

THE UNITED REPUBLIC OF TANZANIA



No. 22 OF 1979

I ASSENT,

Julius K. Nyerere
President

An act to amend the Antiquities Act, 1964

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ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Antiquities (Amendment) Act, 1979, and shall be read as one with the Antiquities Act, 1964 (hereinafter referred to as the "principal Act").

Short title
construction
Cap. 550

2.-(1) Section 2 of the principal Act is repealed and replaced by the following:-

Section 2 of
Cap. 550
repealed and
replaced

"Interpretation 2 (1) In this Act, unless the context otherwise requires-

"antiquity" includes a monument, a relic and any protected object;

"appointed day" means the first day of August, 1964;

"Conservator" means the person for the time being appointed to perform the functions of Conservator of Antiquities;

"conservation area" means any area declared to be a conservation area under Section 3 (4);

"the Council" means the Advisory Council for Antiquities established by section 19;

"Director" means the Director of Antiquities;

"discovery" means the finding of any object on or under land or in anything growing on the land or attached to or within the fabric or foundations of any structure, the presence of which was previously unknown to the owner thereof, but does not include the recognition or identification as a relic or a relic of a particular description of any object previously in the known possession of any person;

"ethnographical object" means any movable object made, shaped, painted, carved, inscribed or otherwise produced or modified by human agency in Tanganyika after the year 1863; for use in any social or cultural activity whether or not it is still being used by any Community in Tanganyika, but does not include any object made, shaped, painted, carved, inscribed or otherwise produced or modified by human agency in Tanganyika for sale as a curio;

"Honorary Antiquities Warden" means any person appointed by the Director under Section 22;

"Minister" means the Minister for the time being responsible for antiquities;

"Museum" means the National museum of Tanzania established under any written law relating to museums;

"monument" means and includes-

- (a) any building, fortification, interment, midden, dam or any structure erected built or formed by human agency in Tanganyika before the year 1863; and
- (b) any rock painting or any immovable object painted, sculptured, carved, incised or modified by human agency in Tanganyika before the year 1863; and
- (c) any earthwork, trench, edit, well, cave, tunnel or other modification of the soil or rock dug, excavated or otherwise engineered by human agency in Tanganyika before the year 1861.

whether or not the monument shall have been modified, added to or restored at a later date and whether or not it is included in a list published by the Director; and

- (d) any site or immovable structure declared to be, a monument under section 3; and
- (e) such adjoining gland as may be required for the purposes of fencing, covering or otherwise preserving the monument:

"protected object" means an ethnographic object or any wooden door or door frame carved in Tanganyika in any African oriental style, before the year 1940, and includes any object declared to be a protected object under section 90) (a);

"relic" means any movable object made, shaped, painted, carved, sculptured, inscribed or otherwise produced or modified by human agency in Tanganyika before the year 1863, whether or not it shall have been modified, added to or restored at a later date and includes any human or other vertebrate faunal fossil or botanical fossil or impression, found in Tanganyika.

(2) The Director may, by notice in the *Gazette*, publish lists of monuments and conservation areas and the inclusion of any place, site or structure in any list so published shall be *prima facie* evidence in all proceedings, whether criminal or civil, that the site or structure is a monument or a conservation area within the meaning ascribed to those expressions in subsection (1) of section 2.

(3) Any person aggrieved by the inclusion of any place, site or structure in a list published under subsection (2) may appeal, against the inclusion, to the Minister.

Section 3 of
Cap. 550
repealed and
replaced

3. Section 3 of the principal Act is repealed and replaced by the following:-

"Declara-
tion of
monuments
and consor-
vation areas

3.-(1) The Minister may by order in the *Gazette*, declare any place or structure of historical interest to be a monument for the purposes of this Act.

(2) The Minister, after consulting the Minister for the time being responsible for lands may, by notice in the *Gazette*, declare to be a conservation area any area or site which-

- (a) in his opinion is a valuable national heritage for its aesthetic value; or
- (b) contains a homogeneous groups of monuments; or
- (c) contains buildings, structures or other forms of human settlement which in his opinion are a valuable national heritage for their historical, architectural, social or cultural value.

