

4.2 Environment Protection Act (1991) - Part Seven: The Historical Heritage

31. Whosoever deems that the regulations issued in terms of the preceding section cause hardship to him and that they are not justified, and whosoever deems that a request for a special permit for the disposal of a particular substance has been unjustly refused, and whosoever deems that these regulations or some special permit do not adequately protect the health of human beings or the environment, may lodge a notice of objection with the Minister within one month from the issue of these regulations or within one week from the refusal of a special permit or the knowledge of such grant, and the Minister shall within a month from the notification of the objection to the regulations or within a week from the notification of the objection to the refusal or grant of a special permit refer this notice of objection to the Authority of Review appointed under section 44 of this Act.

Notice of
objection

PART SIX

Protection to the Flora and Fauna

32. The Minister may, so that species of the Flora and Fauna be safeguarded, issue regulations declaring a particular species of Flora or Fauna a protected species and may also declare a specified area of these Islands or the territorial waters a Nature Reserve.

Powers of the
Minister.

33. (1) The Minister may, after the declaration that a particular species of Flora and Fauna is protected or after that a particular area has been declared a Nature Reserve under the last preceding section, make regulations so far as to render effective this protection.

Regulations
for the
protection of
Nature
Reserves.

(2) The Minister may, to safeguard the biological identity of these islands and their waters, make regulations concerning the import and export of flora and fauna.

34. (1) Whosoever deems that a declaration of a particular species of Flora and Fauna as a protected species or of a Nature Reserve is unjustified and whosoever deems that the regulations issued by the Minister in terms of the preceding section cause hardship to him, and whosoever deems that any regulations so issued, do not provide adequate protection to any protected species or Nature Reserve so declared in terms of section 32 of this Act, may, within a month, give notice of objection in writing to the Minister.

Notice of
objection.

(2) The Minister shall within a month from the notification of this objection submit this notification of objection to the Authority of Review appointed under section 44 of this Act.

PART SEVEN

The Historical Heritage

35. (1) The Minister may declare any building site or archaeological remains of significance as protected due to its historical

Powers
of the
Minister

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architectonic or artistic importance, or of exceptional beauty, or because of its interest to the study of geology, paleontology or archaeology, and may make regulations to effect this protection as well as for the restoration of building or site.

(2) Within one month from the coming into force of this section, the Minister shall publish in the Gazette a list of buildings, sites and remains so protected, and a revised list including all the sites so protected shall be published in the Gazette every three years.

Other Powers.

36. (1) The Minister may make special regulations for the conservation of the character of the towns and villages of Malta, and in particular but not only of Mdina, Valletta, Floriana, Cospicua, Senglea, Vittoriosa and for the Cittadella at Gozo, and may impose particular methods of restoration, maintenance and decoration of buildings within these localities. In the case of lack of conformance with regulations, he may also provide for the restoration, maintenance and decoration by Government at the owner's expense or for the compulsory acquisition by the state for the same purpose.

(2) The Minister may declare that certain objects of artistic, historical or scientific importance may not be exported from these Islands, and may also make regulations for the protection or the restoration of these objects, as well as for their acquisition by the State.

(3) It shall not be lawful to conduct archaeological excavations on land or within the territorial waters of these Islands, without the written consent of the Minister who may impose special conditions for this purpose.

Exceptions.

37. The Minister may grant special permission to exempt a site or object from the application to these regulations, but every exemption must be published in the Gazette.

Notice of objection.

38. (1) Whosoever deems that any place in these islands should be included or cancelled from the list of protected sites as provided in section 35 of this Act, or that any objects should or should not have been exportable from these islands, or that an exemption has been unjustly given or refused, or that any regulations made by the Minister under this Part of this Act are erroneous or inadequate, may submit a notice of objection to the Minister within one month from the publication of the list, the regulations or the exemption, as the case may be, and in the case of the refusal of an exemption from the receipt of the refusal.

(2) The Minister shall within one month of the receipt of this notice of objection refer the notice of objection to the Authority of Review appointed under section 44 of this Act.

PART EIGHT

Environmental Impact Assessments

Environmental impact.

39. Before any organ of Government grants a permit for the execution of a project which is likely to have an impact on the environment, because of its nature, extent or location, the organ shall cause an environmental impact assessment to be made of the project.

