

## ANTIQUITIES

AN ORDINANCE TO PROVIDE FOR THE BETTER PRESERVATION OF THE ANTIQUITIES OF SRI LANKA, AND OF SITES AND BUILDINGS OF THE HISTORICAL OR ARCHAEOLOGICAL IMPORTANCE IN SRI LANKA.

Ordinance Nos,  
9 of 1940

Act Nos,  
2 of 1955  
22 of 1955  
24 of 1998  
12 of 2005

[15<sup>th</sup> July , 1940 ]

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

### PART I PROPERTY IN ANTIQUITIES

Property in  
antiquities.

- 2.**
- (1) No antiquity shall, by reason only of its being discovered in or upon any land in the ownership of any person, be or be deemed to be the property of such person : Provided that such person shall be deemed to be interested in such antiquity in accordance with the provisions of this Ordinance.
- (2) Every ancient monument which on the date on which this Ordinance comes into operation is not owned by any person or the control of which is not vested in any person as trustee, incumbent or manager, shall be deemed to be the absolute property of the State.
- [ 3,24 of 1998] (3) All undiscovered antiquities (other than ancient monuments), whether lying on or hidden beneath the surface of the ground or in any river or lake or within the territorial sea of Sri Lanka, shall be deemed to be the absolute property of the State, subject to the provisions of this Ordinance.

Payment by the  
State of market  
value of certain  
antiquities.  
[ 17, 24 of 1998]

- 3.** On the discovery of any antiquity (other than an ancient monument), the Director-General of Archaeology, on behalf of the State, shall be enrolled to the custody and possession of such antiquity, unless in any case the Director-General of Archaeology does not consider it necessary that such antiquity shall be retained by the State ; and, where any such antiquity is retained by the Director-General of Archaeology on behalf of the State there shall be paid by the State -
- (a) one-half of the market value of the antiquity to the finder thereof and one-half of such value to the owner of the land in which the antiquity was found, or
- (b) where the same person is both the finder of the antiquity and the owner of such land, the whole of the market value of the antiquity to such person, or
- (c) where the antiquity is found on State land by any person (other than the Director-General of Archaeology or any person acting under his authority in the discharge of any duty or function under this Ordinance), one-half of the market value of the antiquity to the finder thereof :

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

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

- 4.**
- (1) Notwithstanding the provisions of section 3, it shall be lawful for the Director-General of Archaeology with the approval of the Minister, to enter into an agreement in writing with any person who would under the provisions of section 3 be entitled to the market value of any antiquity or any part of such value, whereby such person shall receive from the State in lieu of such value or part thereof, a share of such antiquity, to be apportioned in such manner as may be provided in the agreement.
- (2) Every agreement under subsection (1) shall be free from stamp duty and shall have force and effect notwithstanding anything in section 3 : Provided always that where the finder of any antiquity does not report the discovery thereof in accordance with the provisions of section 10 or section 14, as the case may be, he shall not be entitled to receive any share of such antiquity under any such agreement.

Dispute as to market value or apportionment of antiquities.

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

## PART II

### DISCOVERY OF ANTIQUITIES EXCAVATIONS

No excavation except upon licence from Director-General of Archaeology.

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

Provided that nothing in this section shall apply to any excavation carried out by or on behalf of the Director-General of Archaeology.

Application for licence to excavate.

**7.** Every application for a licence to excavate shall:-

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

Grant or refusal of licence to excavate.

**8.** The Director-General of Archaeology may in his discretion grant or refuse any application for a licence to excavate:

Provided that no such licence shall be granted unless the Director-General of Archaeology is satisfied, after such inquiry as he may deem it necessary to make-

- (a) that the owner of the land where the proposed excavation is to be made has consented to the excavation, and
- (b) that the proposed excavation will not cause any damage or inconvenience to persons residing in the vicinity of such land, or to any place used for religious purposes, or to any cemetery, school, water source, irrigation work or public road, or that if any such damage is likely to be caused adequate provision has been made by the applicant for the payment of compensation therefor, and
- (c) that the applicant is able to furnish security for the due observance by him of the provisions of this Ordinance or any regulation, and of any conditions subject to which the licence may be issued.

Terms of licence.

