person to submit an adequate photograph of the antiquity.

10. Duty to notify discovery

(1) A person who discovers an antiquity, and the owner or occupier of a land on which an antiquity is discovered on becoming aware of the discovery, shall without delay notify the Board in writing of the discovery.

(2) A person mentioned in subsection (1) shall not, without the written consent of the Board, alienate the antiquity discovered.

(3) When the Board becomes aware of the discovery of an antiquity but has not been notified, it may notify the discovery to a person who is or appears to be the owner or in control of the antiquity, and a person so notified shall not alienate the antiquity without the written consent of the Board.²

11. National monuments

(1) The Minister may, on the recommendations of the Board, by executive instrument, proclaim a monument which does not belong to the Republic to be a national monument.

(2) Before making a recommendation under subsection (1), the Board shall give not less than two months' written notice of its intention to make the recommendation to the owner or person in control of the monument, who may lodge with the Board objections in writing to the proposed recommendations; and the Board, when making the recommendation, shall submit to the Minister evidence that the owner or person in control has received that notice, together with the objections lodged against the recommendation.

(3) The Minister may, by executive instrument, proclaim a monument which belongs to the Republic to be a national monument.

2. The references to six months in subsections (2) and (3) have been omitted as being inconsistent with the terms of the section.

12. Offences

(1) A person who

- (a) exports or attempts to export an antiquity without an export permit or otherwise than in accordance with an export permit or otherwise than through a recognised customs port or airport, or
- (b) sells or offers an antiquity for sale by way of trade or business without a licence or issued by the Board, or
- (c) by excavation or similar operations searches for an antiquity without a permit or otherwise than in accordance with a permit issued by the Board, or
- (d) without the written consent of the Board, alters, destroys, damages or removes from its original site an antiquity, or attempts to do so, or
- (e) defaces, damages or destroys a notice or tablet erected by the Board, or
- (f) in an application to the Board or to the director under this Act, knowingly makes a statement which is false in a material respect or supplies a photograph which is false in a material respect, or
- (g) wilfully obstructs a member or an employee of the Board in the exercise of a power conferred on the Board by this Act, or
- (h) otherwise contravenes or fails to comply with a provision of this Act,

commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months, or to both the fine and the imprisonment.

(2) Where a person is convicted of attempting to export an antiquity contrary to a provision of this Act the Court may order that the antiquity be forfeited to the National Museum.

(3) Where a person is convicted of an offence which has resulted in damage to, destruction or removal of an antiquity or a part of an antiquity or a notice or tablet erected by the Board, the Court

- (a) may, in addition to any other penalty which it may impose, order that person to pay a sum of money determined by the Court to repair the damage or for the value of the thing removed or destroyed, and
- (b) may, in default of the payment, order that person to be imprisoned for a further period not exceeding three months in addition to a term imposed under subsection (1).

*Establishment and Functions of the Board***13. Establishment of the Board**

(1) There shall continue to be the Museum and Monuments Board consisting of not more than ten members appointed by the President acting in consultation with the Council of State in accordance with article 70 of the Constitution.

(2) The Board shall continue as a body corporate with perpetual succession and a common seal and subject to this Act may require and hold movable and immovable property.

14. Functions of the Board

The functions of the Board are,

- (a) to equip, maintain and manage the National Museum;
- (b) to establish, equip, maintain and manage any other museums as it thinks fit;
- (c) to preserve, repair or restore an antiquity which it considers to be of national importance;
- (d) when required by the Minister, to investigate and report on a matter relating to an antiquity;
- (e) to keep a register of the antiquities which it acquires or which are brought to its notice.

15. Annual report

The Board shall on or before the 31st day of March in each year forward to the Minister a report of its work during the year which ended on the 31st day of December last preceding and of any other matters connected with the preservation of antiquities.

16. Powers of Board

(1) The Board may

- (a) list the monuments whose proclamation as national monuments it considers desirable, ascertain the owner of those monuments, and recommend to the Minister the proclamation of a national monument;
- (b) purchase or otherwise acquire by agreement an antiquity if it has sufficient funds for that purpose;
- (c) assume control over an antiquity with the consent of the person having the ownership or control of that antiquity;
- (d) insure an antiquity which is owned by it or is under its control;
- (e) lend, or subject to section 17, give an antiquity to a museum or any other public institution;
- (f) with the prior permission in writing of the owner or person having control of a site of an antiquity, undertake the excavation of the site and authorise an act to be done which it considers necessary for that purpose and for preserving an antiquity discovered during the excavation;
- (g) with the prior consent in writing of the owner or person having control of the property concerned, erect notices or tablets in suitable places to provide information about historic events occurring there;
- (h) through any of its members or servants, have reasonable access at reasonable times to an antiquity;
- (i) prepare and issue publications on antiquities;
- (j) arrange exhibitions of antiquities in the Republic or elsewhere.

