

Nepal Press Digest (Private) Ltd,
Nepal Law Translation Series,
Vol. 13/70,
Kathmandu: October 28, 1970.

Ancient Monuments Protection Act, 1956

History

- November 12, 1956 ... First promulgated. Nepal Gazette, Vol. 6, No. 28, Kartik 27, 2013 (November 12, 1956).
- February 28, 1964 ... First Amendment. Nepal Gazette, Vol. 13, No. 29 (Extraordinary), Falgun 16, 2020 (February 28, 1964).
- February 28, 1964 ... Nepal Laws (Amendment and Revalidation) Act. Nepal Gazette, Vol. 13, No. 29 (Extraordinary), Falgun 16, 2020 (February 28, 1964).
- October 4, 1970 ... Second Amendment. Nepal Gazette, Vol. 20, No. 26 (Extraordinary), Aswin 18, 2027 (October 4, 1970).

Consolidated Text

Preamble:

Whereas it is desirable to maintain peace and order¹ by acquiring and protecting ancient monuments and historical or artistic objects of archaeological importance, by maintaining control on the protection of ancient monuments, trade in archaeological objects and excavation of the sites of ancient monuments,

Now therefore, His Majesty has enacted this law on the advice of the Cabinet.

1. Short Title, Extent And Commencement

- (1) This law may be called the Ancient Monuments Protection Act, 1956.
- (2) It shall be applicable throughout the Kingdom of Nepal with immediate effect.

¹The 1964 Nepal Laws (Amendment and Revalidation) Act changed the terms "proper and expedient" to "desirable to maintain peace and order."

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2. Definitions

Unless otherwise meant with reference to the subject or context in this Act,

- (a) Ancient Monument means any temple, building, statue, image, prison, and caves, objects made of stone, metal, wood, ivory, etc, objects d'art, rest-houses, copper and stone inscriptions, palm and birch leaf documents and pillars of historical, archeological or artistic importance. This term include sites of monuments.
- (b) Archeological Objects include any movable or immovable property which in the opinion of His Majesty's Government,² should be protected from loss or damage or removal or disappearance, because of their historical, archeological or artistic importance.
- (c) Archeology Officer means any officer appointed by His Majesty's Government with such powers and functions or duties as are vested in the Archeology Officer under this Act.
- (d) Maintenance means the maintenance of monuments in good condition by enclosing, covering, repairing and cleaning them.
- (e) Local Officer means the Zonal Commissioner³ and in districts where there is no Zonal Commissioner, the Chief District Officer.⁴
- (f)⁵ Curio means a modern object relating to handicrafts prescribed by His Majesty's Government by notification in the Nepal Gazette.

3. Power Of His Majesty's Government To Declare Any Ancient Monument As Protected And The Time-Limit For The Public To Submit Complaints.

- (1) His Majesty's Government may, by notification in the Nepal Gazette, declare any ancient monument as a protected monument for the purpose of this Act.

²The 1958 Interim Government of Nepal (Fourth Amendment) Act, Nepal Gazette Vol. 8, No. 8 (Extraordinary), Jestha 2, 2015 (May 15, 1958) changed the term "Government" to "His Majesty's Government" in all Nepal laws. The text has been adjusted accordingly.

³The 1966 Local Administration Act, Nepal Gazette, Vol. 15, No. 36, (Extraordinary), Chaitra 10, 2022 (March 23, 1966) changed the term "Bada Hakim" or "Magistrate" to "Zonal Commissioner" in all Nepal laws. The text has been adjusted accordingly.

⁴The underlined words were added on October 4, 1970.

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- (2) The notification mentioned in Sub-Section (1) shall contain an assurance that any complaint filed before His Majesty's Government on points of dissatisfaction within 35 days from the date of the publication thereof shall be considered. A copy of such notification shall be affixed at the main site of the ancient monument and another copy at a conspicuous place near such site.
- (3) On the expiry of the time-limit of 35 days, His Majesty's Government, after taking such complaints into consideration, may withdraw or confirm the notification.

4. Power Of His Majesty's Government To Buy Monuments From The Public Or Maintain It Under Its Protection

- (1) In case any ancient monument which has been declared as a protected monument exists as a private property of any member of the public, His Majesty's Government may purchase it from the owner thereof at any equitable price through negotiation or maintain it under its protection.
- (2) In case the owner of any protected ancient monument hands it over free of cost, the Archeology Officer shall accept it and notify His Majesty's Government accordingly. He shall then register it as a state-owned ancient monument.