**9.** Every licence to excavate shall be issued in the prescribed form, subject to the payment of the prescribed fee and shall remain in force, subject to the provisions of section 11, during the period specified in the licence. Any such licence may contain, in addition to the prescribed conditions, such stipulations as the Director-General of Archaeology may deem necessary regarding-

- (a) the supervision of the proposed excavation by any person approved by the Director-General of Archaeology for the purpose ;
- (b) the payment of remuneration to any such person not being a public officer, or the payment of the prescribed fee in respect of any service rendered by such person being a public officer; and
- (c) the security to be furnished by the licensee for the due observance of the provisions of this Ordinance and of the terms and conditions subject to which the licence is issued.

Duty of licensee in respect of discoveries.

**10.** Every person to whom a licence to excavate is granted shall keep a record in the prescribed form of all antiquities discovered in the course of the excavation and shall, within the prescribed period from the date on which any antiquity is discovered, report the discovery thereof to the Director-General of Archaeology and furnish to him the prescribed particulars in respect of the antiquity.

Withdrawal of licence without compensation.

**11.** Any licence to excavate may, at any time before the expiry of the period specified in the licence, be withdrawn by the Director-General of Archaeology and the licensee shall not be entitled to claim compensation for any loss or damage suffered or alleged to have been suffered by him by reason of such withdrawal.

Appeal against refusal or withdrawal of licence to excavate.

**12.**

- (1) Any person aggrieved by the refusal of the Director-General of Archaeology to issue a licence to excavate or the withdrawal by the Director-General of Archaeology of any such licence may appeal against such refusal or withdrawal to the Minister.

- (2) The decision of the Minister on any appeal preferred under subsection (1) shall be final and conclusive.

Immunity of State from claims for loss or damage.

**13.** The State shall incur no liability by reason of any loss sustained by any person or any damage caused to any person in the course of any excavation carried on under the authority of a licence granted under this Ordinance.

#### DISCOVERY OF ANTIQUITIES OTHERWISE THAN UNDER A LICENCE TO EXCAVATE

Discovery of antiquities otherwise than under licence to excavate.

**14.**

(1) Every person who discovers any antiquity otherwise than under the authority of a licence to excavate-

(a) shall forthwith report the discovery to the nearest peace officer and, if it is practicable so to do, deliver the antiquity to such officer and obtain a receipt therefor from such officer, and

(b) shall, within seven days of the discovery, report the discovery, together with the prescribed particulars relating thereto, to the Government Agent of the district in which, the discovery was made.

(2) It shall be the duty of the Government Agent to whom the discovery of any antiquity is reported under paragraph (b) of subsection (1), to communicate forthwith to the Director General of Archaeology the fact of such discovery together with the particulars furnished to him. (See section 4 of the Transfer of Powers (Divisional Secretaries) Act, No. 58 of 1992.)

#### OFFENCES RELATING TO DISCOVERY OF ANTIQUITIES

Offences relating to discovery of antiquities.

**15.**

(1) Every person who-

(a) excavates in contravention of the provisions of section 6; or

(b) commits a breach of any condition of any licence issued under section 6 ; or

(c) fails to report the discovery of any antiquity in accordance with the provisions of section 10, or commits a breach of any other provision of that section ; or

(d) fails to report the discovery of any antiquity in accordance with the provisions of section 14 or commits a breach of any other provision of that section ; or

(e) knowing or having reason to believe that any antiquity has been excavated in contravention of the provisions of section 6, purchases or removes, or otherwise acquires or purports to acquire, any such antiquity, whether for himself or on account of or as agent for any other person,

[ 5, 12 of 2005] shall be guilty of an offence and shall on conviction after summary trial before a Magistrate be liable to a fine not less than fifty thousand rupees and not exceeding two hundred and fifty thousand rupees or to imprisonment of either description for a term not exceeding one year:

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

Provided, further, that any person convicted of an offence under paragraph (c) or paragraph (d) in respect of any antiquity (other than an ancient monument), shall by virtue of such conviction, forfeit all claim or interest to or in that antiquity or the value thereof, and in any such case the Magistrate may order that the antiquity be delivered to the Director-General of Archaeology within such time as may be specified by the Magistrate ;

and where the Magistrate makes such order, it shall be the duty of any person in whose possession that antiquity may be to deliver it within the specified time to the Director-General of Archaeology

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

#### OFFENCES RELATING TO THEFT AND DESTRUCTION OF ANTIQUITIES

offences relating

**15A.** Any person who commits theft within the meaning of section 366 of the Penal Code,

to theft of antiquities.  
[ 4, 24 of 1998]  
[ 5, 12 of 2005]

in respect of antiquity, in the possession of any other person shall be guilty of an offence under this Ordinance and shall on conviction after summary trial before a Magistrate be liable to a fine not less than twenty five thousand rupees and not exceeding two hundred and fifty thousand rupees or to imprisonment of either description for a term not less than two years and not more than five years or to both such fine and imprisonment.