(3) Any person aggrieved by an order made under this section may appeal to the Minister for a review of the order and the decision of the Minister shall be final."

4. Section 6 of the principal Act is repealed and replaced by the following:-

Section 6 of
Cap. 550
repealed and
replace

"Acquisition
of mola-
ments and
conservation
areas

6. The Minister may acquire any monument or conservation area in accordance with the Land Acquisition Act, 1967 as modified by this Act".

5. Section 7 of the principal Act is amended —

- (a) by deleting the expression "Land Acquisition Ordinance" wherever it occurs in that section and substituting for it the expression "Land Acquisition Act, 1967" and
- (b) in subsection 3, by deleting the figure "5" which occurs in the third line and substituting for it the figure "6" and by deleting the word "Ordinance" which occurs in the fifth line and substituting for it the word "Act".

Amendment
of section 7
of Cap. 550

6. Section 11 of the principal Act is repealed and replaced by the

Section 11
repeal and
replace

"No escava-
tion, collec-
tion, etc.
without a
Licence

11.-(1) No person except the Director or a person acting on his behalf, shall whether on his own land or elsewhere-

- (a) excavate, dig or probe for monuments or relics; or

Section 12
of Cap. 550
repeated and
replaced

(b) remove or collect any relic or any object he supposes to be a relic from the site of its discovery, except for the purposes of protecting it and reporting the discovery under the provisions of section 10 or for the purposes of delivering it to the authorities if required to do so under that section.

(c) search for or collect any ethnographical object, except under and in accordance with an excavation licence or in the case of an ethnographical object, a collectors licence issued by the Director.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence"

7. Section 12 of the principal Act is repealed and replaced by the following:-

"Persons
to whom
licence
may be
granted

12. An excavation licence or a collector's licence shall be granted only to a person who satisfies the Director that-

- (a) he has had sufficient scientific training or experience to carry out the proposed excavation, search or collection satisfactorily;
- (b) he has at his disposal sufficient staff and financial and other resources to enable him to carry out the proposed excavation, search or collection satisfactorily;
- (c) in relation to an excavation licence, he is able to conduct or arrange for, the proper scientific study and publication of any material discovered; or
- (d) in relation to a collector's licence the ethnographic objects collected will be used for study or for a purpose approved by Director"

Section 13
repealed
replaced

8. Section 13 of the principal Act is repealed and replaced by the and following:-

"Conditions
of licence

13.-(1) Every licence under section I 1 shall be granted for such period not exceeding a year as the Director may allow and may be renewed for a further period or periods not exceeding a year at any one time.

(2) A licence shall not constitute an authority to the licensee to enter upon or excavate any land or to enter upon any land and search for or collect any ethnographical object without the consent of the owner of that land.

(3) The Director may include in any licence any terms which he considers necessary or expedient for the proper conduct of excavation, search or for the collection of ethnographical objects, including conditions for reporting mapping, documentation or preservation of materials discovered or collected, their removal, examination and custody and the making and exchange of casts, squeezes and other *reproductions*.

(4) In addition to any terms included in the licence, the licence shall take all reasonable measures in accordance with current scientific practices, for the preservation of any relics or monuments or ethnographical objects discovered or collected by him

(5) The Director may cancel any licence if the licensee fails to conform to the conditions imposed on him by this Act or the terms of the licence.

(6) Any person aggrieved by the refusal of the Director to grant a licence or by the cancellation of a licence, may appeal against the refusal or cancellation to the Minister.

9. The principal Act is amended by adding immediately below section 18, the following new section:-

Addition of
new section
18A

"Exchange illicit antiquities 18A. Where by the operation of any treaty or agreement there is a reciprocal arrangement between Tanzania and any other country providing for the seizure and exchange of antiquities unlawfully exported from and imported into the territory of either country, the Director or any person authorized by him in that behalf may, upon a written request of that other country, seize and return to that country any antiquities imported into Tanzania which are named in that written request or, as the case may be, make a written request to that other country requesting the return of antiquities exported from Tanzania, and imported into that country."