(2) The Board may

- (a) grant sums of money or give other material assistance to an external museum;
- (b) at the request of an external museum, provide technical help or appoint its representatives to the staff or controlling body of that museum, or take over the control of that museum.

17. Power to alienate

(1) The Board may dispose of an antiquity owned or controlled by it by way of exchange where the director of the National Museum certifies in writing that the exchange is desirable in the interests of the National Museum.

(2) Subject to subsection (1), the Board shall not without the written consent of the Minister alienate, hypothecate or let an antiquity owned or controlled by it.

18. Terms of office

The members of the Board shall hold office for the period determined by the Minister, but a member may resign from office by giving written notice to the Minister or may be removed from office if the Minister in writing so directs.

Meetings, Proceedings and Remuneration

19. Meetings

(1) The President shall appoint a member of the Board as chairman of the Board.

(2) The director of the National Museum shall be a member of the Board.

(3) The Board shall meet at least twice a year at the times and places determined by the chairman.

(4) The chairman may, and on the request in writing of not less than four members of the Board shall, call a special meeting of the Board at the time and place determined by the chairman.

(5) The chairman shall preside at the meetings of the Board and in the absence of the chairman a member nominated by the chairman or if a member is not nominated, a member appointed by the members present, shall preside at that meeting.

(6) A decision of the majority of the members of the Board present at a meeting is a decision of the Board and in the event of an equality of votes the chairman or the member presiding shall have a casting vote.

(7) The quorum at a meeting of the Board is four.

20. Committees

(1) The Board may appoint from among its members the committees which it considers necessary and may delegate to a committee any of its functions specified by the Board.

(2) A committee of the Board may co-opt as additional members of the committee a number of persons as it thinks fit not exceeding one-third of the total number of members of the committee.

21. Proceedings

A vacancy among the members of the Board or defect in the appointment of members shall not affect the validity of an act or a proceeding of the Board.

22. Remuneration

Remuneration shall not be paid to members of the Board or to co-opted members of committees, but a member may be paid the reasonable travelling expenses incurred by the member whilst engaged on the Board's business and at the rates as determined by the Minister.

Members of the Board, Officers and Employees

23. Appointments

(1) The President may determine the method of appointment and qualifications of the members of the Board and the period for which a member shall hold office.

(2) Subject to article 195 of the Constitution, the Board shall appoint a director of the National Museum and the other officers and employees as it considers necessary for the efficient performance of its functions on the terms and conditions that it may determine with the prior approval of the Minister.

24. Pensions and gratuities

The Board may grant pensions and gratuities or retiring allowances to its officers or employees and may require the officers to contribute to a pension or superannuation scheme.

Funds, Accounts and Audit

25. Funds

(1) The funds of the Board include the grants, subventions, donations, fees, subscriptions and any other sums of money accruing to the Board in the performance of its functions, and shall be applied exclusively to carry out the objects of the Board as specified in this Act.

(2) The moneys received on behalf of the Board shall be paid into its account at a bank approved for that purpose by the Minister responsible for Finance.

25A. Retention of internally generated funds

The National Museum may retain 100% of the moneys realised in the performance of its functions.^{2a}

26. Accounts and audit

(1) The Board shall keep proper books of account and proper records in relation to the accounts, in the form approved by the Accountant-General.

2a. Inserted by section 2 nd by virtue of the First Schedule to the Ministries, Departments and Agencies (Retention of Funds) Act, 2007 (Act 735).

(2) Subject to the directions as to form that the Minister responsible for Finance and the Minister may jointly give, the Board shall prepare in each financial year a statement of account which shall include

- (a) a balance sheet, a statement of income and expense and a statement of surplus containing the information that, had the Board been a company registered under the Companies Act, 1963 (Act 179), would be required to be laid before the company by the directors at an annual meeting, and
- (b) any other information in respect of the financial affairs of the Board required by the Minister responsible for Finance.

(3) The Board shall, as soon as possible but within six months after the end of each financial year, submit an annual report to the Minister in the form prescribed by the Minister, which shall include the statements of account specified in subsection (2) and the Minister shall as soon as practicable lay the report before Parliament.