Penalty for destruction & c. of antiquity.  
[ 4,24 of 1998]  
[ 5, 12 of 2005]

**15B.** Any person who wilfully destroys, injures, defaces or tampers with any antiquity or wilfully damages any part of it, shall be guilty of an offence under this Ordinance and shall on conviction after summary trial before a Magistrate be liable to a fine not less than twenty five thousand rupees and not exceeding two hundred and fifty thousand rupees or to imprisonment of either description for a term not less than two years and not more than five years or to both such fine and imprisonment.

Offences under  
[ 4, 24 of 1998 ]

**15C.** Notwithstanding anything to the contrary in the Code of Criminal Procedure Act, No. 15 of 1979. or any other written law, no person charged with, or accused of an offence under this ordinance shall be released on bail.

Evidence.  
[ 4, 24 of 1998]

**15D.** In a prosecution for an offence under this Ordinance, a certificate to be signed by the Director-General and to the effect that the object described therein is an antiquity, shall be admissible in evidence without further proof, and shall be prima facie evidence of the facts stated therein.

### PART III ANCIENT MONUMENTS

Declaration of a monument in existence not less than hundred years as an ancient monument.  
[ 5, 24 of 1998]

**16.**

(1) The Minister may by Order in writing declare that any specified monument which has existed or is believed to have existed for a period of not less than hundred years, shall, notwithstanding that such monument does not or is not believed to date to a period prior to the 2nd day of March, 1815, be deemed to be an ancient monument for the purposes of this Ordinance.

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

Declaration of specified trees as ancient monuments.

**17.**

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

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

Notification of protected monuments.

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

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

**19.**

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

(2) Every notice under subsection (1) shall specify a date on or before which objections to the proposed Order will be received by the Director-General of Archaeology

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

(4) The Director-General of Archaeology shall transmit all objections received by him together with his report thereon to the Minister.

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

Agreements in regard to protected monuments. **20.**

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

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

No restoration, & c, of protected monument, except upon permit. **21.**

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

(2) Every permit under subsection (1) shall be issued in the prescribed form subject to the prescribed conditions and may contain such additional conditions as the Director-General of Archaeology may deem fit to insert therein regarding-

(a) the supervision of the proposed work by the Director-General of Archaeology or by any person approved by him for the purpose ; and

(b) the payment of remuneration to any such person, not being a public officer , or the payment of the prescribed fee in respect of any service rendered by such person, being a public officer.

Refusal or revocation of permit under section 21. **22.**

(1) The Director-General of Archaeology may in his discretion-

(a) refuse to issue a permit under section 21 in any case in which he is of opinion that the applicant for such permit is unable to carry out and complete satisfactorily the work to authorize which such permit is applied for, or that such work is unnecessary ;

(b) after notice in writing to the holder of any such permit revoke such permit, if he is of opinion that the work is not being carried out satisfactorily or in accordance with the conditions and restrictions subject to which such permit was issued.

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

Power of Commissioner-General of Archaeology to restore, repair, & c, protected monuments. **23.**

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

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

Prohibition or restriction of building, mining, & c., in vicinity of certain monuments. **24.**

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

(2) Every regulation made under subsection (1) shall have effect notwithstanding anything in any other written law ; but nothing in any such

regulation shall permit or be deemed to permit the erection of any building or the carrying on of any operations mentioned in subsection (1) in contravention of any provision of such other law.

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

**25.**

[ 2, 2 of 1955]

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

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

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

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

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

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

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

Establishment of compensation board.

**26.**

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

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

Decision of the board after inquiry.

**27.**

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

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

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

Powers of the board.

**28.**

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

- (a) the enforcing of the attendance of any person and his examination on oath ;
- (b) the enforcing of the production of documents ; and
- (c) the issuing of commissions for the examination on interrogatories or otherwise of any person, and the provisions of the Civil Procedure Code shall, for the purpose of the exercise of such powers, apply to proceedings by or before the board as if such board were a court and such proceedings were an action instituted in a court under that Code.