10. Section 19 of the principal Act is repealed and replaced by the following:-

Section 19 of
Cap. 550
repealed and
replaced

"Establishment of the council 19. (1) There is hereby established a council to be known as the Advisory Council for Antiquities.

(2) The provisions of the Schedule to this Act shall have effect in respect of the constitution of the Council, its meetings and matters relating to it.

(3) The Minister may by Order published in the *Gazette* amend, add to, vary or replace any of the provisions of the schedule to this Act".

11. The principal Act is amended by adding immediately below section 19, the following new sections:-

Addition of
now sections
19A and 19B

"Functions of the Council 19A. (1) The functions of the Council shall be-

(a) to assist the Government in the formulation and implementation of a national policy on antiquities;

(b) to advise the Government on the method of co-ordinating and monitoring research relating to museology or antiquities carried on in Tanzania or elsewhere on behalf of or for the benefit of the Government of Tanzania;

- kc) to advise the Government on the techniques of preserving and restoring monuments, relics, protected objects and buildings situated in a conservation area;
- (d) to assist the Government in the establishment of a suitable laboratory for carrying out research in techniques of preservation and restoration of monuments, relics, protected objects and buildings comprised in a conservation area;
- (e) to advise the Government in the selection and training of local personnel in scientific and technical fields related to antiquities;
- (f) to advise the Government on a system of recording, documentation and reference for material collected in the field of archeology, ethnography, oral tradition, biological or natural sciences including manuscripts, inscriptions, photographs and reconstructions of archeological and palaentological finds, sites and types for the purposes of facilitating research teaching or display;
- (g) to promote the documentation and dissemination of information on any research or publication on matters relating to antiquities and for that purpose, to publish any paper, journal or periodical and to participate in or make arrangements for conferences, seminars and discussions;
- (h) to advise the Government on any matter referred to it by the Minister and generally, to advise the Government on any matter for the better carrying out the objects of this Act.

(2) The Council shall once every year publish or cause to be published a report of its activities for that year.

Establishment of National Fund for Antiquities

19B. (1) There is hereby established a fund to be known as the National Fund for Antiquities which shall be managed and controlled by the Director.

(2) The National Fund for antiquities shall consists of--

- (a) such sums as may be provided by Parliament for that purposes;
- (b) donations and grants from any source;
- (c) fees chargeable on any matter upon which fees may be chargeable under this Act;
- (d) proceeds from sales of relics, casts, ethnographical objects and publications on matters relating to this Act;
- (e) such sums as may be payable to the Fund from any sources.

(3) The Fund shall be applied for the purposes of research, in and the preservation of antiquities and for any purpose relating to the functions of the Council.

(4) The Minister may issue directive in writing, regulating the use of the Fund, and shall after consultation with the Minister for the time being responsible for Finance, issue directives regulating the operation of the Fund and providing for the audit of the accounts of the Fund".

12. Section 25 of the principal Act is amended-

- (a) in paragraphs (b) (c), (e) and (f) by deleting the semicolon which occurs at the end of each paragraph and in each case, inserting the expression "and conservation area"; and
- (b) in paragraph (g), by deleting the full stop which occurs at the end of that paragraph, and inserting the expression "and conservation area"; and
- (c) by deleting paragraph (a) and relettering paragraphs (b), (c), (d), (e) (f) and (g) as paragraphs (a), (b), (c), (d) (e) and (f).

