

SCHEDULE I

(See Section 3)

THE ANCIENT MONUMENTS PRESERVATION ACT, 1904

[Act No. VII of 1904]

(18TH March, 1904)

(As MODIFIED UP TO THE 25TH OCTOBER, 1951)

AN

ACT

to provide for the preservation of Ancient Monuments and Objects of Archaeological, Historical or Artistic Interest

WHEREAS it is expedient to provide for the preservation of ancient monuments, for the exercise of control over traffic in antiquities and over excavation in certain places, and for the protection and acquisition in certain cases of ancient monuments and of objects of archaeological, historical or artistic interest ;

It is hereby enacted as follows :

Short title and extent

1. (1) This Act may be called the Ancient Monuments Preservation Act, 1904.

(2) It extends to the whole of India (except the States of Jammu and Kashmir)

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “ancient monument” means any structure, erection or monuments or any tumulus or place of interment, or any cave, rock-sculpture,, inscription or monolith, which is of historical, archaeological or artistic interest, or any remains thereof, and includes—

(a) the site of an ancient monument ;

(b) such portion of land adjoining the site of an ancient monument as may be required for fencing or covering in or otherwise preserving such monument ; and

(c) the means of access to and convenient inspection of an ancient monument ;

(2) “antiquities” include any movable objects which the Central Government, by reason of their historical or archaeological associations may think it necessary to protect against injury, removal or dispersion ;

(3) “Commissioner” includes any officer authorized by the Central Government to perform the duties of a Commissioner under this Act ;

(4) “maintain” and “maintenance” include the fencing, covering in, repairing, restoring and cleansing of a protected monument, and the doing of any act which may be necessary for the purpose of maintaining a protected monument or of securing convenient access thereto ;

(5) “land” includes a revenue-free estate, a revenue-paying estate, and a permanent transferable tenure, whether such an estate or tenure be subject to incumbrances or not ; and

(c) the restriction of the owner's right to destroy, remove, alter or deface the monument or to build on or near the site of the monument;

(d) the facilities of access to be permitted to the public or to any portion of the public and to persons deputed by the owner or the Collector to inspect or maintain the monument;

(e) the notice to be given to the Central Government in case the land on which the monument is situated is offered for sale by the owner, and the right to be reserved to the Central Government to purchase such land, or any specified portion of such land, at its market-value ;

(f) the payment of any expenses incurred by the owner or by the Central Government in connection with the preservation of the monument;

(g) the proprietary or other rights which are to vest in his Majesty in respect of the monument when any expenses are incurred by the Central Government in connection with the preservation of the monument ;

(h) the appointment of an authority to decide any dispute arising out of the agreement ; and

(i) any matter connected with the preservation of the monument which is a proper subject of agreement between the owner and the Central Government.

(3) * * * * *

(4) The terms of an agreement under this section may be altered from time to time with the sanction of the Central Government and with the consent of the owner.

(5) With the previous sanction of the Central Government, the Collector may terminate an agreement under this section on giving six months' notice in writing to the owner.

(6) The owner may terminate an agreement under this section on giving six months' notice to the Collector.

(7) An agreement under this section shall be binding on any person claiming to be owner of the monument to which it relates, through or under & party by whom or on whose behalf the agreement was executed.

(8) Any rights acquired by the Central Government in respect of expenses incurred in protecting or preserving a monument shall not be affected by the termination of an agreement under this section.

**Owners
under
disability or
not in
possession**

6. (1) If the owner is unable, by reason of infancy or other disability, to act for himself, the person legally competent to act on his behalf may exercise the powers conferred upon an owner by section 5.

(2) In the case of village-property, the headman or other village officer exercising powers of management over such property may exercise the powers conferred upon an owner by section 5.

Compulsory purchase of ancient monument

10. (1) If the Central Government apprehends that a protected monument is in danger of being destroyed, injured or allowed to fall into decay, the Central Government may direct the State Government to acquire it under the provisions of the Land Acquisition Act, 1894 (I of 1894), as if the preservation of a protected monument were a “public purpose” within the meaning of that Act.

(2) The powers of compulsory purchase conferred by sub-section (1) shall not be exercised in the case of—

(a) any monument which or any part of which is periodically used for religious observances; or

(b) any monument which is the subject of a subsisting agreement executed under section 5.

(3) In any case other than the cases referred to in sub-section (2) the said powers of compulsory purchase shall not be exercised unless the owner or other person competent to enter into an agreement under section 5 has failed, within such reasonable period as the Collector may fix in this behalf, to enter into an agreement proposed to him under the said section or has terminated or given notice of his intention to terminate such an agreement.

Power of Central government to control mining, etc. near ancient monument

10-A. (1) If the Central Government is of opinion that mining, quarrying, excavating, blasting and other operations of a like nature should be retracted or regulated for the purpose of protecting or preserving any ancient monument, the Central Government may, by notification in the official *Gazette* make rules—

(a) fixing the boundaries of the area to which the rules are to apply ;

(b) for bidding the carrying on of mining, quarrying, excavating blasting or any operation of a like nature except in accordance with the rules and with the terms of a license; and

(c) prescribing the authority by which and the terms on which, licenses may be granted to carry on any of the said operations.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(3) A rule made under this section may provide that any person committing a breach thereof shall be punishable with fine which may extend to two hundred rupees.