(2) The claimant and the Director-General of Archeology shall be entitled to

appear before the board either in person or by pleader and place before it such evidence whether oral or documentary as may help the board to determine the amount of compensation, if any, to be awarded.

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

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

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

Appeal to District Court from decision of the board and procedure thereon. **29.**

(1) The claimant or the Director-General of Archaeology may in the manner hereinafter provided appeal from any decision of the board to the District Court of the district in which the land in respect of which compensation has been claimed is situate (hereinafter referred to as "the court").

(2) Every appeal under subsection (1) shall be by written petition signed by the appellant or his attorney-at-law and shall be lodged with the Registrar of the court not later than thirty days from the date of the decision of the board.

(3) The petition of appeal shall state-

- (a) the full name and address of the respondent,
- (b) the grounds of appeal, and
- (c) the relief prayed for.

(4) The appellant or his attorney-at-law shall together with the petition of appeal deliver a typed or printed copy of the petition of appeal certified under the hand of the appellant or his attorney-at-law.

(5) On the lodgement of the petition of appeal together with a certified copy thereof, the court shall inform the public officer entrusted with the duty of keeping the records of the board that an appeal has been lodged and require him to forward to the court within a specified time the record of the proceedings in respect of which the appeal has been lodged with the written decision of the board.

(6) Upon the receipt of the record of the proceedings and the written decision of the board the court shall cause to be served on the respondent the certified copy of the petition of appeal together with a notice stating the date and time fixed for the hearing of the appeal.

Hearing of appeal by the court and its powers. **30.**

(1) The court shall have full power to hear and determine an appeal under section 29, and the provisions of sections 769, 770, 771, 772 and 774 of the Civil Procedure Code shall mutatis mutandis apply to the hearing by the court of appeals from the board :

Provided that in every case the judgment of the court shall be signed and dated by the District Judge.

(2) At the hearing of the appeal the parties shall not be entitled to rely on any evidence that has not been placed before the board: Provided that the court may call for any evidence which in the judgment of the court is necessary for the decision of the appeal.

(3) The court may confirm the decision of the board or reduce or increase the amount of compensation awarded by the board and make such other order as to costs or otherwise as the court shall deem just.

(4) The decision of the court shall be final and no appeal from or application for revision of any decision of the court shall lie to the Court of Appeal

(5) No stamp duties shall be required in any proceedings in the court under sections 29 and 30.

(6) The court may upon prepayment of the charges payable under section 205 of the Civil Procedure Code authorize the Registrar to furnish to any party to an appeal a certified copy of the record of the proceedings of the board in respect of which the appeal has been lodged, at any time after the record has been received in the court and before its decision is pronounced.

(7) The court shall after the decision of an appeal return the record of the

proceedings of the board to the public officer entrusted with the duty of keeping the records of the board.

Penalty for destruction, desecration, & c. of ancient monuments.

**31.** Any person who-

- (a) wilfully destroys, injures, defaces or tampers with any protected monument or any ancient monument on State land; or
- (b) does in, upon, to, near or in respect of any ancient monument which is held sacred or in veneration by any class of persons, any act which wounds or offends or is likely to wound or offend the religious susceptibilities of the class of persons by whom such ancient monument is held sacred or in veneration,

[ 6, 24 of 1998]  
[ 5, 12 of 2005]

shall be guilty of an offence and shall, notwithstanding anything to the contrary in any other written law, be liable on conviction after summary trial before a Magistrate to a fine not less than fifty thousand rupees and not exceeding two hundred and fifty thousand rupees or to imprisonment of either description for a term not less than two years and not exceeding five years or to both such fine and imprisonment.

Further offences.

**32.** Every person who commits a breach of -

- (a) any provision of section 21, or
- (b) any regulation under section 24, shall be guilty of an offence and shall, notwithstanding anything to the contrary in any other written law, be liable on conviction after summary trial before a Magistrate to a fine not less than fifty thousand rupees and not exceeding two hundred fifty thousand rupees or to imprisonment of either description for a term not less than two years and not exceeding five years or to both such fine and imprisonment.

