

CHAPTER 54

ANTIQUITIES (PROTECTION) ACT

To amend and consolidate the laws relating to the protection of antiquities.

(27th July, 1925)*

Enacted by ACT X1 of 1925, as amended by Acts:V1 of 1947, XX1V of 1955; Emergency Ordinance V1 of 1958; Ordinance XXV of 1962; Legal Notice 148 of 1975; and Acts:X1 of 1977 and X111 of 1983.

1. This Act may be cited as the Antiquities (Protection) Act.
2. In this Act, "Minister" means the Minister responsible for culture and includes, to the extent of the authority given, any person authorised by the Minister in that behalf for any purpose of this Act.
3. (1) The provisions of this Act shall apply to monuments and other objects whether movable or immovable having a geological, palaeontological, archeological, antiquarian or artistic importance.

(2) For the purposes of this section, an object shall not be deemed to have acquired such importance before it has existed in Malta, inclusive of the territorial waters, for fifty years, unless it relates to local art or history.
4. (1) In case of sale of any of the objects referred to in the last preceding section, the Government shall have the right of acquiring the same, in preference to all others, on equal conditions.

(2) Such right of preference shall be exercised within two months from the date on which notice of the proposed sale is given to the Minister by the vendor or the purchaser; or, if no such notice is given, from the date on which it shall come to the knowledge of the Minister that a sale is proposed or has been effected.
5. (1) It shall not be lawful for any person to export any object of a movable character referred to in section 3, without the permission of the Minister who shall consult the Antiquities Committee referred to in section 17.

(2) The exportation of any such object shall be subject to an export duty, as set forth in the Schedule hereto. according to the value of the object, which shall be fixed by one or more experts to be appointed by agreement between the Minister and the exporter, or, in default of agreement, by the Court of Appeal on demand of the exporter, to be made by an application.

(3) The payment of such export duty may, with the consent of the Minister, take place by the transfer to the Museum of one or more objects to be agreed upon by the exporter and the Minister on the advice of the said committee.

(4) The provisions of section 1355 of the Civil Code shall apply to the valuation referred to in this section.

(5) It shall be competent to the Government to acquire any object proposed to be exported, at such price as may be fixed in the manner laid down in this section.

(6) All expenses in connection with the valuation shall, in all cases, be at the charge of the Government.

- (7) The acquisition shall be effected within two months from the date of the valuation.
6. (1) No person shall, except with the permission in writing of the Minister and subject to such conditions as the Minister may impose, demolish or make any alteration to any building or site which is of importance within the meaning of section 3, or demolish or make any alteration to the remains of a monument existing in any tenement, whether privately owned or otherwise.
- (2) For the purposes of this section the Minister shall, with the advice and consent of the Antiquities Committee, publish, within six months of the commencement of this Act, a list of the buildings, sites or remains referred to in subsection (1) of this section and shall also make rules providing that any similar buildings, sites or remains which may eventually be discovered shall fall under the provisions of the said subsection.
- (3) Such list and rules shall be published in the Government Gazette.
- (4) The Minister may, from time to time, make additions or amendments to such list or rules and any such addition or amendment shall be published by notice in the Government Gazette.
- (5) The omission from any such list of any building, site or remains shall not be taken to imply that such omitted building, site or remains is or are not of importance within the meaning of section 3.
7. The provisions of this Act relating to the demolition, removal or alteration of any monument or remains thereof shall not apply to property owned by the Church:
- Provided that no work of demolition, removal or alteration of any such property may be commenced without the permission of an ecclesiastical board to be annually appointed by the local competent ecclesiastical authority, and to consist of not less than five experts approved by the Minister.
8. (1) In case of doubt as to whether the property proposed to be demolished, removed or altered belongs exclusively to the Church, the proposed demolition, removal or alteration shall, at the request of the Government, be referred to a special commission composed of three members of the Antiquities Committee and of three members of the said ecclesiastical board designated by the competent ecclesiastical authority. Such commission shall be under the chairmanship of the Minister.
- (2) The decision of such commission shall be taken by a majority of votes and shall be final. The chairman shall not vote and in case of equality of votes, the question shall be considered as not put.
9. As regards property not owned by the Church but devoted to religious purposes, the procedure laid down in the last preceding section shall be observed, at the request of the Minister or of the competent ecclesiastical authority.
10. It shall be lawful for the Government to carry out any works which may be required for the purpose of protecting from decay or injury any building, site or remains of any monument owned by private parties:

Provided that if it be proved that such parties have derived an economic benefit from any works so carried out, the Government shall be entitled to the refund of the expense incurred.

11. No excavations for the discovery of antiquities whether on land or on the seabed may be carried out except by the Government, or by Government authority and under its direction or superintendence.
12. (1) Any person who, even by chance, discovers any of the objects referred to in section 3, shall forthwith give notice thereof to the Minister.

(2) The finder shall be bound to provide for the preservation of the antiquities so discovered, and to keep the same intact and *in situ*, pending an inspection thereof by the Director of the Museum or any other officer deputed by him for that purpose, within the time of six working days.

(3) Where, for the purposes of such preservation, the finder incurs any expense which is considered necessary or useful by the Antiquities Committee, he shall have the right to a refund thereof, unless the Government declares, within the time of two months, that it intends to exercise the right of expropriation for a public purpose.
13. It shall be lawful for the Government, whenever any discovery as referred to in the last preceding section is made, to carry out any works which it may deem necessary or expedient for the maintenance and preservation of the objects so discovered, and to cause such objects to be studied and records thereof made.
14. (1) It shall be lawful for the Government to cause excavations to be carried out for the purposes of this Act in any part of Malta, whenever, by warrant under his hand, the Minister declares such excavations to be expedient.