(4) The Board shall submit to the Minister any other report of its financial affairs required by the Minister.

(5) The Board's financial year shall end on the same day as that of the Government.

27. Auditor-General to audit accounts

(1) The Auditor-General shall every year audit the books and accounts of the Board and shall, not later than the 31st day of March each year, forward to the Minister a copy of the audited accounts and the report on the accounts.

(2) The Auditor-General shall report every year to the Minister the results of the examination and the report shall state whether, in the opinion of the Auditor-General,

- (a) proper books of accounts have been kept by the Board;
- (b) the financial statement of the Board
 - (i) was prepared on a basis consistent with that of the preceding year and is in agreement with the books of accounts,
 - (ii) in the case of the balance sheet, gives a true and fair view of the state of the Board's affairs as at the end of the financial year, and
 - (iii) in the case of the statement of income and expense, gives a true and fair view of the income and expense or profit and loss accounts of the Board for the financial year,

and the Auditor-General shall call the attention of the Minister to any other matter falling within the scope of the examination which in the opinion of the Auditor-General should be brought to the attention of the Government.

(3) The Auditor-General shall make to the Board or to the Minister any other reports as the Auditor-General considers necessary or as the Government, the Minister responsible for Finance or the Minister may require.

(4) The annual report of the Auditor-General shall be included in the annual report of the Board.

*General***28. Regulations**

(1) The Board may, by Legislative Instrument, make Regulations

- (a) providing for access of the public to antiquities owned by or under the control of the Board, and fixing fees payable for the access;
- (b) providing for the licensing of persons selling antiquities by way of trade or business;
- (c) prescribing the fees payable for the issue or grant of a licence or permit required to be issued or granted under this Act;
- (d) safeguarding antiquities and tablets and notices erected by the Board from disfigurement, alteration, removal, or destruction;
- (e) regulating and imposing conditions with respect to the excavation, removal or export of antiquities, and for any other matter to be prescribed under this Act;
- (f) generally for carrying out the principles and purpose of this Act.

(2) Regulations made under this section may prescribe fines not exceeding twenty-five penalty units.

(3) Regulations shall not be made without the prior approval of the Minister.

29. Interpretation

In this Act, unless the context otherwise requires,

“antiquity” means

- (a) an object of archaeological interest or land in which that object is believed to exist or was discovered, including the land adjacent to the object or land which in the opinion of the Board is reasonably required to maintain the object or the land or its amenities or to provide access to the object or land, or for the exercise of proper control or management over that object or land, or
- (b) a work of art or craftwork, including a statue, modelled clay figure, figure, cast or wrought iron metal carving, housepost, door, ancestral figure, religious mask, staff, drum, bowl, ornament, utensil, weapon, armour, regalia, manuscript or document, if that work of art or craftwork is of indigenous origin and
 - (i) was made or fashioned before the year 1900, or
 - (ii) is of historical, artistic, or scientific interest, and is or has been used at any time in the performance, and for the purposes of, and traditional ceremony;

“Auditor-General” includes an auditor appointed by the Auditor-General;

“Board” means the Museum and Monuments Board;

“director” means the director of the National Museum;

“**external museum**” means a museum in the Republic other than a museum within the direct control of the National Museum;

“**maintenance**”, in relation to an antiquity, includes the fencing, repairing, and covering in of the antiquity, and the doing of any other act or thing which may be required to repair or protect it from decay or injury;

“**Minister**” means the Minister responsible for Education;

“**National Museum**” includes the National History Museum, the Museum of Science and Technology and any other museums designated by the Minister for that purpose by executive instrument;

“**object of archaeological interest**” means

- (a) any fossil remains of man or of animals found in association with man; or
- (b) a site, trace or ruin of an ancient habitation, working place, hidden or sacred place; or
- (c) a cave or any other natural shelter, or engraving, drawing, inscription, painting or inscription on rock or elsewhere; or
- (d) a stone object or an implement believed to have been used or produced by early man; or
- (e) any ancient structure, erection, memorial, causeway, bridge, cairn, tumulus, grave, shrine, excavation, well, water tank, artificial pool, monolith, group of stones, earthwork, wall gateway or fortification; or
- (f) an antique tool or object of metal, wood, stone, clay, leather, textile, basketware or other material, which is of archaeological interest;

“**prescribed**” means prescribed by or under this Act.

30. Repeal

*Spent.*³

3. The section repealed the Ghana Museum and Monuments Board Ordinance, 1957 (No. 20).