(4) If any owner or occupier of land included in a notification under sub-section (1) proves to the satisfaction of the Central Government that he has sustained loss by reason of such land being so included the Central Government shall pay compensation in respect of such loss.

Maintenance of certain protected monuments

11. (1) The Commissioner shall maintain every monument in respect of which the Government has acquired any of the rights mentioned in section 4 or which the Government has acquired under section 10.

(2) When the Commissioner has accepted the guardianship of a monument under section 4, he shall, for the purpose of maintaining such monument, have access to the monument at all reasonable times, by himself and by his agent, subordinates and workmen, for the purpose of inspecting the monument, and for the purpose of bringing such materials and doing such acts as he may consider necessary or desirable for the maintenance thereof.

**Power to
Central
Government
to control
traffic in
antiquities**

17. (1) If the Central Government apprehends that antiquities are being sold or removed to the detriment of India or of any neighboring country, it may, by notification in the official Gazette, prohibit or restrict the bringing or taking by sea or by land of any antiquities or class of antiquities described in the notification into or out of the territories to which this Act extends or any specified part of the said territories.

(2) Any person who brings or takes or attempts to bring or take any such antiquities into or out of (the said territories) or any part of the said territories in contravention of a notification issued under sub-section (1), shall be punishable with fine which may extend to five hundred rupees.

(3) Antiquities in respect of which an offence referred to in sub-section (2) has been committed shall be liable to confiscation.

(4) An officer of Customs, or an officer of Police of a grade not lower than Sub-Inspector, duly empowered by the Central Government in his behalf, may search any vessel, cart or other means of conveyance, and may open any baggage or package of goods, if he has reason to believe that goods in respect of which an offence has been committed under sub-section (2) are contained therein.

(5) A person who complains that the power of search, mentioned in sub-section (4) has been vexatiously or improperly exercised may address his complaint to the Central Government and the Central Government shall pass such order and may award such compensation, if any, as appears to it to be just.

**Power to
Central
Government
to control
moving of
sculptures,
carvings or
like objects**

18. (1) If the Central Government considers that any sculptures, carvings, images, bas-reliefs, inscriptions or other like objects ought not to be moved from the place where they are without the sanction of the Central Government, the Central Government may, by notification in the official Gazette, direct that any such objects or any class of such objects shall not be moved unless with the written permission of the collector.

(2) A persons applying for the permission mentioned in sub-section (1) shall specify the object or objects which he proposes to move, and shall furnish, in regard to such object or objects, any information which the Collector may require.

(3) If the Collector refuses to grant such permission, the applicant may appeal to the Commissioner, whose decision shall be final.

(4) Any person who moves any object in contravention of a notification issued under sub-section (1), shall be punishable with fine which may extend to five hundred rupees.

(5) If the owner of any property proves to the satisfaction of the Central Government that he has suffered any loss or damage by reason of the inclusion of such property in a notification published under sub-section (1), the Central Government shall either—

(a) exempt such property from the said notification ;

(b) purchase such property, if it be movable, at its market value ; or

(c) pay compensation for any loss or damage sustained by the owner of such property, if it be immovable.

(4) Such rules may provide that any person committing a breach of any rule or of any condition of a license shall be punishable with fine which may extend to five thousand rupees, and may further provide that where the breach has been by the agent or servant of a licensee the licensee himself shall be punishable.

Power to acquire a protected area

20-C. If the Central Government is of opinion that a protected area contains an ancient monument or antiquities of national interest and value, it may direct the state Government to acquire such area, or any part thereof, and the State Government may thereupon acquire such area or part under the Land Acquisition Act, 1894 (I of 1894) as for a public purpose.

Assessment of market-value or compensation

21. (1) The market-value of any property which Government is empowered to purchase at such value under this act, or the compensation to be paid by government in respect of anything done under this Act, shall, where any dispute arises in respect of such market-value or compensation, be ascertained in the manner provided by the Land Acquisition Act, 1894, sections 3, 8 to 34, 45 to 47, 51 and 52, so far as they can be made applicable :

Provided that when making an inquiry under the said Land Acquisition Act, 1894, the Collector shall be assisted by two assessors, one of whom shall be a competent person nominated by the collector, and one a person nominated by the owner, or in case the owner fails to nominate an assessor within such reasonable time as may be fixed by the Collector in this behalf, by the Collector.

Jurisdiction.

22. A magistrate of the third class shall not have jurisdiction to try any person charged with an offence against this Act.

Power to make rules

23. (1) The Central Government may make rules for carrying out any of the purposes of this Act.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

Protection to public servants acting under Act

24. No suit for compensation and no criminal proceeding shall lie against any public servant in respect of any act done, or in good faith intended to be done, in the exercise of any power conferred by this Act.