(2) A true copy of such warrant shall be served on the owner of the tenement in which it is proposed to carry out the excavations, three days at least before the commencement of such excavations.

(3) The owner of any tenement in which excavations are carried out, shall be entitled to compensation for any loss of profit and for any damage sustained. In default of agreement as to the amount of such compensation, it shall be assessed in accordance with the provisions of sections 1354 and 1355 of the Civil Code.

(4) If any objects of a movable character referred to in section 3 are discovered, they shall be the property of the Government:

Provided that it shall be lawful for the Government to deliver over to the owner of the tenement, if he so requires, the objects discovered, or any of them instead of paying to him compensation as aforesaid.

(5) The provisions of this section shall not apply in any case in which the owner of the tenement shall elect to carry out the proposed excavations of his own expense within such time and under such conditions as may be fixed by the Minister.
15. In every case in which the Government exercises its right of expropriation for any public purpose, there shall not be taken into account, in assessing the price of the expropriated tenement, the value of the monument or other object of importance within the meaning of section 3 which may have been discovered in such tenement. Such price, however, shall be increased by one-tenth to one half according to the importance of the things discovered.

16. (1) In any of the cases referred to in sections 4 and 5, if any question is raised by the owner or exporter as to the character of any of the things referred to in those sections, the decision of such question shall be referred to one or more experts appointed by agreement between the Minister and the owner or exporter, or, in default of agreement, by the Court of Appeal, upon the demand of any of the parties to be made by an application.
- (2) The expenses in connection with such reference shall be borne by the unsuccessful party.
- (3) The Court of Magistrates of Judicial Police for the Islands of Gozo and Comino, in its superior jurisdiction constituted as a court of secondary instance, shall, subject to the provisions of the Code of Organization and Civil Procedure, be competent to take cognizance of controversies arising out of this Act, in all cases in which the Court of Appeal is competent to take cognizance of such controversies.
17. (1) For the purpose of carrying into effect the provisions of this Act, there shall be a committee to be styled the Antiquities Committee.
- (2) The committee shall be presided over by the Director of the Museum and shall consist of not less than six members in addition to the chairman.
- (3) The other members of the committee, one-half of whom shall be persons not in the Government service, shall be appointed annually by the Minister who may also appoint a secretary to the committee.
- (4) The Minister shall in all cases consult the committee on all matters relating to the protection and preservation of the monuments or other objects referred to in section 3, and, generally, on any matter concerning the operation of this Act, except in cases of urgency and so long as such urgency continues.
- (5) The committee may, on its own initiative, make such suggestions to the Minister with respect to the matters aforesaid as it may deem fit.
- (6) It shall be lawful for the committee, in urgent cases, to **despute** one or more of its members to examine, and report without undue delay to the committee, whether any object of a movable character referred to in section 3, may or may not be exported in accordance with section 5.
18. The Minister may make regulations for carrying into effect the provisions of this Act and in particular with respect to the organization and conduct of excavations with Government's permission and under its direction or supervision when these are carried out by persons not ordinarily resident in Malta.
19. (1) Any person who shall offend against the provisions of this Act, whether by doing anything which he ought not to do, or by omitting anything which he ought to do, or by preventing other persons from doing anything which they are hereby enjoined or permitted to do, or by undoing or frustrating anything which other persons may have done under the provisions of this Act, shall be liable, on conviction by the Court of Magistrates of Judicial Police for the Island of Malta or by the Court of Magistrates of Judicial Police for the Islands of Gozo and Comino, as the case may be, to a fine (multa) of not less than fifty liri and not more than five hundred liri, or to imprisonment for a term not exceeding three months, or to both such punishments according to the gravity of the circumstances of the particular case.

(2) Where the offense consists in the damage to or destruction of any object referred to in section 3, the court shall, on finding the accused guilty of the offense, order him to reinstate the object in question at his own expense as far as possible in the state and condition in which it was before its damage or destruction, as the case may be.

(3) In minor cases, the punishments established for contraventions may be applied.

(4) In the case of exportation, whether actual or attempted, of any of the objects referred to in section 5 without the permission referred to in that section, the minimum of the fine (multa) shall be fifty liri; and in the case of actual exportation, the offender shall moreover be liable to the payment of the duty chargeable thereon which shall be recoverable by warrant of the same court.

(5) Any such object shall, moreover, be forfeited or, if the forfeiture thereof cannot take place, the exporter shall be sentenced to pay, in addition to the fine (multa), a sum equal to the value of such object, and any other sum due in accordance with the foregoing provisions, which sums shall be recoverable by warrant of the same court.

20. (1) The powers vested in the officers of Customs under the Customs Ordinance for preventing the exportation of goods in contravention of that Ordinance may be lawfully exercised by the competent authority with a view to preventing the exportation, in contravention of section 5, of any object to which this Act applies.

(2) Any Police officer not inferior in rank to sub-inspector may stop, search and examine, either before or after embarkation, any person leaving Malta, as well as the baggage and effects belonging to such person, or any packet, parcel, case or bag which he intends carrying with him or otherwise exporting, and may also examine the effects, merchandise and any other thing which any person intends to export from Malta, when there are reasonable grounds to suspect that on or about such person or in such baggage, effects, packets, parcels, cases, bags or merchandise there are objects to which this Act applies and which it is intended to export, in contravention of section 5.

21. Nothing in this Act contained shall affect the provisions of the Criminal Code in so far as such provisions may apply to any act or thing to which this Act refers.