5. Power Of Archeology Officer To Direct The Owner Of Ancient Monuments To Under-Take Responsibility With The Prior Permission Of His Majesty's Government

- (1) For the purpose of insuring the lasting protection of any protected ancient monument in any district inside or outside Kathmandu Valley, the Archeology Officer or the persons empowered by him, may, with the prior approval of His Majesty's Government, direct the owner thereof to sign a document undertaking the responsibility (of protecting such monuments). In case the owner of such ancient monument fails to do so, the Archeology Officer shall send a written order to the local officer to insure the protection of such ancient monument and to direct the owner thereof as well as the Chairman, Vice-Chairman and Ward members of the appropriate Panchayat⁵ to sign a bond undertaking responsibility as mentioned in Sub-Section (2). On receipt of such order, if any, the local officer shall act accordingly.
- (2) The undertaking mentioned in Sub-Section (1) shall indicate the following matters as well as such other matters as may be deemed proper:-

⁵Text as amended on October 4, 1970. The Principal Act mentioned "Jimidars, Patuwaris, Mukhiyas, Jimmawals, Talukdars and Chitaidars."

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- (a) Maintenance of monuments.
- (b) Duties of persons taking charge of monuments and maintaining guard thereof.
- (c) Restriction on demolition, removal, alteration and disfigurement of monuments by the owner or transfer of monuments to persons other than His Majesty's Government or establishment of any other monument near such monument.
- (d) Facilities for the public, His Majesty's Government or the person deputed by the owner of the property to protect or inspect the monument.
- (e) Sale of lands at the site of the monument to His Majesty's Government at a price determined according to local opinion, if so necessary.
- (f) Appointment of authority by His Majesty's Government to dispose of disputes arising from the undertaking.

6. Local Officer To Furnish Particulars Of Archeological Objects Situated In His Area

Local officers in all areas inside or outside Kathmandu Valley shall find out and submit all particulars of archeological objects located or existing in their areas to the Archeology Officer for the purpose of their protection.

7. Power To Confiscate Ancient Monuments In The Possession Of The Public In The Event Of Failure To Protect Them

- (1) In case any ancient monument or archeological object located in any place is found to have been destroyed or damaged by reason of the negligence of the owner thereof, or in case any national loss is apprehended by reason of the misappropriation of any article contained therein, His Majesty's Government may, if it deems necessary to protect it, acquire such ancient monuments or archeological objects from the owner without any payment, and confiscate the concerned Guthi property for not protecting the national wealth, and register it as a State Guthi and thus protect such objects.
- (2) In case the existing owner or any other person undertakes to properly utilize and protect the objects already acquired by His Majesty's Government without payment under Sub-Section (1), and in case His Majesty's Government feels that he will protect such objects, it may allow him to do so after causing him to sign the necessary bonds.

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8. No Permission To Dig Land For Insuring Protection Of Ancient Monuments

In case His Majesty's Government deems it necessary to restrict the construction of tunnels or blasting of earth by dynamite in the area around the site of ancient monuments, in order to insure the protection and safety thereof, it may, by means of a notification, prescribe the boundaries of such site for such purpose and then maintain control accordingly.

9. Safety Of Holy Places And Temples

His Majesty's Government may make such arrangements as may be necessary for preventing the misuse or mismanagement of places of pilgrimage or temples of archaeological or historical importance maintained under its care under this Act.

10. Power To Enter Ancient Sites Of Historical, Artistic Or Religious Importance

Any person desirous of entering into any ancient site of historical, artistic or religious importance under the care of His Majesty's Government or the public may do so without offending the religious feelings or the customary usages of the concerned people.

11. Fine For Improper Restriction

A fine not exceeding Rs 20.00 shall be imposed on any person who improperly restricts entry into the site indicated in Section 10.

12. Punishment For Damaging Ancient Monuments

Any person who destroys, demolishes, removes, alters, disfigures or uses for unauthorized purposes or otherwise causes loss or damage to any ancient monument in the possession of His Majesty's Government under this Act or connected with the bond of undertaking signed under Section 5, he shall be punished with a fine not exceeding Rs 25,000.00 or with imprisonment for a term not exceeding 1½ years or with both.⁶

⁶Text as amended on October 4, 1970. The Principal Act mentioned Rs 1,000.00 and 1 year.

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13. Restrictions On Transfer, Transaction, Export Or Collection Of Ancient Monuments And Archeological Objects?

- (1) Historical, archeological or artistic objects prescribed by His Majesty's Government by notification in the Nepal Gazette shall not be exported outside from the Kingdom of Nepal or transferred from one place to another inside the Kingdom of Nepal, or collected at any place. In case it is required to transfer or collect (such objects) to or at any place, prior approval of His Majesty's Government shall be obtained. But this provision shall not be deemed to have prejudiced (the right) to export, transfer from one place to another inside the Kingdom of Nepal, or collect at any place curio goods on which a seal approved by His Majesty's Government has been affixed as mentioned in Sub-Section (3).
- (2) In case any individual or institution has in his or its individual, traditional or ancestral collection any archeological object which is more than 100 years old, the owner of such collection shall register the same at the office and within the time-limit prescribed by His Majesty's Government by notification in the Nepal Gazette.
- (3) Any person or institution desirous of or engaged in dealing in the production or sale of curios shall register his or its name at the office and within the time-limit prescribed by His Majesty's Government by notification in the Nepal Gazette and obtain a license, and each curio produced in this manner shall be affixed with a seal approved by His Majesty's Government, which shall also indicate the name of the vendor.
- (4) Buyers of curios shall buy only such curios as bear the seal approved under Sub-Section (3).
- (5) Any individual or the concerned persons belonging to an institution contravening or attempting to contravene the provisions of Sub-Section (1), Sub-Section (2), Sub-Section (3) and Sub-Section (4) shall be punished with a fine not exceeding Rs 25,000.00, or with imprisonment for a term not exceeding 5 years, or with both, and the object relating to the offense shall be confiscated.