4.3

Development Planning Act (1992) - Sections 46 and 47

in force, shall be published in the Gazette and shall have effect as so published.

(2) The charges and contributions levied under the sections aforesaid shall be collectively known as the "building levy".

4. Other powers of development control.

Discontinuance
or removal
orders

45. (1) The Authority may, having regard to the development plans and to other material considerations, by notice served on the owner or occupier of any land, require any existing use or activity or any works to be discontinued or any building, plant, equipment or other thing whatsoever to be removed from any land, or requiring both such discontinuance and removal.

(2) Where a discontinuance or removal order is made in respect of an activity, works or use, or of a building, plant, equipment or other thing lawfully carried on or in existence on the land mentioned in the notice before the commencement of this Act, or which was started or came into existence after the commencement of this Act in accordance with a development permission under this Act, the Authority shall be liable to pay compensation for any losses sustained as a result of the notice:

Provided that any benefits derived from the same notice shall be offset against the losses aforesaid.

Scheduled
property and
conservation
orders

46. (1) The Authority shall prepare, and from time to time review, a list of areas, buildings, structures and remains of geological, palaeontological, archaeological, architectural, historical, antiquarian or artistic importance, as well as areas of natural beauty, ecological or scientific value (hereinafter referred to as "scheduled property") which are to be scheduled for conservation and may in respect of all or any one or more of the scheduled property make conservation orders to regulate their conservation.

(2) The list of scheduled property, and any additions or amendments thereto, shall be published in the Gazette. The Authority shall also notify any one of the known owners of any scheduled property of the fact of its inclusion in the list and of any conservation order made with respect to it.

(3) The carrying on of any work in, and the demolition, alteration or extension of, any scheduled property is prohibited or restricted as provided in this section or in a conservation order.

(4) No works of any description shall be carried out in or on any scheduled property and no scheduled property shall be demolished, altered or extended except with the permission of the Authority granted on an application made to it and giving such details as the Authority may require, or in accordance with the provisions of a conservation order; and for the purpose of this section, damage to or destruction of any part of a scheduled property shall be deemed to be a demolition thereof.

(5) A permission of the Authority and a conservation order granted or made under this section may contain such conditions and other

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Notice of objection.

38. (1) Whosoever deems that any place in these islands should be included or cancelled from the list of protected sites as provided in section 35 of this Act, or that any objects should or should not have been exportable from these islands, or that an exemption has been unjustly given or refused, or that any regulations made by the Minister under this Part of this Act are erroneous or inadequate, may submit a notice of objection to the Minister within one month from the publication of the list, the regulations or the exemption, as the case may be, and in the case of the refusal of an exemption from the receipt of the refusal.

(2) The Minister shall within one month of the receipt of this notice of objection refer the notice of objection to the Authority of Review appointed under section 44 of this Act.

PART EIGHT

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Environmental impact.

39. Before any organ of Government grants a permit for the execution of a project which is likely to have an impact on the environment, because of its nature, extent and locality, among other

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Development Planning Act (1992) - Sections 46 and 47

in force, shall be published in the Gazette and shall have effect as so published.

(2) The charges and contributions levied under the sections aforesaid shall be collectively known as the "building levy".

4. Other powers of development control.

Discontinuance
or removal
orders

45. (1) The Authority may, having regard to the development plans and to other material considerations, by notice served on the owner or occupier of any land, require any existing use or activity or any works to be discontinued or any building, plant, equipment or other thing whatsoever to be removed from any land, or requiring both such discontinuance and removal.

(2) Where a discontinuance or removal order is made in respect of an activity, works or use, or of a building, plant, equipment or other thing lawfully carried on or in existence on the land mentioned in the notice before the commencement of this Act, or which was started or came into existence after the commencement of this Act in accordance with a development permission under this Act, the Authority shall be liable to pay compensation for any losses sustained as a result of the notice:

Provided that any benefits derived from the same notice shall be offset against the losses aforesaid.

Scheduled
property and
conservation
orders

46. (1) The Authority shall prepare, and from time to time review, a list of areas, buildings, structures and remains of geological, palaeontological, archaeological, architectural, historical, antiquarian or artistic importance, as well as areas of natural beauty, ecological or scientific value (hereinafter referred to as "scheduled property") which are to be scheduled for conservation and may in respect of all or any one or more of the scheduled property make conservation orders to regulate their conservation.