[ 7,24 of 1998]  
[ 5, 12 of 2005]

PART IV

ARCHAEOLOGICAL RESERVES

Archaeological reserves.

**33.**

- (1) The Director-General of Archaeology may-
  - (a) with the approval of the Land Commissioner, or
  - (b) if approval is refused by the Land Commissioner, with the approval of the Minister to whom the subject of State lands is for the time being assigned, declare, by notification published in the Gazette, any specified area of that land to be an archaeological reserve for the purposes of this Ordinance.
- (2) Any area of State land reserved for archaeological purposes before the date on which this Ordinance comes into operation, whether by notification in the Gazette or otherwise, shall be deemed to be an archaeological reserve declared under the provisions of this section.

[ 3,2 of 1955]

Encroachments, & c., on archaeological reserves.

**34.** Every person (other than the Director-General of Archaeology, or a person acting under and in accordance with his directions) who-

- (a) clears or breaks up for cultivation or cultivates any part of an archaeological reserve, or
- (b) erects any building or structure upon any such reserve, or
- (c) fells or otherwise destroys any tree standing on any such reserve, or
- (d) otherwise encroaches on any such reserve, shall be guilty of an offence and shall, on conviction after summary trial before a Magistrate, be liable to a fine not less than one thousand rupees and not exceeding five thousand rupees or to imprisonment of either description for a term not exceeding three months or to both such fine and imprisonment, and the Magistrate may, in addition to passing any such sentence, make order that such person shall be forthwith ejected from such reserve:

[ 5, 12 of 2005]

Provided that no person shall be convicted under this section unless the land in respect of which the offence is committed has been declared to be the property of the State under the Land Settlement Ordinance or under any enactment repealed by that Ordinance, or has been acquired by the State under the Land Acquisition Act or the Land Acquisition Ordinance\* or has been resumed by the State under the Lands Resumption Ordinance or has been in the possession of the State immediately before the date on which the offence is committed. (\* Repealed by Act No. 9 of 1950.)

Eject merit of person convicted under section 34.

**35.**

- (1) Where no appeal has been preferred against the conviction of any person of an offence under section 34, or, where an appeal has been preferred, after the final judgment or order of the Court of Appeal affirming the conviction, the Magistrate may on the application of the Director-General of Archaeology make order directing the Fiscal or a peace officer to eject the



person convicted from the archaeological reserve and to deliver possession thereof to the Director-General of Archaeology or his representative.

(2) The Fiscal or peace officer shall comply with the directions of the Magistrate under subsection (1) and shall make due return to the Magistrate's Court of the manner in which he executed the order.

(3) In complying with the directions issued under subsection (1) the Fiscal or peace officer or any officer authorized by either of them may use such force as may be necessary to enter the archaeological reserve, to eject the person convicted and to deliver possession of the archaeological reserve to the Director-General of Archaeology or his representative.

## PART V EXPORT OF ANTIQUITIES

Prohibition of export of antiquities except upon licence. **36.**

(1) No person shall, except upon a licence in the prescribed form issued by the Director-General of Archaeology, export any antiquity from Sri Lanka.

(2) For the purposes of the application of the provisions of the Customs Ordinance, antiquities shall be deemed to be articles the exportation of which is restricted by enactment or legal order.

Applications for licence to export antiquities. **37.**

(1) Every application for a licence under section 36 shall be made to the Director-General of Archaeology in the prescribed form, shall set out a list of the antiquities sought to be exported, and shall contain such other particulars as may be prescribed.

(2) If the Director-General of Archaeology is of opinion that any antiquity sought to be exported should be acquired for the Colombo or other museum in Sri Lanka or that for any other reason it is not desirable that such antiquity should be exported, he may refuse to issue a licence under section 36 in respect of that antiquity.

Appeal against refusal of licence. **38.**

(1) Any person aggrieved by the refusal of the Director-General of Archaeology under section 37 to issue any licence may appeal against such refusal to the Minister.

(2) The decision of the Minister on any appeal preferred under subsection (1) shall be final and conclusive.

Acquisition by museum of antiquity sought to be exported. **39.**

(1) Where a licence to export any antiquity has been refused on the ground that such antiquity should be acquired for the Colombo or other museum in Sri Lanka, and there is a dispute between the authority empowered to purchase objects for the use of such museum and the owner of the antiquity as to the price to be paid therefor, such price shall be determined in the manner provided in section 45, and such determination shall be final and conclusive. On payment of the price so determined the antiquity shall become the absolute property of the museum.