⁷Text as amended on October 4, 1970. The Principal Act empowered HMG only to ban the export of historical, archeological or artistic objects and their movement from one part of the Kingdom of Nepal to another.

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- (6) In case the local officer or the authority prescribed in this connection by His Majesty's Government by notification in the Nepal Gazette considers it necessary to institute investigations in order to ascertain whether or not action has been taken according to this Act, he may enter into, and search with a warrant any shop or place where ancient monuments, archeological objects or ancient handicraft goods are sold or collected, or any factory where curios are produced and sold, or any godown or vehicle where such objects are kept, arrest the person who has committed the offense, and keep him in police custody according to law. The power to issue warrants under this Sub-Section shall vest in the adjudicating authority.
- (7) In case anybody reports to the appropriate authority that any person has committed or is about to commit any offense under this Section, and the person who has committed the offense is apprehended and convicted accordingly the informant shall be granted 10% of the fine imposed on him.

14. Power To Direct Sale To His Majesty's Government In The Event Of Apprehension Of Loss Or Damage

In case there appears the possibility of any object mentioned in the notification issued under Section 13 being lost or damaged, His Majesty's Government may compel (the concerned person) to sell such objects to it at a price determined according to local opinion.

15. Power Of Archeology Officer To Inspect And Protect

The Archeology Officer shall have the power to inspect (images of) gods and goddesses at places of pilgrimage, to ascertain whether they are being maintained properly or not, and to afford necessary protection to them if they are not found to be maintained properly.

16. Punishment For Unauthorized Excavation

In case any individual or institution conducts or organizes excavations at the site of ancient monuments without the permission of His Majesty's Government, such individual or institution shall be punished with a fine not exceeding Rs 5,000.00 or with imprisonment for a term not exceeding 18 months or with both.

17. Power Of His Majesty's Government To Notify Any Area As A Protected Area

- (1) In case His Majesty's Government deems it necessary in the interest of archeological research to restrict or ban searches or excavations for purposes of archeological investigations, it may issue a notification declaring any area as a protected area after prescribing its boundaries.

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- (2) After issuing a notification declaring any area as a protected area under Sub-Section (1), His Majesty's Government shall make necessary arrangements in consultation with the concerned land-owners for excavations of such area and then pay reasonable compensation to them for their houses and compounds situated therein. The Archeology Officer or a person deputed by him shall then visit the area and conduct excavations, and all objects discovered in such area in course of such excavations shall belong to His Majesty's Government.
- (3) In case any person obstructs the functions performed in the protected area in accordance with Sub-Section (2), he shall pay compensation to His Majesty's Government and shall also be liable to a fine not exceeding Rs 500.00.

18. Immunity Of Government Employees Functioning Under This Act

No court shall entertain any suit claiming compensation or other kind of suit filed against any government employee for any function performed by him in good faith in the exercise of the powers conferred by this Act.

19. Judicial Jurisdiction

Cases fined under the provisions of this Act shall be heard by the Zonal Court.⁸

20. Action To Be Taken According To Current Nepal Law

In all matters provided for in this Act, action shall be taken accordingly, and in other matters, the provisions of current Nepal law shall be complied with.

Provided that:-

In the following cases, action shall be taken as indicated below:-

⁸The 1964 Judicial Administration (Miscellaneous Arrangements) (Amendment) Act changed the term "District Court" to "Zonal Court". Nepal Gazette, Vol. 14, No. 18B (Extraordinary), Marga 1, 2021 (November 16, 1964).

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- (a) Any office or court, while taking action according to current Nepal law in respect to ancient monuments or archeological objects, shall send such objects to the local officer for transmission to the Archeological Department of His Majesty's Government or any place prescribed by that department, irrespective of whosoever is the owner thereof, and need not take any action for handing over such objects to the owner or auctioning them.
- (b) The local officer shall evaluate the value of such objects on the advice of a committee of local people (Panchakriti) to determine the amount involved, and have such amount paid or realized according to current Nepal law.

21. Power To Frame Rules

His Majesty's Government may frame rules in order to implement the objectives of this Act.

(S.B.M.)