

GOVERNMENT OF BAHRAIN

THE BAHRAIN ANTIQUITIES ORDINANCE 1970

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NOTICE

No. 2/1970.

WE, ISA bin SULMAN ALKHALIFAH, Ruler of Bahrain and Its Dependencies, do this Ninth day of Dh/Hijja 1389, corresponding to the Fifteenth day of February 1970, enact the following Ordinance:

THE BAHRAIN ANTIQUITIES ORDINANCE — 1970

PART I — GENERAL

1. This Ordinance may be cited as “The Bahrain Antiquities Ordinance 1970” and shall come into force on the Twenty-third day of Dh/Hijja 1389, corresponding to the First day of March 1970.

2. In this Ordinance unless the context otherwise requires the following terms and words shall have the meanings assigned to them hereunder:

‘antiquity’ means —

- (a) any object whether movable or immovable which has been constructed, shaped, inscribed, erected, excavated or otherwise produced or modified by human agency earlier than the year 1780 A.D. together with any part thereof which has at a later date been added or reconstructed, and
- (b) human and animal remains of a date earlier than the year 600 A.D., and
- (c) any object whether movable or immovable of a date later than

1780 A.D. which the Rais in consultation with the Antiquities Section may declare to be antiquity.

'Antiquities Section' means the Section that deals with antiquities at the Department of Education in Bahrain.

'Rais' means the Head of the Education Department or his deputy.

'Government' means the Government of Bahrain.

'historical site' means an area which the Rais in consultation with the Antiquities Section reasonably believes to contain antiquities or to be associated with important historical events whether contained in the schedule prepared under Section 5 hereof or not.

3. (1) This ownership of land shall not bestow upon the owner the right to acquire the antiquities existing on the surface or inside the land, nor shall any person be entitled to excavate unless he has first obtained a licence for that purpose from the Rais.

(2) The Rais in consultation with the Antiquities Section may decide that any object site or building is an antiquity within the meaning of this Ordinance and such decision shall be final and binding.

4. The Rais in consultation with the Antiquities Section may at any part of Bahrain and Its Dependencies make excavations in search of antiquities.

PART II

HISTORICAL MONUMENTS AND SITES AND ANTIQUITIES

5. (1) The Rais in consultation with the Antiquities Section shall publish in the Official Gazette a schedule of historical monuments and historical sites and may from time to time with the like consultation make additions or amendments thereto. Copies of the schedule and of all additions and amendments thereto shall be open to inspection free of charge at all reasonable times at the offices of the Rais.

(2) The Rais in consultation with the Antiquities Section shall have power to determine the limits of any historical site.

6. No person shall without the permission of the Rais —

- (a) dig upon any historical site included in the schedule published in the manner provided in sub-section (1) of the last preceding Section or included in any addition to or amendment of such schedule, or
- (b) excavate, build, plant trees, quarry, irrigate, burn lime or do similar work or deposit earth or refuse on or in the immediate neighbourhood of any historical monument or site or establish a cemetery on any such site, or
- (c) demolish any historical monument or pull down or remove any part thereof, or
- (d) make alterations, additions, or repairs to any historical monument, or
- (e) erect buildings or walls transgressing on or abutting on any historical monument.

Provided that paragraphs (d) and (e) above shall not apply to historical

monuments of religious use or devoted to a religious purpose which are the property of a religious body.

7. Where any historical monument or historical site is on private property, the Rais with the approval of the State Council of Bahrain may —

- (a) make arrangements with the owner for its preservation, inspection and maintenance and may contribute from public funds towards the cost of carrying out any works of repair or conservation which he deems necessary and which the owner may be willing to undertake: Provided that where the Rais so contributes towards the cost of carrying out such works they shall be performed subject to any conditions which he may impose;
- (b) purchase or lease the site by private treaty;
- (c) acquire the site or obtain a lease thereof in accordance with the provisions of any Ordinance relating to the compulsory acquisition of land for public purposes which may be in force in Bahrain or, if there is no such Ordinance, on terms similar to those applicable in the case of land acquired for like purposes by the Municipal Council of Manama;
- (d) in the case of any historical monument, remove the whole or any part thereof making good any damage done to the site or buildings thereon by such removal and paying compensation therefor the amount of which compensation shall be fixed by agreement or, in case of dispute, by a competent arbitrator appointed by the State Council of Bahrain.