(2) Where the price determined under subsection (1) is not paid to the owner of the antiquity within two months from the date on which the price was so determined, the museum shall be deemed to have lost all right to the acquisition of the antiquity at such price, and the Director-General of Archaeology shall issue a licence to export the antiquity subject to any other conditions which may be applicable to the issue of such licence being complied with.

## PART VA ADVISORY COMMITTEE

Establishment of Advisory Committee. **39A.**

(1) The Minister may, by Order published in the Gazette, establish an Archaeological Advisory Committee (hereinafter referred to as "the Advisory Committee").

(2) It shall be the function of such Advisory Committee to advise the Director-General of Archaeology -

(a) on any or all of the matters the Minister considers necessary for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance; and

(b) where advice is sought, by him on matters connected to the

performance of his duties under this Ordinance.

(3) The Minister may appoint to such Advisory Committee such number of members and on such terms and conditions as he may determine.

(4) The Advisory Committee shall have the power to fix and regulate its own procedure including the power to determine the number of members necessary to form a quorum for its meetings. Every member of the Advisory Committee shall hold office for two years unless he earlier resigns, dies or is removed from office.

(5) A member of the Advisory Committee may resign from office by letter addressed to the Minister.

(6) A member vacating his office by resignation or by expiration of his term of office shall be eligible for re- appointment.

(7) Where a member of the Advisory Committee becomes by reason of illness or other infirmity or absence from Sri Lanka temporarily unable to perform the duties of his office, the Minister may appoint another person to act in his place.

(8) The Minister may, if he consider it expedient so to do, remove from office, by Order published in the Gazette, any member of the Advisory Committee.

## PART VI

### [§ 9,24 of 1998] POWERS AND DUTIES OF DIRECTOR-GENERAL OF ARCHAEOLOGY

Powers of  
Director-General  
of Archaeology.  
[ 10, 24 of 1998 ]

**40.** The Director-General of Archaeology is hereby empowered -

(a) to formulate a national archaeological policy and to co-ordinate and implement such policy after it is approved by the Government;

(b) to inventorise the archaeological heritage of Sri Lanka;

(c) to protect and maintain such archaeological heritage;

(d) to conduct research into every aspect of the archaeological heritage of Sri Lanka and specially, into the prehistoric, protohistoric, early historic, middle historic and late historic periods and into general or specific theory, method and practice;

(e) to enhance public awareness of the archaeological heritage of Sri Lanka through appropriate displays of antiquities, publications and by other means;

(f) to levy an entrance fee where it is considered necessary at selected sites or visitor centers;

(g) to conduct archaeological impact assessment of areas that may be affected by development, industrial or other projects proposed by the Government or any person and implement any mitigatory measures that may be required.

Duties of Director-  
General of  
Archaeology.

**41.** The Director-General of Archaeology shall perform and discharge all such duties and functions as are assigned to him by this Ordinance or any regulation.

Power of  
inspection, & c, of  
antiquities.

**42.** The Director-General of Archaeology or any officer authorized by him in writing for the purpose may at all reasonable times inspect any antiquity in the possession of any person; and it shall be the duty of every such person to permit such inspection and further to give to the Director-General of Archaeology or such officer all reasonable facilities to study such antiquity and to make drawings, photographs or reproductions thereof by the making of casts or by any other means: Provided that no such drawings, photographs or reproductions shall be sold without the consent of the person in possession of the antiquity.

Authorisation of  
Government  
Agents and other  
officers to exercise  
powers of  
Director-General  
of Archaeology.  
[ 11, 24 of 1998 ]

**43.**

(1) The Director-General of Archaeology may, generally or specially authorize the exercise, performance or discharge of any of his powers, duties or functions under this Ordinance -

(a) by the Government Agent or the District Secretary of a District or Divisional Secretary of any division within that district, or division respectively;

(b) by any officer of the Archaeological Department; or

(c) by any person possessed of special expertise and resources in or for, the exploration, excavation, conservation, restoration or maintenance of monuments and antiquities, in such areas and on such terms and conditions as may be specified in such authorization :

Provided that the Director-General of Archaeology may at any time revoke or withdraw such authorization if in his view the purpose and objectives thereof are not being satisfactorily served.