Amendment of section 25 of Cap. 550

13. Section 26 of the principal Act is repealed and replaced by the following:-

"Applica-
tion of the
land Acquisi-
tion Act,
1967

26. Where the Minister acquires any monument or conservation area under section 6 or elects to acquire a monument under section 7 of this Act, the acquisition shall be deemed to be an acquisition for a public purpose within the meaning of the Land Acquisition Act, 1967, and the provisions of that Act shall have effect as if the references to the President (other than those references relating to the vesting in the President any title to the land acquired), and the Minister for the time being responsible for lands, were references to the Minister for the time being responsible for antiquities: Provided that-

Section 26 of Cap. 550 repealed and replace

- (a) the provisions of section 19 of the land Acquisition Act, 1967 shall not apply where the Minister elects to acquire a monument under section 7 of this Act; and
- (b) in assessing the amount of compensation payable, no account shall be taken of any palaeontological, archaeological, architectural or historical value unless the person entitled to the compensation paid any sum for that value when he acquired his interest in the land".

14. The principal Act is amended generally by deleting the term "Commissioner" wherever it occurs in that Act substituting for it the terms "Director"

Miscellaneous amendment

SCHEDULE

(Section 19A (2))

1. The Council shall consist of-
- (a) a Chairman, who shall be appointed by the President;
 - (b) The Director, who shall be the Secretary of the Council;
 - (c) the Dean of the Faculty of Arts and Social Sciences, University of Dar es Salaam or his alternate;

Composition of Council

	<p>(d) the Dean of the Faculty of Science, University of Dar es Salaam or his alternate</p> <p>(e) the Dean of the Faculty of Medicine, University of Dar es Salaam or his alternate;</p> <p>(f) the Commissioner for National Education or his alternate;</p> <p>(g) a representative of the Historical Association;</p> <p>(h) a member appointed by the Board of National Museum of Tanzania, from amongst the employees of National Museum;</p> <p>(i) not less than four and not more than six other members, who shall be appointed by the Minister.</p>
Vice-Chairman	2. The members shall elect one of their number to be the Vice-Chairman of the Council.
Tenure of office	<p>3.-(1) The Chairman shall, unless, he resigns or his appointment is sooner revoked by the Minister, hold office for such period as may be specified in his terms of appointment or, if no such period is specified, for a period of three years and shall be eligible for reappointment.</p> <p>(2) The Vice-Chairman shall, subject to his continuing to be a member, hold office for a period of one year, and shall be eligible for re-election.</p> <p>(3) A person who is a member of the Council by virtue of some other office, shall hold office for the period he holds that other office.</p> <p>(4) A member of the Council appointed under paragraph I (i) shall, unless he resigns or his appointment is sooner revoked by the Minister, hold office for such period as may be specified in his terms of appointment or, if no period is specified, for a period of three years and shall be eligible for re-appointment.</p> <p>(5) The Chairman or any member appointed under paragraph I (i) may at any time resign his office by giving notice in writing to the Minister, and from the date specified in that letter, he shall cease to be a member of the Council.</p>
Vacancies	4. Where any person appointed to be a member of the Council ceases to be a member for any reason, the Minister may appoint another person in his place.
Chairman to preside at meeting	<p>5.-(1) The Chairman or in his absence, the Vice-Chairman, shall preside at all meeting of the Council.</p> <p>(2) Where at any meeting of the Council both the Chairman and the Vice-Chairman are absent, the members shall elect one of their number to act as Chairman at that meeting.</p>
Meetings and procedure of Council	<p>6.-(1) The Council shall meet not less than twice every year and at such additional times as may be fixed by the Chairman or in his absence, the Vice-Chairman.</p> <p>(2) The Secretary of the Council shall give each member adequate notice of the time and place of every meeting and shall keep a record of the proceedings of every meeting of the Council.</p> <p>(3) All questions at a meeting of the Council shall be decided by a majority of votes of the members present and voting and in the event of an equality of votes, the Chairman of the meeting shall have a casting vote in addition to his deliberative vote.</p> <p>(4) The Chairman or with his consent, the Director, may invite any person to take part in the deliberations of the Council but the person so invited shall not be entitled to vote.</p>
Quorum	7. At any meeting of the Council not less than one-half of the members for the time being in office shall constitute a quorum.

8. Subject to the provisions of this Schedule the Council may regulate its own proceedings. Council may regulate its proceedings

Passed in the National Assembly on the twenty-fourth day of October, 1979.


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Clerk of the National Assembly