8. Every person in possession of any antiquity or occupying any historical monument or site shall at all reasonable times permit the Rais or any officer authorised by him to inspect and study the same and give him all possible facilities to make drawings, photographs or reproductions thereof by the making of casts or by any other means and to carry out any work which the Rais considers to be necessary for the maintenance or conservation thereof or for the collection of information thereon. No alterations of the object or site shall be made without the consent in writing of the Rais.

PART III

DISCOVERY OF AND PROPERTY IN ANTIQUITIES

9. Any person who discovers any object or thing which appears likely to be an antiquity without being in possession of a licence to excavate under Section 13 of this Ordinance or who knows of such discovery shall, within forty-eight hours of such discovery or knowledge, give notice thereof to the Rais.

10. The Rais shall within three months of the receipt of any notice under the preceding Section have the right to acquire on behalf of the Government and in accordance with the provisions of this Ordinance any antiquity which may be discovered after the date of the commencement of this Ordinance and no person during such period shall be entitled to dispose of the antiquity otherwise than to the Government unless the Rais shall have disclaimed his right to acquire the antiquity. Any person to whom an antiquity is transferred in contravention of the provisions of this Section shall have no right or property therein.

11. (1) Save as provided in sub-section 3 of this Section, the right of the Rais to acquire an antiquity shall be subject to the payment to the finder of an adequate reward which shall not be less than the material value of the antiquity.

(2) Such value shall be fixed by agreement between the Rais of the one part and the finder of the other or, in default of agreement, by a competent arbitrator appointed jointly by the Rais and the finder.

(3) The Rais shall not be liable to pay a reward to the finder if —

- (a) the discovery of the antiquity was made in contravention of any provision of this Ordinance;
- (b) the Rais is of the opinion that the antiquity should be preserved in the place where it was found and that the area in which it was found has been included in the schedule of historical sites maintained under Section 5 of this Ordinance; or
- (c) the antiquity is acquired as a result of a division made as provided for in sub-paragraph (b) of Section 15 and Section 18 of this Ordinance.

12. The Rais with the approval of the State Council may grant a pecuniary reward to any person who reports to him the finding by another person of a movable antiquity which find has not been reported to the Rais by the finder.

PART IV

LICENCES TO SEARCH FOR ANTIQUITIES

13. No person shall clear land or dig or otherwise search for antiquities unless he has obtained a written licence to do so from the Rais.

14. (1) A licence to excavate shall be granted only to persons —

- (a) who, in the opinion of the Rais in consultation with the State Council, are able and willing to expend on the excavation proposed a sum of money sufficient to secure a result satisfactory on archaeological grounds, and
- (b) whose scientific competence is reasonably assured by the guarantees of learned societies or institutions or otherwise to the satisfaction of the State Council.

(2) A licence issued under this Section shall be granted for such period up to a maximum of five years as the Rais shall prescribe: Provided that the Rais may at the expiration of any such licence extend it for such further periods not exceeding one year each time as he shall deem fit.

15. In addition to any other conditions, every licence granted under this Part of this Ordinance shall be subject to the following conditions —

- (a) If the land in respect of which the licence is granted is private property, the holder of the licence shall arrange with the owner the terms upon which he may enter upon the land for purposes of excavation.
- (b) At the close of the excavations or at such other time as the Rais may require, the holder of the licence shall afford an opportunity to the Rais to divide, as provided for in Section 18 of this Ordinance, any antiquities which have been discovered by exercising or renouncing the right of the Government to acquire such antiquities.
- (c) The holder of the licence shall, within a reasonable time, deposit with the Rais such photographs, casts, squeezes or other reproductions of the objects falling to the share of the licensee in the division as the Rais may require.

- (d) The holder of the licence shall furnish plans of his excavations to the Rais and shall, before the division takes place, furnish the Rais with lists, drawings or photographs of all antiquities discovered and any additional information relating thereto as the Rais may require.
- (e) The Rais may appoint a representative who may be present at the excavations. All excavations and all objects discovered shall be open to the inspection of the Rais or any other person delegated by him for that purpose.
- (f) The holder of the licence shall be responsible for the preservation of all antiquities discovered by him and shall, if necessary, appoint watchmen to guard the excavations. He shall preserve the site in a condition to the satisfaction of the Rais.
- (g) The holder of the licence or the society or body on whose behalf he acts shall deposit with the Rais two copies of every printed publication relating to the excavations or parts thereof.
- (h) The holder of the licence or the society or institution on whose behalf he acts, shall furnish and produce within a period of two years after the completion of the excavations or within any such longer period as the Rais may determine an adequate scientific report on the results of the excavations and shall deposit two copies of such report with the Rais.