(2) The list of scheduled property, and any additions or amendments thereto, shall be published in the Gazette. The Authority shall also notify any one of the known owners of any scheduled property of the fact of its inclusion in the list and of any conservation order made with respect to it.

(3) The carrying on of any work in, and the demolition, alteration or extension of, any scheduled property is prohibited or restricted as provided in this section or in a conservation order.

(4) No works of any description shall be carried out in or on any scheduled property and no scheduled property shall be demolished, altered or extended except with the permission of the Authority granted on an application made to it and giving such details as the Authority may require, or in accordance with the provisions of a conservation order; and for the purpose of this section, damage to or destruction of any part of a scheduled property shall be deemed to be a demolition thereof.

(5) A permission of the Authority and a conservation order granted or made under this section may contain such conditions and other

provisions as the Authority may deem necessary or expedient; and a conservation order may regulate any matter affecting scheduled property.

(6) In respect of any scheduled property, the Authority shall also have power to require the owner, by notice in writing, to undertake such works generally, or as may be specified in the notice, as may be necessary to ensure that no further deterioration occurs. In default, the Authority may give a further notice to the owner to carry out and complete the works within a specified time, and if the owner is still in default it may itself carry out, or cause to be carried out, the necessary works and recover the cost thereof from the owner of the scheduled property.

(7) If any scheduled property is demolished in contravention of any of the provisions of this section then, in addition to any penalty or other effect under this Act, every person convicted of such offence shall be liable to pay compensation to the Authority calculated on the basis of whichever is the highest of the following:

- (a) the value of the thing destroyed,
- (b) the cost of restoration or repair,
- (c) the financial benefit which could be achieved as a consequence of the demolition.

47. (1) If property which is not scheduled but which the Authority believes could have an importance or value as is described in subsection (1) of section 46 of this Act sufficient to have it listed, is at risk of being demolished, damaged or destroyed, the Authority may make an emergency conservation order and take such further steps for the protection of such property as it may deem necessary.

Emergency
Conservation
Order

(2) An emergency conservation order shall be published in the Gazette and shall have effect immediately on its publication.

(3) An emergency conservation order shall, for a period of six months from its publication in the Gazette, have the same effect as the inclusion of the property to which it refers in the list of scheduled property. It shall cease to have any effect on the expiration of the period aforesaid.

48. (1) The Authority shall prepare, and from time to time review, a list of individual trees, groups of trees or woodlands (hereinafter referred to as "scheduled trees") which it considers should be protected, and may in respect of all or any one or more of them make tree preservation orders regulating such protection.

Protected
trees and
Tree Preservation
Orders

(2) The list of scheduled trees, and any addition or amendment thereto, shall be published in the Gazette. The Authority shall also notify any one of the known owners of any scheduled tree of the fact of its inclusion in the list and of any tree preservation order made with respect to it.

(3) No scheduled tree shall be cut down, lopped, topped or wilfully damaged or destroyed except with the permission of the Authority on an application made to it or as may be allowed under a tree preservation order.

4.4 National Museums and Monuments (Comprehensive Admission Tickets) Act (1981)

NATIONAL MUSEUMS AND MONUMENTS
(COMPREHENSIVE ADMISSION TICKETS)

[CAP. 298. 763]

CHAPTER 298

NATIONAL MUSEUMS AND MONUMENTS
(COMPREHENSIVE ADMISSION TICKETS) ACT.

To make provision for the issue of comprehensive admission tickets to National Museums and Monuments.

(1st October, 1981)*

Enacted by ACT XLV of 1981, as amended by Act XIII of 1983.

1. This Act may be cited as the National Museums and Monuments (Comprehensive Admission Tickets) Act.

Short title.

2. In this Act, unless the context otherwise requires –

Interpretation.

“comprehensive admission ticket” means the ticket issued by Director of Museums under the provisions of the National Museums and Monuments (Fees) Regulations, 1979;

“Minister” means the Minister responsible for the National Museums of Malta;

“organised tour” means any excursion by five or more persons to one or more places in Malta, organised by any person for the purpose of making a profit or acquiring any benefit whatsoever.

3. (1) Any person who in any way whatsoever organises in organised tour shall purchase a comprehensive admission ticket for every person taking part on such tour.

Purchase of comprehensive admission ticket.