(2) The authorization shall be in writing specifying, among other things, the objectives of the authorization, the system of supervision by the Director-General of Archaeology or his nominees, the recording of procedures employed, the reporting of progress, and the writing of reports.

Impact assessment of proposed development projects.  
[ 12, 24 of 1998]

### **43A.**

(1) Whenever any development or industrial scheme or project is proposed by the Government or other institution or person entailing the use, encroachment or submergence of any land falling within the inventory prepared under section 40(b), or any land as may be prescribed, such scheme or project shall not be approved or permitted until after a report; is submitted by the Director-General of Archaeology, as to the effects the implementation of such scheme, or project may have upon such land or any antiquities within it.

(2) The Director-General of Archaeology shall cause an impact assessment survey to be undertaken at the expense of the sponsors of such project or scheme to assess the consequences thereof upon the antiquarian, historical or archaeological aspects or value of the land in question or on any antiquities upon it and shall, within such period of time as may be agreed on (in any event not later than six weeks from deposit of the cost of such survey with the Director-General of Archaeology), submit to the Minister, his written report recommending, objecting to, or recommending subject to such conditions or alterations as may be specified in the report, the proposed project, or scheme, together with an estimate of any such additional costs as may be necessary for the taking of any measures to protect, preserve, excavate, document and publish, and if necessary relocate, any antiquities upon such land at the expense of the project's sponsors.

(3) The sponsors of every such scheme or project as is referred to in this section shall provide for and set apart, a sum not exceeding one per cent of its total cost for the purposes and objectives referred to in this section.

(4) The provisions of this section shall have effect notwithstanding anything to the contrary in any other law.

Conditions to be complied with.  
[ 12, 24 of 1998]

### **43B.**

(1) Where approval or permission has been granted for any scheme or project subject to any condition or alteration, it shall be the duty of the sponsors to comply with it. Failure to comply with any condition or alteration shall be an offence under this Ordinance and the Director-General of Archaeology may cause such scheme or project to be stopped forthwith.

(2) Where a scheme or project has been so stopped, work on such scheme or project shall not be commenced until the condition or alteration subject to which the approval or permission was granted is adequately complied with by the sponsors and a written permission in that behalf is obtained from the Director-General of Archaeology.

## PART VII MISCELLANEOUS

Penalty for breach of Ordinance or regulation, where no other penalty provided.  
[ 13, 24 of 1998]  
[ 5, 12 of 2005]

**44.** Every person who commits a breach of any provision of this Ordinance or of any regulation shall be guilty of an offence and shall, where no penalty is specially provided by this Ordinance for such offence be liable on conviction to a fine not less than fifty thousand rupees and not exceeding two hundred and fifty thousand rupees or to imprisonment of either description for a term not exceeding five years or to both such fine and imprisonment.

Determination of disputes under sections 5 and 39.

**45.** Every dispute under section 5 or section 39 shall be referred to arbitrators, one to be chosen by each of the interested parties; and the arbitrators shall, before proceeding to decide the matter of the dispute, select an umpire whose decision, in the event of a disagreement between the arbitrators, shall be final:

Provided that where -

- (a) the interested parties do not appoint an arbitrator, or
- (b) the arbitrators do not select an umpire,

the Minister may after such time as he may deem reasonable appoint an arbitrator or an umpire as the case may be.

Reward Fund.  
[ 14, 24 of 1998]

### **46.**

(1) There shall be established under the control and administration of the Director-General of Archaeology a fund known as the "Antiquities Reward Fund" ( hereinafter referred to as the "Fund") for the purpose of rewarding

informants and enforcement officers contributing, to the recovery of illegally appropriated antiquities or to the protection of sites, and antiquities,

(2) There shall be credited to the Fund. -

(a) one-half of all fines recovered by any court in respect of convictions for offences under this Ordinance;

(b) donations to the Fund from individuals, societies or institutions;

(c) any other prescribed payment.

(3) The Auditor-General shall annually audit the Fund.

Regulations.

## 47.

(1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters.