16. In case of the breach of any of the conditions upon which a licence to excavate is granted, the Rais may, with the approval of the State Council, suspend or cancel such licence forthwith.

17. (1) If in the opinion of the Rais negotiations for an agreement as is referred to in sub-section (a) of Section 15 of this Ordinance upon reasonable terms have failed, he may, with the approval of the State Council, on behalf and at the cost of the holder of the licence, expropriate the land in whole or in part or obtain compulsorily a lease thereof.

(2) The compensation to be paid in respect of any such expropriation or compulsory lease shall be in accordance with the provisions of any Ordinance relating to the compulsory acquisition of land for public purposes which may be in force in Bahrain or, if there is no such Ordinance, shall

be determined on terms similar to those applicable in the case of land acquired for like purposes by the Municipal Council of Manama.

18. (1) In making the division referred to in Section 15 (b) of this Ordinance, the Rais shall acquire on behalf of the Government all antiquities which are in his opinion indispensable for the scientific completeness of any National Museum established in Bahrain or for the purpose of illustrating the history or art of Bahrain.

(2) The Rais may grant the holder of the licence compensation for his share of any antiquities which cannot be divided, or which are indispensable under paragraph (1) of this Section; and may give him, or allow him to take, photographs or other reproductions of such antiquities.

PART V

EXPORT OF AND DEALING IN ANTIQUITIES

19. No person shall export from Bahrain and Its Dependencies any antiquity unless he has obtained from the Rais a licence for that purpose.

20. The Rais may prohibit the exportation of any antiquity the retention of which in Bahrain or Its Dependencies he considers to be necessary in the public interest.

21. (1) Any person in Bahrain and Its Dependencies in possession of an antiquity and who desires to dispose of the same shall first offer it to the Rais who within one month shall either acquire the same at a price to be ascertained in accordance with the provisions of Section 11 (2) of this Ordinance or shall grant to the owner a permit to dispose of the same. Such person shall then be free to dispose of or to export the antiquity subject to the provisions of Sections 19 and 20 of this Ordinance.

(2) If any such antiquity is purchased by a private person residing in Bahrain and Its Dependencies the Rais shall be informed of the same by the seller.

22. Where it appears that adequate provision is made by the law of any foreign country to prevent the importation of antiquities from Bahrain and Its Dependencies otherwise than under a licence of the appropriate Department of the Government, the Rais may issue orders forbidding the import of antiquities from such country into Bahrain and Its Dependencies otherwise than under a licence granted by the Department of Antiquities in that country. Any antiquities seized on account of the contravention of such an order shall be returned to the government of the country from which the importation has been attempted.

PART VI

OFFENCES AND PENALTIES

23. Any person who —

- (a) fails to comply with any of the provisions of Section 6, 8, 9, 13, 15 or 21 of this Ordinance; or
- (b) wilfully injures, destroys, obliterated, removes or conceals any antiquity in respect of which the Rais has not disclaimed his right of acquisition; or
- (c) exports or attempts to export any antiquity in contravention of Section 19 or 20 of this Ordinance; or
- (d) imports any antiquity contrary to any order made under Section 22 of this Ordinance,

shall be guilty of an offence.

24. Any person who is guilty of an offence under this Ordinance shall be liable —

- (a) if the offence is failure to comply with the provisions of Section 9 or 21 hereof to imprisonment for a period not exceeding one month or to a fine not exceeding BD. 25/- or to both;
- (b) if the offence is failure to comply with the provisions of Section 13 hereof and is committed in a site which has been scheduled as a historical site to imprisonment for a period not exceeding one year or to a fine not exceeding BD. 150/- or to both;
- (c) in any other case to imprisonment for a period not exceeding six months or to a fine not exceeding BD. 100/- or to both.

25. On the conviction of any person for an offence under this Ordinance the Court may order that —

- (a) any antiquity for or in respect of which the offence was committed shall be forfeited;
- (b) all buildings, trees, or other things erected or planted in contravention of the provisions of this Ordinance shall be pulled down and removed at the expense of the offender;
- (c) the offender shall be liable to pay for the cost of any damages caused to any antiquity;
- (d) all excavations implements used shall be forfeited.

Sd./ Isa bin Sulman Alkhalifah,
Ruler of Bahrain and Its Dependencies.

Dated: 9th Dh/Hijja 1389.
15th February 1970.