(2) The comprehensive admission ticket so purchased shall be valid for the day on which the organised tour takes place.

(3) The person who organises the organised tour shall deliver to each person taking part in such tour the ticket purchased in accordance with subsection (1) of this section.

4. Any person who contravenes any of the provisions of this Act shall be guilty of an offence and shall, on conviction, be liable to a fine (*ammenda*) of not less than two liri but not exceeding five liri for every failure to purchase or to deliver the comprehensive admission ticket, as the case may be.

Penalty for offences.

Amended by:
XIII. 1983.5.

5. The Minister may exempt any particular organised tour from the provision of this Act under such conditions as he may deem fit.

Power to exempt from provisions of this Act.

*See section 1 of the Act as originally enacted, part of which has been omitted under the Statute Law Revision Act, 1980.

CHAPTER 35

FEES ORDINANCE

To provide for the levying of fees for licenses, permits and other acts or services in government offices or departments.

(26th June, 1905)*

Enacted by ORDINANCE X of 1905 as amended by Ordinances: II of 1906 and XXVIII of 1939; Emergency Ordinance XV of 1958; Ordinance XXV of 1962; Act XI of 1963; Legal Notice 46 of 1965; Act XVII of 1967 and VI of 1986.

1. This Ordinance may be cited as the Fees Ordinance.
2. (1) A Minister charged with responsibility for any government department or office may make regulations prescribing the fees to be charged in such department or office or on behalf thereof in respect of licences, permits or any other act or service whatsoever, and may from time to time vary or amend such regulations.
(2) Any such regulation, unless otherwise provided, shall have effect from the date of its publication, and shall, as soon as may be, be laid on the table of the House of Representatives.
(3) The power conferred by subsection (1) of this section and any other power conferred by any other law to fix such fees as aforesaid shall be exercisable with the concurrence of the Minister responsible for finance.
3. The officer in charge of any public office or department, required to do any act or service for which a fee is chargeable under this Ordinance, may decline to do such act or service until the fee is paid.
4. The fees prescribed by any such regulation shall, unless otherwise provided, be recoverable in the manner laid down in the Code of Organization and Civil Procedure, for the recovery of sums due to a government department, on the demand or on behalf of the officer to whom the fee is payable.
5. The competent Minister with the concurrence of the Minister responsible for finance may by regulations direct that the payment of all or any of the fees referred to in section 2, or of any of the fees leviable under any other law in force, shall be denoted by means of postage stamps in such manner as may be provided in such regulations.

Short title.

Power of Minister to fix fees.

Amended by:

XV. 1958.3;

XXV. 1962.3;

XI. 1963.2;

L.N. 46 of 1965;

XVII. 1967.2.

Officer may decline to do act or service required until fee is paid.

Proceedings for recovery of fees. Cap. 12.

Payment of fees by means of stamps.

Amended by:

II. 1906.1;

XV. 1958.3;

XXV. 1962.3;

XI. 1963.3;

VI. 1986.2.

*See Proclamation No. X of 1905.

Power of
Minister to
reduce or remit
fees in certain
cases.

Added by:
X.XVIII. 1939.2.

Amended by:

XV. 1958.3;

XXV. 1962.3;

XI. 1963.5.

6. It shall be lawful for the competent Minister with the concurrence of the Minister responsible for finance to reduce or remit any fee to which this Ordinance refers when he is satisfied that the payment of such fee would cause hardship to the person by whom the fee is payable.

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B 516

L.N. 85 of 1994

**FEES ORDINANCE
(CAP. 35)**



**National Museums and Monuments (Fees) (Amendment)
Regulations, 1994**

IN exercise of the powers conferred by section 2 of the Fees Ordinance, the Minister for Youth and the Arts, with the concurrence of the Minister of Finance, has made the following regulations:—

Citation.

1. These regulations may be cited as the National Museums and Monuments (Fees) (Amendment) Regulations, 1994 and shall be read and construed as one with the National Museums and Monuments (Fees) Regulations, 1992, hereinafter referred to as "the principal regulations".

L.N. 111
of 1992.

Amends
regulation 3
of the
principal
regulations.

2. In paragraph (3) of regulation 3 of the principal regulations for the words "monument, with" there shall be substituted the words "monument which is kept open on Sundays, with".

Adds new
regulation 9
to the
principal
regulations.