(a) the manner in which security shall be furnished by any person to whom a licence under section 6 is issued, and the procedure for enforcing such security;

(b) the conditions and restrictions (including the payment of a fee) subject to which any licence or permit under this Ordinance may be issued;

(c) the disposal of antiquities delivered to the Director-General of Archaeology under section 15 ;

(d) the matters which shall be considered in assessing the compensation to be paid to claimants under section 25, and any matters which shall not be taken into consideration, in assessing such compensation;

(e) the procedure to be followed before the board in inquiries held under section 27 ;

(f) the time within which, appeals under section 12 or section 22 or section 38 shall be preferred, and generally all matters incidental to or connected with the hearing and disposal of such appeals;

(g) the conditions and restrictions (including the payment of fees) subject to which members of the public may have access to any ancient monument on State land or any protected monument;

(h) any matters for which regulations may be made under section 24;

[ 6,2 of 1955] (i) the supervision or control of dealers in antiquities, and the issue of licences for the purposes of such supervision or control;

[ 15, 24 of 1998] (j) the manner in which the payment of rewards from the Fund shall be determined;

[ 15, 24 of 1998,] (k) the administration of the Fund; and

(l) all matters stated or required by this Ordinance to be prescribed.

(3) Every regulation made by the Minister shall be brought before Parliament by a motion that such regulation shall be approved. No regulation made by the Minister shall have effect until it has been approved by Parliament. Notification of such approval shall be published in the Gazette.

(4) A regulation made by the Minister when approved by Parliament shall, upon the notification of such approval in the Gazette, be as valid and effectual as if it were therein enacted.

## PART VIII

### INTERPRETATION

Interpretation.

**48.** In this Ordinance, unless the context otherwise requires-

" ancient monument" means any monument lying or being or being found in Sri Lanka which dates or may reasonably be believed to date from a period prior to the 2nd day of March, 1815, and includes-

(a) any other monument which has been declared to be an ancient monument by an Order published in the Gazette under section 16, and

(b) any tree in respect of which an Order under section 17 has been published in the Gazette ;

" antiquity " means-

(a) any ancient monument, or

(b) any of the following objects lying or being or being found in Sri Lanka, which date or may reasonably be believed to date from a period prior to the 2nd day of March, 1815:- statues, sculptured or dressed stone and marbles of all descriptions, engravings, carvings, inscriptions, paintings, writings, and the material whereon the same appear, all specimens of ceramic, glyptic, metallurgical and textile art, coins, gems, seals, jewels, jeweler, arms, tools, ornaments, and all other objects of art which are movable property;

[16, 24 of 1998]

"archaeological heritage" means that part of the material heritage of mankind in respect of which archaeological methods provide primary information and includes all vestiges of human existence and places relating to all manifestations of human activity, abandoned structures and remains of all kinds (including subterranean and underwater sites), together with all the portable cultural material associated with them.

"Director-General of Archaeology" means the person appointed to be or to act as Director-General of Archaeology and includes any person authorized by the Director-General of Archaeology under section 43 in respect of any power, duty or function of the Director-General of Archaeology under this Ordinance;

" State land" means any land which under any law is deemed or presumed to be the property of the State or to which the State is law-fully entitled together with all rights, interests and privileges attached or appertaining thereto ; and includes any land belonging to the State vested in any local authority ;

[ 16, 24 of 1998]

"monument" means any building, or other structure or erection, or any tomb, tumulus or other place of interment, or any other immovable property of a like nature or any part or remains of the same or any other site where the material remains of historic or prehistoric human settlement or activity may be found; and includes the site of any monument and such portion of land adjoining such site as may be required for fencing or covering in or otherwise preserving any monument;

" owner ", with reference to any property, movable or immovable, means the person whose title to that property is recognized by any written or other law in force in Sri Lanka;

"peace officer" means a police officer and includes any grama niladhari appointed by a Government Agent to perform police duties;

" prescribed" means prescribed by regulation;

" regulation" means a regulation made by the Minister under this Ordinance;

[ 16,24 of 1998]

" territorial sea" means the area declared to be the territorial waters of Sri Lanka by Proclamation made under the Maritime Zones Law, No. 22 of 1976.

The Lost Regulation not to apply to antiquities.

**49.** Nothing contained in the Lost Property Regulation shall in any manner apply to any antiquity. (\* Vide sections 18 and 19 of Act No. 24 of 1998 which provides for a general amendment to other written laws and also savings in case of contracts and agreements)

Sinhala text to prevail in case of inconsistency

In the event of any inconsistency between the Sinhala and Tamil texts of this act, the Sinhala text shall prevail.