3. Immediately after regulation 8 of the principal regulations there shall be added the following new regulation:—

"Opening
times of
museums
sited in
Valletta.

9. (1) The National Museum of Archaeology, the National Museum of Fine Arts, the Palace Armoury and the War Museum, sited in Valletta, shall, between the 1st August and the 30th September of each year —

(a) also be kept open to the general public on Tuesdays and Fridays between 2 p.m. and 5 p.m.;

(b) be kept closed on Sundays.

(2) There shall be charged by the Director of Museums for admission into the museums mentioned in paragraph (1) of this regulation on any week day during the period referred to a fee of one Maltese lira per person of nineteen years of age or over:

Provided that no admission fee to these museums shall be charged as regards persons who —

(a) are under nineteen years of age;

(b) hold a student or a youth identity card;

(c) are aged sixty-five years or over."

4.5

Interpretation Act (1975)

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CHAPTER 249

INTERPRETATION ACT

To make provision in respect of the construction and application of Acts of Parliament and other instruments having the force of law and in respect of the language used therein.

(4th February, 1975)*

Enacted by ACT VII of 1975, as amended by Acts: XLIX of 1981 and XXXV of 1990.

Short title. 1. This Act may be cited as the Interpretation Act.

Interpretation 2. (1) In this Act, unless the context otherwise requires –

“Act” means an Act of Parliament and any other Act passed by the Legislature of Malta and includes any code, ordinance, proclamation, order, rule, regulation, bye-law, notice or other instrument having the force of law in Malta other than an instrument to which the Act of the Parliament of the United Kingdom of Great Britain and Northern Ireland entitled the Interpretation Act, 1889, applies;

“pass”, and any derivative thereof, used in relation to the word Act, includes the making of any instrument having the force of law.

(2) No provision of this Act limiting its application, or that of any of its provisions, to certain Acts shall be construed as implying that other Acts, or any provision thereof or any expression occurring therein, are to be interpreted, construed or applied in a manner different from that provided in this Act.

Definitions.
Amended by:
XLIX, 1981.6.

3. (1) In this Act, and in any Act passed after the commencement of this Act, unless the contrary intention appears –

“Act of Parliament” means any law made by Parliament;

“amend” includes repeal, add to and vary;

“Constitution” means the Constitution of Malta;

“contravene” includes fail to comply with;

“document” means any matter expressed or described on any substance by means of letters, figures or marks, or by more than one of those means, intended to be used or which may be used for the purpose of recording that matter;

“enactment” means a written law or any provision thereof;

“function” includes power and duty;

“Gazette” means the Malta Government Gazette or any other official journal substituted therefor and published by order of the Government;

*See Government Notice No. 110 of 4th February, 1975.

commencement of this Act under a power conferred by any Act, whether passed before or after the commencement of this Act, is expressed to come into operation on a particular day, the same shall be construed as coming into operation immediately on the expiration of the previous day.

Construction of provisions as to exercise of powers and duties.
Amended by:
XXXV. 1990.2.

6. In any Act, whether passed before or after the commencement of this Act -

- (a) where such Act confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires;
- (b) where such Act confers a power or imposes a duty on the holder of an office, as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder for the time being of that office;
- (c) where such Act confers a power on the holder of an office, and such power relates to any business of the Government, or is exercisable as part of the functions of a department of Government for which responsibility has been assigned to a Minister under the Constitution, such power shall be exercisable by the holder of that office, and except to the extent that the holder of that office is expressly declared by any law not to be subject to the direction or control of any other person or authority, the Minister responsible for that business or department of the Government shall have power, even where such power is expressed to be exercisable in the discretion (whether absolute or otherwise) of the holder of that office, to give such direction in writing relative to the exercise of that power (including a direction ordering the reversal of a decision) as such Minister may deem fit;
- (d) where such Act confers a power to make any rules, regulations or bye-laws, the power shall, unless the contrary intention appears, be construed as including a power, exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend, or vary the rules, regulations or bye-laws, and such power shall be exercisable without prejudice to the making of new rules, regulations or bye-laws.

Exercise of statutory powers between the passing and commencement of an Act.

7. Where an Act passed after the commencement of this Act is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make, grant or issue any order, warrant, scheme, rules, regulations, bye-laws, notice or other instrument, or to give notices, to prescribe forms, or to do any other thing for the purpose of the Act, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act, so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the

INTERPRETATION

[CAP. 249. 89

commencement thereof, subject to this restriction, that any instrument made under the power shall not, unless the contrary intention appears in the Act, or the contrary is necessary for bringing the Act into operation, come into operation until the Act comes into operation; and the provisions of this section shall apply to anything done under or in respect of Acts passed before the commencement of this Act as they apply to things done under or in respect of Acts passed after such commencement.

8. Where an Act, whether passed before or after the commencement of this Act, confers power to make, grant or issue any order, warrant, scheme, rules, regulations, bye-laws or other instrument, expressions used in any such instrument made after the commencement of this Act shall, unless the contrary intention appears, have the same respective meanings as in the Act conferring the power.

Construction of subsidiary legislation.

9. Any law made after the commencement of this Act by virtue of a power conferred by any Act passed either before or after the commencement of this Act may, unless the contrary intention appears in the Act conferring that power, be made to operate retrospectively to any date which is not earlier than the commencement of such Act or, where different provisions of such Act come into operation on different dates, the commencement of the provision under which the subsidiary law is made:

Subsidiary legislation may be retrospective.

Provided that no person shall be made or shall become liable to any punishment in respect of anything done or omitted to be done before the commencement of the subsidiary law.

10. Where by virtue of any Act, whether passed before or after the commencement of this Act, power is conferred to make subsidiary laws, any subsidiary law that may lawfully be made thereunder shall be valid and shall have effect whether or not it purports to be made in exercise of those powers and even if it purports to be made in exercise of other powers.

Subsidiary laws to be valid in case of wrong reference to enabling powers.

11. (1) Where an Act of Parliament or other Act passed by the Legislature of Malta or an Ordinance confers power to make rules or regulations or other subsidiary legislation of a like nature, any such legislation made by virtue of those powers after the coming into force of this Act shall as soon as may be after it is made be laid on the Table of the House and if, within the period of twenty-eight days after it is so laid, the House resolves that it be annulled or amended, the same shall thereupon cease to have effect or shall be so amended, as the case may require, but without prejudice to the validity of anything previously done thereunder or to the making of new rules, regulations or other subsidiary legislation of a like nature.

Subsidiary legislation to be laid on Table of House.

(2) In reckoning for the purposes of subsection (1) of this section any period of twenty-eight days therein referred to, no account shall be taken of any time during which the House of Representatives is not in session or during which it is adjourned for more than seven days.

(3) Notwithstanding the foregoing provisions of this section,

Effect of repeal
in future Acts
and of
amendments in
any Act.

where the principal law conferring the power to make subsidiary legislation makes different provision in respect of any of the matters aforesaid, those provisions shall apply to any subsidiary legislation made by virtue of those powers in preference to the provisions of this section in respect of those matters.

12. (1) Where any Act passed after the commencement of this Act repeals any other law, then, unless the contrary intention appears, the repeal shall not –

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered under any law so repealed;
- (c) affect any right, privilege or liability acquired or accrued or incurred under any law so repealed;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed, or any liability thereto;
- (e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

(2) Where an Act, whether passed before or after the commencement of this Act, amends any other Act passed either before or after the commencement of this Act, or any provision of any such other Act, the Act or provision so amended, as well as anything done thereunder or by virtue thereof, shall, unless the contrary intention appears, continue to have full effect, and shall so continue to have effect as amended, and subject to the changes made, by the amending Act.

(3) For the purposes of subsection (2) of this section "amendment" means and includes any amendment, modification, change, alteration, addition or deletion, in whatsoever form or manner it is made and howsoever expressed, and includes also a provision whereby an Act or a provision thereof is substituted or replaced, or repealed and substituted, or repealed and a different provision made in place thereof.

Offences by
association of
persons.

13. Where any offence under or against any provision contained in any Act, whether passed before or after this Act, is committed by a body or other association of persons, be it corporate or unincorporate, every person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of such body or association, or was purporting to act in any such capacity, shall be guilty of that offence unless he proves that the

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offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence:

Provided that, except in respect of offences under or against a provision contained in an Act in which a provision similar to that of this section occurs, the provisions of this section shall apply only to offences committed after the commencement of this Act.

14. Without prejudice to the provisions of any other enactment, an Act or Parliament passed after the commencement of this Act may be enacted, in whole or in part, in the Maltese or in the English language only if the bill for that Act of Parliament, or part of such bill, is presented to the Clerk of the House and published in one only of the said languages and if the Act when passed contains a provision authorising the enactment thereof, or any one or more of its parts, as the case may require, in that language only.

Language of laws.

15. Any Act of Parliament may be altered, amended or repealed in the same session of Parliament; and the provisions of this section shall apply to anything done in respect of any enactment before the commencement of this Act as they apply to anything done in respect of an Act of Parliament after such commencement.

Amendment or repeal of Act in same session.

CHAPTER 54

ANTIQUITIES (PROTECTION) ACT

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

(27th July, 1925)*

Enacted by ACT XI of 1925, as amended by Acts: VI of 1947, XXIV of 1955; Emergency Ordinance VI of 1958; Ordinance XXV of 1962; Legal Notice 4 of 1963; Acts: XXXI of 1966, XVIII of 1974; Legal Notice 148 of 1975; and Acts: XI of 1977 and XIII of 1983.

1. This Act may be cited as the Antiquities (Protection) Act.

Short title.

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.

Interpretation.

Added by:

VI. 1947.2.

Amended by:

XXXI. 1966.2.

Substituted by:

XI. 1977.2.

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.

Monuments and other objects to which the provisions of this Act apply.

Amended by:

XVIII. 1974.2.

(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.

Right of preference exercisable by the Government.

Amended by:

VI. 1947.2;

VI. 1958.2;

XXV. 1962.2.

(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.

Exportation of movable objects referred to in s. 3 subject to permission of Minister.

Amended by:

VI. 1947.2;

VI. 1958.2;

XXV. 1962.2;

L.N. 148 of

1975.

(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 the demand of the exporter, to be made by an application.

*See Government Notice No. 198 of the 27th of July, 1925.

(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.

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(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.

Demolition, etc.,
of remains of
monuments.
Amended by:
VI. 1947.2;
XXIV. 1955.2;
VI. 1958.2;
XXV. 1962.2;
L.N. 4 of 1963.

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.

Provision
regarding
Church property.
Amended by:
VI. 1947.2;
VI. 1958.2;
XXV. 1962.2.

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.

Provision in case
of doubt as to
whether property

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.

belongs exclusively to the Church.

Amended by:
VI. 1947.2;
VI. 1958.2;
XXV. 1962.2.

(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.

Provision regarding property for religious purposes.

Amended by:
VI. 1947.2;
VI. 1958.2;
XXV. 1962.2.

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:

Government may carry out works to prevent deterioration of buildings, sites, etc.

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.

Excavations for the discovery of antiquities.

Amended by:
XVIII. 1974.3.

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.

Discovery of objects specified in s. 3 during excavations.

Amended by:
VI. 1947.2;
VI. 1958.2;
XXV. 1962.2.

(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.

Power of Government to ensure maintenance and preservation of antiquities.

Power of Government to carry out excavations.
Amended by:
VI. 1947.2;
VI. 1958.2;
XXV. 1962.2.

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.

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(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 at his own expense within such time and under such conditions as may be fixed by the Minister.

Power of Government to acquire compulsorily lands in which excavations are to be carried out.

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.

Reference to experts of questions as to character of things referred to in ss. 4 and 5.
Amended by:
VI. 1947.2;
VI. 1958.2;
XXV. 1962.2;
L.N. 148 of 1975.

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.

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Antiquities Committee.

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.

Amended by
VI. 1947.2;
XVII. 1952.2

(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.

VI. 1958.2;
XVI. 1962.2

(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 depute 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 organisation 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.

Power to
make regula-
tions.
Added by:
XVIII. 1974.4

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.

Penalties for
offences against
this Act.
Amended by:
XVIII. 1974.5;
XIII. 1983.5.

(2) Where the offence 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 offence, 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

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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.

Power of preventing exportation of objects to which this Act applies. Cap. 37.

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.

Saving as to provisions of Criminal Code. Cap. 9.

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.

Amended by:
XIII. 1983.4.

SCHEDULE

[SECTION 5]

Value of object	Export Duty
On the first Lm100 or part thereof	10 per cent.
On the second Lm100 or part thereof	20 per cent.
On the third Lm100 or part thereof	30 per cent.
On the fourth Lm100 or part thereof	40 per cent.
On any further value	50 per cent.